

COLUMBIA COUNTY BOARD OF COMMISSIONERS STAFF REPORT

January 3, 2024

Modification of an Approved Site Design Review in the RIPD Zone - Type II Conditional Use Review

HEARING DATE: January 10, 2024

FILE NUMBERS: DR 21-03 MOD (Modification)
CU 23-11

APPLICANT: NEXT Renewable Fuels, Inc., Attn: Gene Cotten
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(661) 201-2653

OWNERS: Port of Columbia County
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NEXT Renewable Fuels, Inc.

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LOCATION: 81009 Kallunki Rd. Clatskanie, Oregon

TAX MAP ID #: Production Facility
8422-00-00100, 8422-00-00200, 8422-00-00300
Driveway and Rail Line
8422-00-01100, 8421-00-00700
Pipe Rack
8422-00-01100, 8421-00-00700, 8416-00-00200, 8416-00-00300
Railroad Branchline
8423-B0-00700 and 8423-B0-00800

ZONING: Resource Industrial – Planned Development (RIPD)
Primary Agriculture (PA-80)

SIZE:

Site

~109 acres for the production facility

~16 acres for the branchline

REQUEST:

A modification of prior approval of DR 21-03 which authorized a renewable diesel production facility within the Port Westward Industrial Park. The subject modification proposes to relocate the rail tracks, tree buffer, and storm facilities northward from the PA-80 zone to the RIPD zone.

A Conditional Use Permit for a railroad branchline between Portland & Western Railroad and the renewable diesel production facility, previously approved by DR 21-03.

APPLICATION COMPLETE:

10/19/2023

150 DAY DEADLINE:

03/17/2024

Staff Report Contents

SUMMARY 5

 DR 21-03 MOD Description of Request 5

 Approved Facility Development.....5

 Proposed Design Modifications5

 CU 23-11 Description of Request..... 5

 Proposed Railroad Branchline.....8

 Application Timeline 9

REVIEW CRITERIA & FINDINGS - COLUMBIA COUNTY ZONING ORDINANCE: 9

 Review Criteria and Findings Specific to DR 21-03 MOD 10

 Section 680 Resource Industrial-Planned Development (RIPD) 10

 681 Purpose:..... 10

 683 Uses Permitted Under Prescribed Conditions: 10

 Contd. Section 680 Resource Industrial-Planned Development (RIPD)..... 11

 685 Standards: 11

 686 Review Procedures: 12

 Section 1550 SITE DESIGN REVIEW 13

 1551 Types of Site Design Review: 13

 1552 Design Review Process: 13

 1553 Pre-application Conference: 13

 1554 Submittal documents: 13

 1558 Planning Commission Review: 14

 1560 Existing Site Plan: 14

 1556 Site Plan Submittal and Analysis:..... 15

 1561 Proposed Site Plan: 15

 1562 Landscaping: Buffering, Screening and Fencing: 16

 1563 Standards for Approval:..... 19

 1564 Final Site Plan Approval: 20

 Section 200 GENERAL PROVISIONS..... 21

 215 Ingress and Egress: 21

 Section 1300 SIGNS 21

 1301 Use: 21

 1302 General Provisions: 21

 1313 Commercial and Industrial Districts: 22

 Section 1400 OFF-STREET PARKING AND LOADING 22

 1401 General Provisions: 22

 1402 Continuing Obligation:..... 22

 1407 Change of Use:..... 22

Section 1450 TRANSPORTATION IMPACT ANALYSIS 22
 1450 Transportation Impact Analysis: 22
 Review Criteria and Findings Specific to CU 23-11 25
 Section 300 PRIMARY AGRICULTURE USE ZONE – 80 (PA-80) 25
 301 Purpose: 25
 303 Table of Authorized Uses and Development: 25
 TRANSPORTATION – 306 CUP: 25
 307 General Review Standards: 28
 308 Development Standards: 31
 Section 1503 CONDITIONAL USE 33
 Rail Conditional Use Goals and Policies: 36
 Contd. Section 1503 Conditional Use: 39
 Review Criteria and Findings Applicable to Both DR 21-03 MOD and CU 23-11 39
 Section 1100 FLOOD HAZARD OVERLAY (FH) 39
 Section 1120 SENSITIVE BIRD HABITAT OVERLAY (SBH) 39
 Section 1130 HISTORIC OVERLAY (HO) 39
 Section 1170 RIPARIAN CORRIDORS, WETLANDS, WATER QUALITY, AND FISH AND WILDLIFE HABITAT PROTECTION
 OVERLAY ZONE (RP) 40
 1172 Riparian Corridor Standards: 40
 Section 1180 WETLAND AREA OVERLAY (WA) 41
 1182 Definition: 41
 Section 1185 NATURAL AREA OVERLAY (NA) 42
 Section 1190 BIG GAME HABITAT OVERLAY (BGR) 43
 Section 1603 QUASIJUDICIAL PUBLIC HEARINGS 43
 Section 1608 Contents of Notice 43
 Section 1618 Design Review Board 43
 Columbia County Stormwater and Erosion Control Ordinance 44
 I. INTRODUCTION B. Applicability 44
 Agency Comments 45
 CONCLUSION, RECOMMENDATION & CONDITIONS 46
 CONDITIONS OF APPROVAL 46
 ATTACHMENTS 47

SUMMARY

DR 21-03 MOD Description of Request

NEXT Renewable Fuels, Inc. is seeking approval for a Site Design Review Modification for the renewable diesel production facility at the Port Westward Industrial Park, previously approved by Columbia County in March 2022. The facility, designed to produce renewable diesel fuel from materials like cooking oil, animal fats and tallow, and corn oil, was initially approved by the County Board of Commissioners under Site Design Review DR 21-03 and Variance 21-05 as a "Use Permitted under Prescribed Conditions" in the Resource Industrial – Planned Development (RIPD) zone. A Conditional Use Permit (CU 21-04) for a rail branchline within the Primary Agriculture (PA-80) zone was also initially granted but later overturned by LUBA. Consequently, the current application includes proposed modifications that involve relocating rail tracks, a tree buffer, and storm facilities northward from the PA-80 zone to the RIPD zone. It is important to note that these modifications do not alter the overall scale or layout of the majority of the facility.

Approved Facility Development

The project approved by Site Design Review DR 21-03 and Variance V 21-05 includes the construction of a renewable diesel production facility consisting of multiple buildings (office, laboratory, warehouse, maintenance, process, controls, etc.), parking, private roadways, storage tanks, processing equipment, a gas flare, wastewater treatment facilities, outdoor laydown yards, electrical equipment, landscaping, and security fencing. DR 21-03 also approved a driveway to Hermo Road, with secondary access to Kallunki Road for emergency vehicles and for equipment to access barges. No changes to site access are proposed as part of this application.

Water, wastewater, and storm drainage utilities operated by the Port will be extended to the site to accommodate this rural industrial development. Electrical, natural gas, and telecommunications facilities will also be extended to the site.

Finished product and raw materials for facility operations will largely be transported by vessels utilizing the Port of Columbia County-owned dock on the Columbia River. A terminaling company that already operates at Port Westward will unload the feedstock and transfer it via their existing pipeline to the confluence with the Applicant's newly constructed pipeline. This is where the Applicant will take possession. The feedstock will be refined into renewable diesel. Finished products will be stored on-site before being transferred back to the terminal via pipeline to ship via barge and vessel from the Port Westward dock. A gravel service road is proposed adjacent to a portion of the pipe rack to allow maintenance access to the pipes.

Proposed Design Modifications

In this application, NEXT Renewable Fuels is proposing to relocate the rail tracks, tree buffer, and storm facilities northward from the PA-80 zone into the RIPD zone, as detailed in the plans in Site Design Review Exhibit 4. The proposed modifications do not alter the overall scale or layout of the majority of the facility as the proposed improvements will be located within the same area previously approved for the Hermo Road access.

CU 23-11 Description of Request

In addition to the Modified Site Design Review, NEXT Renewable Fuels, Inc. is seeking a Conditional Use Permit (CU 23-11) for a railroad branchline to support the renewable diesel production facility at the Port Westward Industrial Park, north of Clatskanie. The initial facility approval, granted by the County Board of Commissioners under Site Design Review

DR 21-03 and Variance 21-05, was categorized as a "Use Permitted under Prescribed Conditions" in the Resource Industrial – Planned Development (RIPD) zone. A Conditional Use Permit (CU 21-04) for a railroad branchline within the Primary Agriculture (PA-80) zone was also initially approved but later overturned by the Oregon Land Use Board of Appeals (LUBA). In response to LUBA's ruling, the applicant is submitting a new application, proposing changes in the size and location of the railroad branchline to align with LUBA's decision. The revised application outlines a limited rail connection between the renewable diesel production facility and the existing Portland & Western Railroad Tracks.

The site, located at the Port Westward Industrial Park (Port Westward), consists of portions of multiple parcels owned by the Port of Columbia County (the Port) and one parcel owned by NEXT Renewable Fuels. The combined area of the approved renewable fuels facility is approximately 109 acres (additional off-site acreage encompasses the driveway, pipe rack and rail corridor)The site is designated Rural Industrial in the Columbia County Comprehensive Plan and has been zoned Resource Industrial – Planned Development (RIPD) through two prior zone changes and Goal Exceptions approved by the Columbia County Board of Commissioners.

Nearby portions of Port Westward have been developed with Portland General Electric (PGE) power generation facilities, the Columbia Pacific Bio-Refinery, the Clatskanie People's Utility District electrical substation, roadways, rail lines, utilities, drainage facilities, levees, pipelines, a water tower, and electrical transmission lines. The entirety of Port Westward is within the Clatskanie Rural Fire Protection District.

Port Westward is served by private water systems that utilize wells and draw from the river. The industrial park also has a private industrial wastewater system and a discharge system for tenants' process water. In addition, Port Westward is home to a 1,500-foot dock on the Columbia River and is one of only five public deepwater ports in the state of Oregon. This reach of the river is part of the U.S. Department of Transportation's M-84 Marine Highway Corridor and connects to the M-5 Marine Highway Corridor along the Pacific coast. The river has a 43-foot navigation channel to accommodate vessels needing deepwater port access.

The site is currently undeveloped wetlands and agricultural cropland. Wetlands are present over most of the property. The site is within the Wetland Area Overlay but outside the Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone. The surrounding area is zoned RIPD to the north and west and Primary Agriculture (PA-80) to the south and east. Existing land uses to the north are industrial and agricultural, while existing uses to the east, south, and west are agricultural.

The site is protected from flooding by dikes and associated stormwater conveyance and pumping facilities located within the Beaver Drainage District. According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map 41009C0050D, dated November 26, 2010, as the dike system has been provisionally accredited by FEMA, the site is in shaded Zone X and is therefore outside the Special Flood Hazard Area regulated by Columbia County.

Figure 1 Aerial Map of Subject Property

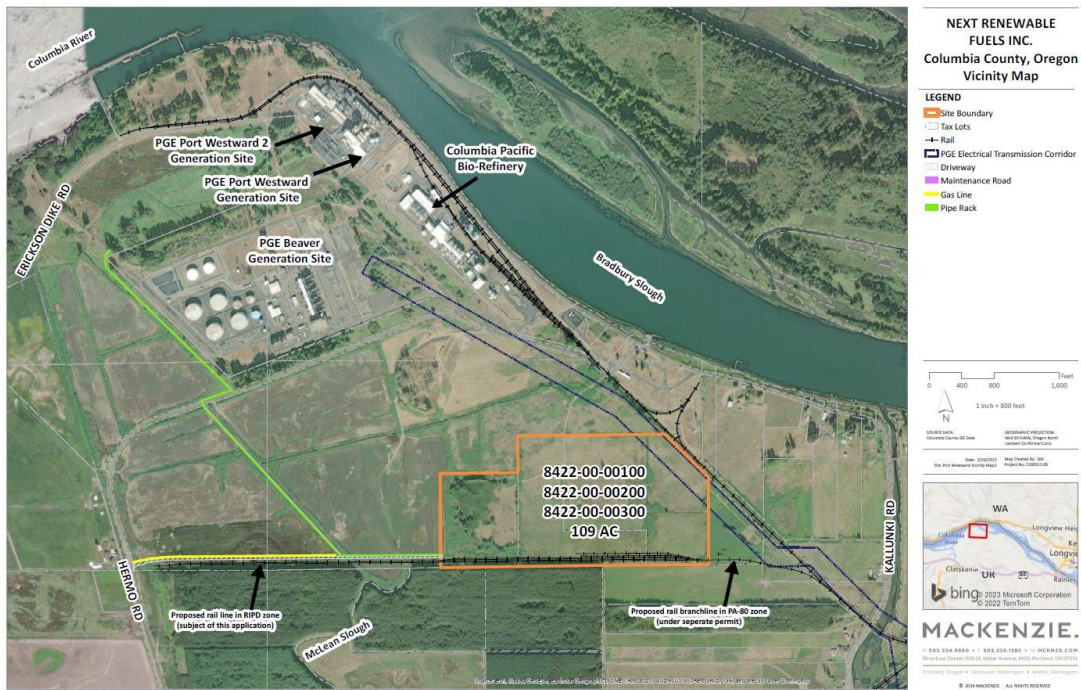
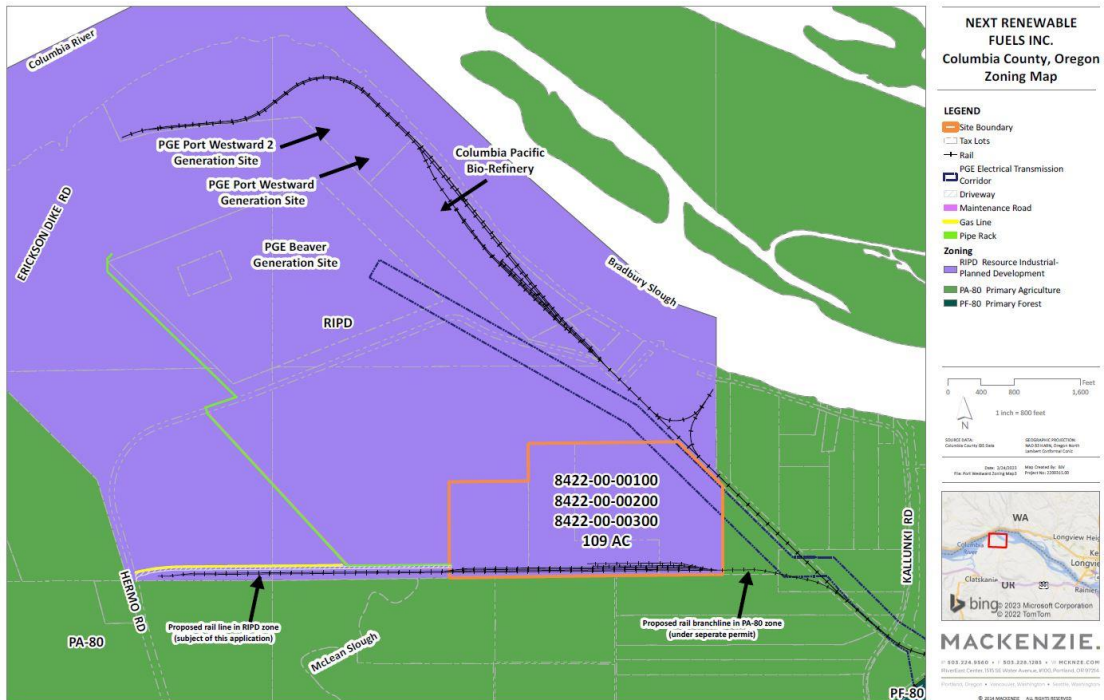


Figure 2 Zoning Map



Proposed Railroad Branchline

The proposal for the Conditional Use application (CU 23-11) involves a proposed railroad branchline corridor in the Primary Agriculture Use Zone - 80 (PA-80). This railroad branchline is required in order to connect to Portland & Western Railroad's facilities to accommodate shipment of additional materials and potentially a small amount of finished product. This corridor extends from an existing rail line to the east and is intended to serve the approved renewable diesel production facility. The site, situated immediately east of the Port Westward Industrial Park, encompasses portions of two parcels—one owned by the Port of Columbia County (8423-B0-00700) and another by Felipe and Bobby De La Cruz (8423-B0-00800). While the combined area of these parcels is approximately 16 acres, the actual proposed rail corridor covers a much smaller area, approximately 1.7 acres. The size of the proposed railroad branchline (within the PA-80 zone) consists of approximately 1,250 linear feet with an area of approximately 1.7 acres.

The proposed railroad branchline is intended as an accessory to a renewable diesel production facility on the adjacent property to the west, which has received approval through Site Design Review application DR 21-03. The primary purpose of the branchline is to facilitate the transportation of raw materials, such as clay, and a potential small amount of finished products to and from the renewable diesel production facility. The rail transport is estimated to involve around 315 rail cars per week, on average. However, the facility's main transportation reliance is on vessels using the Port of Columbia County-owned dock on the Columbia River.

Before construction, the applicant will seek necessary approvals from Portland & Western Railroad, the rail services provider and owner, which has provided specifications for the branchline layout. In line with other rail lines, the proposed branchline does not generate a demand for new water, sanitary sewer, storm drainage, gas, or telecommunication facilities. It may, however, utilize new electrical utilities for switches and signals.

While the primary mode for transporting feedstock and finished products will be by ship, the applicant plans to use rail for a portion of the feedstock and specific finished products like clay. To accommodate the unloading, loading, and storage of rail cars without obstructing the existing track to the Port Westward Industrial Park, the facility needs an adequate track length. In collaboration with Portland & Westward Railroad (P&W), the proposed rail design aims to provide transportation and storage capacity for 18,000 linear feet of track. Most of this track falls within the RIPD zone, but the section on PA-80-zoned land, defined as the "site" for the Conditional Use permit application, is the focus of this submission. Additional track on RIPD-zoned land, partly approved through Site Design Review (DR 21-03) and partly under review for modification (DR 23-01 MOD), is not within the scope of the Conditional Use application.

The proposed rail connection between the production facility and the Portland & Western Railroad is classified as a "branchline" per OAR 660-012-0065. This branchline features a single track and connects the project to the existing P&W track, traversing a small section of PA-80 zoned land before entering Port of Columbia County property zoned RIPD.

The subject properties, designated as "Agriculture" in the Columbia County Comprehensive Plan and zoned PA-80, is currently undeveloped with structures, but a portion is used for agricultural purposes, specifically hay/grassland. Throughout the site, non-significant wetlands are present. The Port-owned parcel, currently undergoing a separate zone change application to Resource Industrial - Planned Development (RIPD), is part of this site. Despite the ongoing zone change process, the conditional use permit application is based on the current PA-80 zoning.

The surrounding area has a zoning designation of PA-80 to the north, east, and south, and RIPD to the west. Agricultural land uses characterize the surrounding area in all directions, except for the Portland & Western Railroad mainline to the east. Industrial uses are already established to the northwest within the Port Westward Industrial Park.

The applicant has submitted two separate applications, which the County has consolidated for review: (1) an application for a Modified Site Design Review in the RIPD zone for modifications to the approved facility; and (2) a Conditional Use for the rail branchline in the Primary Agriculture – 80 Acres (PA-80) Zone.

Application Timeline

The brief timeline below provides an overview of materials received by the County for the NEXT application.

- NEXT Pre-Application Conference: February 6, 2020
- NEXT Application Submissions: January 19, 2021
- The Board of Commissioners approve DR 21-03, V 21-05 & CU 21-04: March 23, 2022
- LUBA reversed the decision on CU 21-04, but did not hear DR 21-03 & V 21-05: October 27, 2022
- NEXT submits a modification of prior approval for DR 21-03 and a new Conditional Use Permit application with changes to the rail branchline (CU 23-11): September 19, 2023
- NEXT ORS 215.427 Completeness for DR 21-03 MOD & CU 23-11: October 19, 2023
- The Board of Commissioners took jurisdiction of DR 21-03 MOD and CU 23-11 via the Columbia County Planning Commission Ordinance Section 11: November 1, 2023
- Initial evidentiary hearing scheduled in front of the Board of County Commissioners for DR 21-03 MOD & CU 23-11: January 10, 2023

REVIEW CRITERIA & FINDINGS - COLUMBIA COUNTY ZONING ORDINANCE:

Criteria specific to the modified facility (DR 21-03 MOD). The proposed modified facility elements are entirely located within the RIPD zone. These modified elements are addressed in findings for:

- Section 680 Resource Industrial – Planned Development (RIPD)
- Section 1550 Site Design Review
- Section 200 General Provisions
- Section 1300 Signs
- Section 1400 Off-Street Parking and Loading
- Section 1450 Transportation Impact Analysis

Criteria specific to the Railroad Branchline Conditional Use (CU 23-11).

- Section 300 Primary Agriculture Zone
- Section 1503 Conditional Use
- Comprehensive Plan Goals and Policies

Criteria that are applicable to both the Modified Design Review and the Conditional Use approval.

- Section 1100 Flood Hazard
- Section 1120 Sensitive Bird Habitat

- Section 1130 Historic Overlay
- Section 1170 Riparian Corridors
- Section 1180 Wetland Areas
- Section 1185 Natural Area Overlay
- Section 1190 Big Game Habitat
- Section 1603 Quasijudicial Public Hearings

Review Criteria and Findings Specific to DR 21-03 MOD

Section 680 Resource Industrial-Planned Development (RIPD)

681 Purpose:

The purpose of this district is to implement the policies of the Comprehensive Plan for Rural Industrial Areas. These provisions are intended to accommodate rural and natural resource related industries which:

- .1 Are not generally labor intensive;*
- .2 Are land extensive;*
- .3 Require a rural location in order to take advantage of adequate rail and/or vehicle and/or deep water port and/or airstrip access;*
- .4 Complement the character and development of the surrounding rural area;*
- .5 Are consistent with the rural facilities and services existing and/or planned for the area; and,*
- .6 Will not require facility and/or service improvements at significant public expense.*

683 Uses Permitted Under Prescribed Conditions:

The following uses may be permitted subject to the conditions imposed for each use:

- .1 Production, processing, assembling, packaging, or treatment of materials; research and development laboratories; and storage and distribution of services and facilities subject to the following findings:*
 - A. The requested use conforms with the goals and policies of the Comprehensive Plan specifically those policies regarding rural industrial development and exceptions to the rural resource land goals and policies.*
 - B. The potential impact upon the area resulting from the proposed use has been addressed and any adverse impact will be able to be mitigated considering the following factors:*
 - .1 Physiological characteristics of the site (i.e., topography, drainage, etc.) and the suitability of the site for the particular land use and improvements;*
 - .2 Existing land uses and both private and public facilities and services in the area;*
 - .3 The demonstrated need for the proposed use is best met at the requested site considering all factors of the rural industrial element of the Comprehensive Plan.*
 - C. The requested use can be shown to comply with the following standards for available services:*
 - .1 Water shall be provided by an on-site source of sufficient capacity to serve the proposed use, or a public or community water system capable of serving the proposed use.*
 - .2 Sewage will be treated by a subsurface sewage system, or a community or public sewer system, approved by the County Sanitarian and/or the State DEQ.*
 - .3 Access will be provided to a public right-of-way constructed to standards capable of supporting the proposed use considering the existing level of service and the impacts caused by the planned development.*

- .4 The property is within, and is capable of being served by, a rural fire district; or, the proponents will provide on-site fire suppression facilities capable of serving the proposed use. On-site facilities shall be approved by either the State or local Fire Marshall.*

Finding 1: In the initial decision for DR 21-03, The Board previously determined that the renewable diesel production facility falls within the category noted above and authorized the use based on demonstration of compliance with the Prescribed Conditions. In the previous approval, The Board found that the proposed use was consistent with all applicable Goals and Policies of the Comprehensive Plan in Part X Economy, Part XII Industrial Siting, Industrial Lands Exceptions, Port Westward Exception Statement, and Part XIV Public Facilities and Services.

The result of this application will be a reduced capacity rail improvement (compared to that previously approved by Conditional Use Permit CU 21-04). Staff finds that the overall use of the facility, as approved in DR 21-03 is not changing as a result of this modified design application. These standards do not apply to this application for a modification of a prior approval.

- .2 Accessory buildings may be allowed if they fulfill the following requirements:*
- A. If attached to the main building or separated by a breezeway, they shall meet the front and side yard requirements of the main building.*
 - B. If detached from the main building, they must be located behind the main building or a minimum of 50 feet from the front lot or parcel line, whichever is greater.*
 - C. Detached accessory buildings shall have a minimum setback of 50 feet from the rear and/or side lot or parcel line.*

Finding 2: The proposed site plan approved for DR 21-03 depicts the proposed structures within the facility. Accessory buildings include office and maintenance buildings on site. Accessory buildings are shown at least 50 feet from lot lines. There are no changes to any of the structures originally approved in DR 21-03 as proposed in DR 21-03 MOD. Staff finds that the modified design review application does not change the overall all use and remains consistent with the purpose of the RIPD Zone and the provisions for Uses Permitted Under Prescribed Conditions in Section 683.2 with the original conditions as attached. This standard does not apply to this application for a modification of a prior approval.

Contd. Section 680 Resource Industrial-Planned Development (RIPD)

685 Standards:

- .1 The minimum lot or parcel size for uses allowed under Section 682 shall be 38 acres.*

Finding 3: The proposed use is allowed under CCZO Section 683 rather than CCZO Section 682. Therefore, the 38-acre minimum parcel size does not apply. Even if it did, the combined site area under the Applicant's control is approximately 109 acres, thereby exceeding this standard.

- .2 The minimum lot or parcel size, average lot or parcel width and depth, and setbacks for uses allowed under Section 683, shall be established by the Planning Commission, and will be sufficient to support the requested rural industrial use considering, at a minimum, the following factors:*
- A. Overall scope of the project. Should the project be proposed to be developed in phases, all phases shall be considered when establishing the minimum lot size.*

Finding 4: The site for the production facility, which consists of property owned by NEXT Renewable Fuels and property leased by NEXT Renewable Fuels from the Port of Columbia County, will have an area of approximately 109 acres (not counting off-site acreage for the driveway and pipe rack). As previously satisfied in the approval for DR 21-03 and V 21-05, the site size is sufficient for facility operations, including office, warehouse, production areas, staging areas, pipe

racks, electrical equipment, storage tanks, wastewater treatment, a flare, and a rail spur. The project is not proposed to be developed in phases. This standard is met.

B. Space required for off street parking and loading and open space, as required.

Finding 5: Parking requirements in the CCZO are set forth in Section 1400. As discussed in the response to that section, the applicant is proposing 128 parking spaces, which complies with the 118-space minimum requirement for the proposed manufacturing use. The applicant proposes loading docks on the warehouse, together with multiple outdoor storage areas and rail loading/unloading areas. This standard is met.

C. Setbacks necessary to adequately protect adjacent properties.

Finding 6: The site for the production facility consists of property owned by NEXT Renewable Fuels and property leased by NEXT Renewable Fuels from the Port of Columbia County. Only minimal setbacks are merited due to the existing and planned development of the adjacent (off-site) properties. Properties to the north and west are within the Port Westward Industrial Park and zoned RIPD. Properties immediately to the south and east are currently in agricultural use (primarily crops) and do not contain sensitive receptors such as residences, schools, churches, hospitals, etc. As previously satisfied in Site Design Review DR 21-03 and Variance 21-05, all buildings are set back at least 95 feet from the site boundary, which is appropriate for the approved use in this site context. Landscape buffers are provided on the south and east boundaries where facing other uses and where not precluded by overhead power lines and rail lines. This standard is met.

.3 Access shall be provided to a public right-of-way of sufficient construction to support the intended use, as determined by the County Roadmaster.

Finding 7: The applicant has been approved to construct a private driveway between the site and Hermo Road. Hermo Road, a public right-of-way, is currently gravel near the site. Consistent with TSP Project #9, the Applicant will satisfy Public Works requirements for necessary improvements to Hermo Road to satisfy condition of approval #15. The TIA demonstrates that the roadway network, following improvements consisting of roadway widening and paving along Hermo Road, will have adequate capacity for the proposed development. The site will have secondary access to Kallunki Road (a public right-of-way) for emergency vehicles and for equipment to access barges, but the secondary access is not proposed for regular use by members of the public since it is within the Port Westward secure area. For the above reasons, the County Board found that the proposed access is “sufficient to support the intended use.”

686 Review Procedures:

The Planning Commission shall review, in accordance with Section 1600, all requests made pursuant to Section 683 to assure that:

- .1 The use conforms to the criteria outlined in Section 681.*
- .2 The conditions outlined in Section 683 can be met.*
- .3 The Design Review Board or Planning Commission reviewed the request and found it to comply with the standards set out in Section 1550 and the minimum lot or parcel size provisions set out in Section 684.*

Finding 8: This provision provides procedural guidance to the Planning Commission or Board of Commissioners and does not require the submission of additional evidence. Elsewhere in the applicant’s narrative and in the accompanying exhibits, the applicant has provided evidence that the proposed use complies with CCZO Sections 681, 683, 684, and 1550. As the use was previously approved by Site Design Review DR 21-03 and Variance 21-05, the Board of Commissioners is not required to revisit the use authorization as part of the application for DR 21-03 MOD.

Section 1550 SITE DESIGN REVIEW

The Site Design Review process shall apply to all new development, redevelopment, expansion, or improvement of all community, governmental, institutional, commercial, industrial and multi-family residential (4 or more units) uses in the County.

1551 Types of Site Design Review:

- B. Type 2: Projects, developments and building expansions which meet any of the following criteria:*
- 1. Have an area of 5,000 sq. or more, or are 10% or more of the square footage of an existing structure.*
 - 2. Change the category of use (e.g., commercial to industrial, etc.).*
 - 3. New off-site advertising signs or billboards.*
 - 4. Any project meeting any of the Type 2 criteria shall be deemed a Type 2 Design Review application.*

Finding 9: The proposed modification to the approved development is classified as a Type 2 project since the rail corridor affects greater than 5,000 square feet (SF). The applicant is seeking Type 2 Design Review approval from the Planning Commission with this application. As stated previously, the Board of Commissioners too jurisdiction of the applications through the Planning Commission Ordinance Section 11. This standard is met.

1552 Design Review Process:

The Planning Director shall review and decide all Type 1 Site Design Review applications. The Planning Commission shall review all Type 2 Design Review applications. Applications shall be processed in accordance with Sections 1600 and 1700 of this ordinance.

Finding 10: The proposed development is classified as a Type 2 project as noted above, so the applicant is seeking Type 2 Design Review approval from the Board of Commissioners. This standard is met.

1553 Pre-application Conference:

A pre-application conference is required for all projects applying for a Site Design Review, unless the Director or his/her designate determines it is unnecessary. The submittal requirements for each application are as defined in this section and the standards of the applicable zone, and will be determined and explained to the applicant at the preapplication conference.

Finding 11: A pre-application conference for this application was held with County staff on February 6, 2020 for the application that was approved by the County in March 2022 pursuant to Site Design Review DR 21-03 and Variance 21-05. Since the proposed modifications are geographically limited and the majority of the approved site plan will remain as previously approved, staff has not required a preapplication conference for the current application.

1554 Submittal documents:

The following documents, when applicable, are required for a Site Design Review. The scope of the drawings and documents to be included will be determined at the preapplication conference by the Pre-application Conference Committee, and a Site Design Review Submittal Checklist will be given to the applicant, documenting which items are deemed not applicable or not necessary to determine compliance with County and State standards, with a short explanation given for each item so determined.

- A. History.*
- B. Project narrative.*
- C. Existing site plan.*
- D. Proposed site plan.*

- E. Grading plan.
- F. Drainage plan.
- G. Wetland mitigation plan. Goal 5 Resource Protection Plans (streams, wetlands, riparian areas, natural areas, fish and wildlife habitat).
- H. Landscaping plan.
- I. Architectural plans.
- J. Sign drawings.
- K. Access, parking and circulation plan.
- L. Impact assessment.
- M. Site Design Review Submittal Checklist.

Finding 12: In the original DR 21-03 application, the applicant provided A, B, C, D, E, F, G, H, J, K, and L. Applicant did not include I (Architectural Plans) or M (Site Design Review Submittal Checklist). Applicant was notified of missing items in an incompleteness letter dated February 17, 2021. Applicant required the County to proceed with review of the application despite the missing information in a letter dated July 15, 2021 as allowed by ORS 215.427. In the submitted application for DR 21-03 MOD, the applicant provided all of the original submittal documents as well as site plans showing the modified elements addressed throughout this staff report.

1558 Planning Commission Review:

The Planning Commission shall hold a public hearing for all Type 2 Design Review applications according to Sections 1603, 1604 and 1608 of this ordinance. If the Planning Commission determines that the proposed development meets the provisions of this ordinance, it may approve the project. The Planning Commission may attach any reasonable conditions to its approval of a site plan.

Finding 13: The proposed development is classified as a Type 2 project since it affects greater than 5,000 SF and is thus subject to Planning Commission review pursuant to the quasi-judicial hearings and public notice procedures detailed in Sections 1603, 1604, and 1608. As stated, the Board took jurisdiction of these applications through Section 11 of the Planning Commission Ordinance. The proposed renewable diesel production facility was previously determined to comply with applicable criteria as demonstrated by the adopted findings for Site Design Review DR 21-03 and Variance 21-05. If the Board determines that the proposed development meets the provisions of this ordinance, it may approve the project. The Board may attach any reasonable conditions to its approval of a site plan.

1560 Existing Site Plan:

The degree of detail in the existing site plan shall be appropriate to the scale of the proposal, or to special site features requiring careful design. An existing site plan shall include the following, unless it is determined by the Planning Director that the information is not applicable or is not necessary to determine compliance with County and State standards, and a short explanation will be given for each item so determined:

- A. *A vicinity map showing location of the property in relation to adjacent properties, roads, pedestrian ways and bikeways, and utility access. Site features, manmade or natural, which cross property boundaries are to be shown.*

Finding 14: Vicinity maps are included as Site Design Review Exhibit 2, Exhibit 3, Sheet G0.01, and Exhibit 4, Sheet C0.0.

- B. *A site description map at a suitable scale (i.e. 1"=100'; 1"=50'; or 1"=20') showing parcel boundaries and gross area, including the following elements, when applicable:*
 - 1. *Contour lines at the following minimum intervals:*
 - a. *2 foot intervals for slopes 0-20%;*
 - b. *5 or 10 foot intervals for slopes exceeding 20%;*

- c. *Identification of areas exceeding 35% slope.*
2. *In special areas, a detailed slope analysis may be required. Sources for slope analysis include maps located at the U.S. Natural Resources Conservation Service office.*
3. *Potential natural hazard areas, including potential flood or high ground water, landslide, erosion, and drainage ways. An engineering geologic study may be required.*
4. *Wetland areas, springs, wildlife habitat areas, wooded areas, and surface features such as mounds and large rock outcroppings.*
5. *Streams and stream corridors.*
6. *Location, species and size of existing trees proposed to be removed.*
7. *Significant noise sources.*
8. *Existing structures, improvements, utilities, easements and other development.*
9. *Adjacent property structures and/or uses.*

Finding 15: An existing conditions plan depicting these elements is included as Site Design Review Exhibit 3, Sheets V1.10 and V1.11.

1556 Site Plan Submittal and Analysis:

The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Land Development Services Department. The Planning Director or designate shall review the application and check its completeness and conformance with this ordinance. Once a Type 2 application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission. A staff report shall be prepared and sent to the applicant, the Planning Commission, and any interested party requesting a copy.

Finding 16: The application for DR 21-03 MOD was submitted on September 19th, 2023 and subsequently deemed complete on October 19th, 2023. In the deemed complete letter, the Board hearing of January 10th, 2024 was scheduled.

1561 Proposed Site Plan:

A complete application for design review shall be submitted, including the following plans, which may be combined, as appropriate, onto one or more drawings, unless it is determined by the Planning Director that the information is not applicable or is not necessary to determine compliance with County and State standards, and a short explanation will be given for each item so determined:

- A. *Site Plan: The site plan shall be drawn at a suitable scale (i.e. 1"=100', 1"=50', or 1"=20') and shall include the following:*
 1. *The applicant's entire property and the surrounding area to a distance sufficient to determine the relationships between the applicant's property and proposed development and adjacent properties and developments.*
 2. *Boundary lines and dimensions of the property and all proposed property lines. Future buildings in phased development shall be indicated.*
 3. *Identification information, including names and addresses of project designers.*
 4. *Natural features which will be utilized in the site plan.*
 5. *Location, dimensions and names of all existing or platted roads or other public ways, easements, and railroad rights-of-way on or adjacent to the property, city limits, section lines and corners, and monuments.*
 6. *Location and dimensions of all existing structures, improvements, or utilities to remain, and structures to be removed, all drawn to scale.*
 7. *Historic structures, as designated in the Comprehensive Plan.*
 8. *Approximate location and size of storm water retention or detention facilities and storm drains.*

9. *Location and exterior dimensions of all proposed structures and impervious surfaces.*
 10. *Location and dimension of parking and loading areas, pedestrian and bicycle circulation, and related access ways. Individual parking spaces shall be shown.*
 11. *Orientation of structures, showing entrances and exits.*
 12. *All exterior lighting, showing type, height, wattage, and hours of use.*
 13. *Drainage, Stormwater and Erosion Control, including possible adverse effects on adjacent lands.*
 14. *Service areas for waste disposal and recycling.*
 15. *Noise sources, with estimated hours of operation and decibel levels at the property boundaries.*
 16. *Goal 5 Resource Protection Plans. Indicate how project will protect streams, wetlands, riparian areas, natural areas, and fish and wildlife habitat from negative impacts.*
 17. *A landscaping plan which includes, if applicable:*
 - a. *Location and height of fences, buffers, and screening;*
 - b. *Location of terraces, decks, shelters, play areas, and common open spaces;*
 - c. *Location, type, size, and species of existing and proposed shrubs and trees; and*
 - d. *A narrative which addresses soil conditions and erosion control measures.*
- B. *Grading Plans: A preliminary grading plan indicating where and to what extent grading will take place, including general contour lines, slope ratios, slope stabilization proposals, and natural resource protection proposals.*
- C. *Architectural Drawings:*
1. *Building elevations and sections;*
 2. *Building materials (color and type);*
 3. *Floor plan.*

Finding 17: The approved site plan, grading plan, drainage plan, sign plan, illumination plan, wetland drawings, erosion control plans, and landscaping plans for the facility are included as Site Design Review Exhibit 3. The plans associated with the proposed modifications are included as Site Design Review Exhibit 4. A wetland delineation report is included as Site Design Review Exhibit 12 and a stormwater report is included as Site Design Review Exhibit 19. Noise sources for the approved facility will utilize applicable mechanisms to limit volumes to no more than 85 decibels at the property line. The approved grading plan depicting these elements is included as Site Design Review Exhibit 3, Sheet C1.20, while the plans associated with the proposed modifications are included as Site Design Review Exhibit 4. The approved building footprints are depicted on Site Design Review Exhibit 3, Sheet C1.11, while a rendering of the proposed facility is included as Site Design Review Exhibit 22. No changes to the buildings are proposed with this application.

1562 Landscaping: Buffering, Screening and Fencing:

A. General Provisions

1. *Existing plant materials on a site shall be protected to prevent erosion. Existing trees and shrubs may be used to meet landscaping requirements if no cutting or filling takes place within the dripline of the trees or shrubs.*

Finding 18: The majority of existing vegetation will be removed from the site to accommodate the proposed development. The approved erosion control measures for the entire facility will be implemented as depicted in Site Design Review Exhibit 3, Sheets EC1.10-EC5.10, while the erosion control plans associated with the proposed modifications are included as Exhibit 4, Sheets C3.0-C3.7.

2. *All wooded areas, significant clumps or groves of trees, and specimen conifers, oaks or other large deciduous trees, shall be preserved or replaced by new plantings of similar size or character.*

Finding 19: The site is nearly devoid of trees and does not contain wooded areas, significant clumps or groves of trees, or specimen conifers, oaks or other large deciduous trees. This standard does not apply.

B. Buffering Requirements

1. *Buffering and/or screening are required to reduce the impacts on adjacent uses which are of a different type. When different uses are separated by a right of way, buffering, but not screening, may be required.*

Finding 20: Adjacent properties to the north and west are zoned RIPD and are in the Port Westward Industrial Park, so the County did not require buffering or screening to the north and west when Site Design Review DR 21-03 and Variance 21-05 were approved. Adjacent properties to the south and east are agricultural, so the County did require buffering to the south and east, modified by Variance 21-05 to limit the extent of buffering to those areas not precluded by overhead power transmission lines and rail lines. The proposed modifications do not affect buffering to the east but do alter the location of the buffer to the south, as depicted on Site Design Review Exhibit 4, Sheets C2.0-C2.2 and C2.5-C2.6. This standard is met.

2. *A buffer consists of an area within a required setback adjacent to a property line, having a width of up to 10 feet, except where the Planning Commission requires a greater width, and a length equal to the length of the property line adjacent to the abutting use or uses.*

Finding 21: As previously approved by Site Design Review DR 21-03 and Variance 21-05, 10 feet of perimeter plantings will be provided on the south and east edges where facing other uses and where not precluded by overhead power transmission lines and rail lines (see Site Design Review Exhibit 3, Sheets C1.13, L1.10, and L1.12). The proposed modifications do not affect buffering to the east but do alter the location of the buffer to the south. As depicted on Site Design Review Exhibit 4, Sheets C2.0-C2.2 and C2.5- C2.6, the applicant proposes a 10-foot buffer south of the proposed rail line. This standard is met.

3. *Buffer areas shall be limited to utilities, screening, pedestrian and bicycle paths, and landscaping. No buildings, roads, or parking areas shall be allowed in a buffer area.*

Finding 22: As depicted on Site Design Review Exhibit 4, Sheets C2.0-C2.2 and C2.5-C2.6, no buildings, roads, or parking are proposed in the relocated buffer along the south boundary. No changes are proposed to the buffer along the east boundary. This standard is met.

4. *The minimum improvements within a buffer area shall include:*
 - a. *One row of trees, or groupings of trees equivalent to one row of trees. At the time of planting, these trees shall not be less than 10 feet high for deciduous trees and 5 feet high for evergreen trees, measured from the ground to the top of the tree after planting. Spacing of trees at maturity shall be sufficient to provide a year round buffer.*
 - b. *In addition, at least one 5-gallon shrub shall be planted for each 100 square feet of required buffer area.*
 - c. *The remaining area shall be planted in grass or ground cover, or spread with bark mulch or other appropriate ground cover (e.g. round rock). Pedestrian and bicycle paths are permitted in buffer areas.*

Finding 23: As depicted on Site Design Review Exhibit 4, Sheets C2.0-C2.2 and C2.5-C2.6, a 10-foot buffer is proposed along the south boundary. Per the approved buffer detail in Exhibit 3, Sheet L1.1, the buffer will have a row of trees, shrubs, and groundcover. No changes to the design of the approved buffer are proposed with this application. This standard is met.

C. Screening Requirements

1. *Where screening is required, the following standards shall apply in addition to those required for buffering:*
 - a. *A hedge of evergreen shrubs shall be planted which will form a four-foot high continuous screen within two years of planting; or,*
 - b. *An earthen berm planted with evergreen plant materials shall be provided which will form a continuous screen six feet in height within two years. The unplanted portion of the berm shall be planted in lawn, ground cover or bark mulch; or,*
 - c. *A five foot or taller fence or wall shall be constructed to provide a continuous sight obscuring screen. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood, brick, or other materials approved by the Director. Corrugated metal is not an acceptable fencing material. Chain link fences with slats may be used if combined with a continuous evergreen hedge.*

Finding 24: The RIPD zone does not have any zone-specific requirements to provide screening. This standard does not apply.

2. *When the new use is downhill from the adjoining zone or use being protected, the prescribed heights of required fences, walls, or landscape screening along the common property line shall be measured from the actual grade of the adjoining property at the common property line. This requirement may be waived by the adjacent property owner.*

Finding 25: Adjoining properties are at the same elevation as the proposed use. This standard does not apply.

3. *If four or more off-street parking spaces are required, off-street parking adjacent to a public road shall provide a minimum of four square feet of landscaping for each lineal foot of street frontage. Such landscaping shall consist of landscaped berms or shrubbery at least 4 feet in total height at maturity. Additionally, one tree shall be provided for each 50 lineal feet of street frontage or fraction thereof.*

Finding 26: No modifications to parking are proposed with this application. The proposed parking areas approved by Site Design Review DR 21-03 and Variance 21-05 are at least a third of a mile from Hermo Road. Therefore, no screening was required between parking areas and the road. This standard does not apply to this application for a modification of a prior approval.

4. *Landscaped parking areas may include special design features such as landscaped berms, decorative walls, and raised planters.*

Finding 27: No modifications to parking are proposed with this application. No berms, walls, or raised planters are proposed in the parking area landscaping. This standard does not apply to this application for a modification of a prior approval.

5. *Loading areas, outside storage, and service facilities must be screened from adjoining properties.*

Finding 28: No modifications to loading areas or outdoor storage are proposed with this application. The County previously approved a V 21-05 to authorize a waiver of screening standards due to the need to provide clear sight lines to the facility to maintain security. This standard does not apply to this application for a modification of a prior approval.

D. Fences and Walls

1. *Fences, walls or combinations of earthen berms and fences or walls up to four feet in height may be constructed within a required front yard. Rear and side yard fences, or berm/fence combinations behind the required front yard setback may be up to six feet in height.*
2. *The prescribed heights of required fences, walls, or landscaping shall be measured from the lowest of the adjoining levels of finished grade.*
3. *Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood, brick, or other materials approved by the Director. Corrugated metal is not an acceptable fencing material. Chain link fences with slats may be used if combined with a continuous evergreen hedge.*
4. *Re-vegetation: Where natural vegetation or topsoil has been removed in areas not occupied by structures or landscaping, such areas shall be replanted to prevent erosion.*

Finding 29: As previously approved by Site Design Review DR 21-03, the applicant intends to surround the majority of the facility (except for the office area) with seven-foot-high chain link fencing topped by one foot of barbed wire per ASTM F2611-15 for security as required by U.S. Department of Homeland Security requirements. Due to provisions of the Chemical Facility Anti-Terrorism Standards (CFATS) risk-based performance standard, the County Board of Commissioners granted Variance 21-05 to eliminate the continuous evergreen hedge normally required with chain link fencing. This variance also authorized fencing taller than the specified six-foot limit and to authorize chain link without slats and without a continuous an evergreen hedge due to the need to maintain sight lines to the facility. The proposed rail realignment will result in a corresponding realignment of security fencing, but the fence design will not change. Staff finds that no further variance approval is required to relocate the fence and construct it in accordance with the Variance V 21-05.

1563 Standards for Approval:

The Planning Commission or Director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:

- A. *Flood Hazard Areas: See CCZO §1100, Flood Hazard Overlay Zone. All development in Flood Hazard Areas must comply with State and Federal Guidelines.*

Finding 30: CCZO Section 1102 identifies the “Area of Special Flood Overlay” as “the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.” According to the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Map 41009C0050D, dated November 26, 2010, the site is in shaded Zone X, which is outside the Special Flood Hazard Area (see Site Design Review Exhibit 5). Therefore, Staff finds that this criteria does not apply.

- B. *Wetlands and Riparian Areas: Alteration of wetlands and riparian areas shall be in compliance with State and Federal laws.*

Finding 31: As detailed in the responses to Sections 1170 and 1180, the site is outside the Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone but within the Wetland Area Overlay. To prepare the site for development, the proposed construction will result in temporary and permanent impacts to wetlands. The applicant is seeking approval from the U.S. Army Corps of Engineers for wetland alterations and the Oregon Department of State Lands has issued permits for wetland alterations. The applicant will perform approximately 488 acres of off-site wetland mitigation south of the site in accordance with Federal and State law. With this information, this standard will be met with existing conditions of approval.

- C. *Natural Areas and Features: To the greatest practical extent possible, natural areas and features of the site shall be preserved.*

Finding 32: The applicant is proposing modifications to an approved renewable diesel production facility as permitted in the RIPD zone under prescribed conditions. The overall development will impact wetlands so the applicant will perform mitigation as provided by Federal and State law. There are no significant natural areas or features on the site. As detailed in the responses to Sections 1120, 1185, and 1190, the site is outside the Sensitive Bird Habitat Overlay, Natural Area Overlay, and Big Game Habitat Overlay. The applicant will perform stormwater management in accordance with applicable standards (as outlined in the stormwater report, Site Design Review Exhibit 19) and will obtain all necessary environmental permits to minimize impacts on off-site natural areas and features.

D. Historic and Cultural sites and structures: All historic and culturally significant sites and structures identified in the 1984 Comprehensive Plan, or identified for inclusion in the County Periodic Review, shall be protected if they still exist.

Finding 33: Historic and culturally significant sites and structures are identified in Article XI of the Comprehensive Plan. None of the listed sites and structures are on or adjacent to the site. This standard does not apply to this application for a modification of a prior approval.

E. Lighting: All outdoor lights shall be shielded so as to not shine directly on adjacent properties and roads.

Finding 34: Lighting is not proposed to change from the approved layout illustrated in Site Design Review Exhibit 3 Sheets C1.50 and C1.51. Light fixtures will be shielded and placed far enough from property lines so they focus light on the work area rather than casting light on adjoining properties or public streets. This standard is met.

F. Energy Conservation: Buildings should be oriented to take advantage of natural energy saving elements such as the sun, landscaping and land forms.

Finding 35: No modifications to building orientation is proposed with this application. This standard does not apply to this application for a modification of a prior approval.

G. Transportation Facilities: Off-site auto and pedestrian facilities may be required by the Planning Commission, Planning Director or Public Works Director consistent with the Columbia County Road Standards and the Columbia County Transportation Systems Plan.

Finding 36: The TIA (Site Design Review Exhibit 20) found that all study intersections meet applicable Columbia County, Oregon Department of Transportation, and City of Clatskanie mobility standards in 2020, in 2024 without NEXT Renewable Fuels, and in 2024 with NEXT Renewable Fuels. The TIA did not identify a need for mitigation strategies. Hermo Road is currently gravel near the site, but the County has a planned project (TSP Project #9) to improve the road from Quincy Mayger Road to just west of the existing rail spur south of the PGE site. The Applicant will satisfy the original condition of approval #14 requiring improvements to Hermo Road.

There is an existing paved roadway from Kallunki Road to the PGE Beaver Generation site and this road has an existing paved rail crossing. Site Design Review DR 21-03 approved the applicant's proposed use of a secondary gravel driveway that connects to this existing paved roadway west of the rail line, with no requirement for rail improvements at that private crossing.

No changes to off-site auto and pedestrian facilities are proposed with the application for DR 21-03 MOD. This standard is met.

1564 Final Site Plan Approval:

If the Planning Director or Planning Commission approves a preliminary site plan, the applicant shall finalize all the site drawings and submit them to the Director for review. If the Director finds the final site plan conforms

with the preliminary site plan, as approved by the Director or Planning Commission, the Director shall give approval to the final site plan. Minor differences between the preliminary site plan and the final site plan may be approved by the Director. These plans shall be attached to the building permit application and shall become a part of that permit.

Finding 37: The preliminary site plan, once approved, is forwarded to the County Building Official and other departments. Its contents dictate their review and standards. As such the final site plan shall be approved only if it conforms to the preliminary site plan reviewed and approved by the Board. In addition, the County Building Official will require the project to comply with all applicable requirements of the County Codes related to Building, Safety and Fire Protection Standards in effect at the time of building permit applications. Following preliminary review by the Board, the applicant will submit refined plans to the Planning Director as part of the building permit review process. Staff finds that the criteria in Section 1563 will be met with conditions.

Section 200 GENERAL PROVISIONS

215 Ingress and Egress:

Every use of property shall hereafter have a defined point of usable ingress and egress onto any street. Such defined points of access shall be approved at the time of issuance of a building permit.

Finding 40: As depicted on the approved design in Site Design Review Exhibit 3, Sheets G0.01 and C1.13, the development will utilize a driveway to Hermo Road as its primary access point, with secondary egress to Kallunki Road for emergency vehicles and for equipment to access barges. Each of these serves as a defined ingress and egress point. As shown on the proposed plans in Site Design Review Exhibit 4, vehicle access locations are not proposed to change with this application. This standard is met.

Section 1300 SIGNS

1301 Use:

No sign may be established, altered, or expanded hereafter in any district in Columbia County, except in accordance with the provisions outlined in this Section. The sign provisions apply to signs established in conjunction with any use in the county.

Finding 41: Prior to sign installation, the applicant will obtain all necessary permits and submit signage designs to County staff for review where required by code.

1302 General Provisions:

.1 Design Review: In addition to complying with the standards in this Section, the design and color of commercial and industrial signs and supporting structures of signs 100 square feet or larger in size shall be compatible with the architectural design and color of existing and proposed buildings on the site as determined during site design review according to the provisions of Section 1550 of this Ordinance.

Finding 42: The applicant is not proposing any changes to the approved signage as authorized via DR 21-03. This standard does not apply to this application for a modification of a prior approval.

.2 Setbacks:

A. All signs shall be situated in a manner so as not to adversely affect safety, corner vision, or other similar conditions and shall not overhang or encroach upon public rights of way.

1313 Commercial and Industrial Districts:

.1 Signs Permitted: Signs shall be permitted in Commercial and Industrial zoning districts subject to the provisions of this Section, except to the extent such provisions conflict with the specific development standards for signs in the underlying zoning district.

Finding 43: Prior to sign installation, the applicant will obtain all necessary permits and submit signage designs to County staff for review where required by code. The RIPD zone has no specific development standards for signage and instead defers to the provisions of Section 1300. The modifications requested in DR 21-03 MOD does not propose any changes to the signs as authorized via DR 21-03. This standard does not apply to this application for a modification of a prior approval.

Section 1400 OFF-STREET PARKING AND LOADING**1401 General Provisions:**

At the time of the erection of a new building, or an addition to an existing building, or any change in the use of an existing building, structure, or land which results in an intensified use by customers, occupants, employees, or other persons, off-street parking and loading shall be provided according to the requirements of this section.

1402 Continuing Obligation:

The provisions for and maintenance of off-street parking and loading facilities shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance, or regulation shall be issued with respect to off street parking and loading, or land served by such land, until satisfactory evidence is presented that the property is, and will remain, available for the designated use as a parking or loading facility.

Finding 44: The applicant acknowledges the ongoing responsibility to maintain the parking and loading areas. No changes are proposed to the parking areas approved via DR 21-03 and V 21-05. This standard does not apply to this application for a modification of a prior approval.

1407 Change of Use:

In case of enlargement or change of use, the number of parking or loading spaces required shall be based upon the total area involved in the enlargement or change in use.

Finding 45: No enlargement or change of use is proposed as the site currently has no structures or parking areas. This standard does not apply.

Section 1450 TRANSPORTATION IMPACT ANALYSIS**1450 Transportation Impact Analysis:**

Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.

.1 Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:

- A. Changes in land use designation, or zoning designation that will generate more vehicle trip ends.*
- B. Projected increase in trip generation of 25 or more trips during either the AM or PM peak hour, or more than 400 daily trips.*
- C. Potential impacts to intersection operations.*

- D. *Potential impacts to residential areas or local roadways, including any nonresidential development that will generate traffic through a residential zone.*
- E. *Potential impacts to pedestrian and bicycle routes, including, but not limited to school routes and multimodal roadway improvements identified in the TSP.*
- F. *The location of an existing or proposed access driveway does not meet minimum spacing or sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.*
- G. *A change in internal traffic patterns may cause safety concerns.*
- H. *A TIA is required by ODOT pursuant with OAR 734-051.*
- I. *Projected increase of five trips by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) per day, or an increase in use of adjacent roadways by vehicle exceeding 26,000-pound gross vehicle weight (13 tons) by 10 percent.*

Finding 46: Mackenzie transportation engineers estimate that the proposed development will generate more than 400 weekday trips and more than 25 peak hour trips. Accordingly, the applicant has provided a TIA as required (Site Design Review Exhibit 20) and has provided a supplemental letter regarding the continuing applicability of the TIA (Site Design Review Exhibit 21). This standard is met.

- .2 *Consistent with the County's Guidelines for Transportation Impact Analysis (TIA), a landowner or developer seeking to develop/redevelop property shall contact the County at the project's outset. The County will review existing transportation data to establish whether a TIA is required. It is the responsibility of the applicant to provide enough detailed information for the County to make a determination. An applicant should have the following prepared, preferably in writing:*
- A. *Type of uses within the development*
 - B. *The size of the development*
 - C. *The location of the development*
 - D. *Proposed new accesses or roadways*
 - E. *Estimated trip generation and source of data*
 - F. *Proposed study area*

If the County cannot properly evaluate a proposed development's impacts without a more detailed study, a TIA will be required. The County will provide a scoping summary detailing the study area and any special parameters or requirements, beyond the requirements set forth in the County's Guidelines for Transportation Impact Analysis, when preparing the TIA.

Finding 47: The applicant's transportation engineers submitted a scoping letter for review and approval by Columbia County staff and Oregon Department of Transportation staff prior to commencing the TIA. The scoping letter identified those items that would be addressed as part of the analysis. This standard is met.

- .3 *Approval Criteria. When a TIA is required, a proposal is subject to the following criteria:*
- A. *The TIA addresses the applicable elements identified by the County Public Works Director and the County's Guidelines for Transportation Impact Analysis;*
 - B. *The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the County Public Works Director and, when state highway facilities are affected, to ODOT;*
 - C. *For affected non-highway facilities, the TIA establishes that mobility standards adopted by the County have been met; and*

D. Proposed public improvements are designed and will be constructed consistent with County Road Standards and access spacing standards in the Transportation System Plan.

Finding 48: The project TIA (Site Design Review Exhibit 20) addresses those items identified in the scoping letter approved by County and ODOT staff to ensure compliance with approval standards. The TIA indicates that the proposed development will generate 667 weekday trips, 91 of which will occur in the AM peak hour and 84 of which will occur within the PM peak hour. The report analyzed traffic operations at six study area intersections in 2020 and in 2024, both with and without the proposed development.

The report found that all six study intersections meet applicable Columbia County, Oregon Department of Transportation, and City of Clatskanie mobility standards in 2020, in 2024 without NEXT Renewable Fuels, and in 2024 with NEXT Renewable Fuels. The report also found that existing and future traffic queues can be accommodated within the existing storage areas at all study intersections. Based on this analysis, the TIA does not recommend any mitigation strategies as a result of the proposed facility.

Due to the passage of time since the TIA was issued, Mackenzie transportation engineers revisited the analysis to see whether the results were still valid. As explained in the traffic analysis update letter in Site Design Review Exhibit 21, the ITE has now issued the Trip Generation Manual, 11th edition, which resulted in revised trip generation consisting of 660 weekday trips, 83 of which will occur in the AM peak hour and 80 of which will occur within the PM peak hour. The updated trip generation estimates reflect a nine percent reduction of AM Peak Hour trips (eight fewer trips), a five percent reduction of PM Peak Hour trips (four fewer trips), and a one percent reduction of average daily trips (seven fewer trips). Based on this comparison, the trip generation in the January 14, 2021, TIA is slightly higher and thus is more conservative than if the trip generation were performed using the latest Trip Generation Manual. Consequently, off-site impacts are projected to be less significant than originally presented in the January 14, 2021, TIA.

The traffic analysis update letter also notes that Oregon Department of Transportation (ODOT) traffic volumes have grown one percent in the interim. Therefore, Mackenzie transportation engineers concluded that due to the decreased site trips and slight increase in existing traffic volumes, off-site impacts are projected to be similar to those originally presented in the January 2021 TIA. Furthermore, the proposed site modifications are not anticipated to affect vehicle trips since the modifications do not alter staffing levels. Therefore, the conclusions of the 2021 TIA (Site Design Review Exhibit 20) continue to apply.

The site does not abut any public rights-of-way but is near Hermo Road, which is classified as a local road in the 2017 Columbia County Transportation System Plan (TSP). The TSP recommends an optimum right-of-way width of 50 feet and an optimum roadway width of 28 feet (to accommodate ten-foot lanes and four-foot shoulders). The existing right-of-way width at the driveway location is 60 feet so no right-of-way dedication is required. Hermo Road is currently gravel near the site, but the County has a planned project (TSP Project #9) to improve the road from Quincy Mayger Road to just west of the existing rail spur south of the PGE site. The Applicant will satisfy DR 21-03/V 21-05 condition of approval #14 requiring improvements to Hermo Road.

Based on the information noted above and the full TIA, the applicant has demonstrated compliance with the identified approval criteria.

.4 Conditions of Approval.

- A. *The County may deny, approve, or approve a proposal with conditions necessary to meet operational and safety standards; provide the necessary right-of-way for improvements; and to require construction of improvements to ensure consistency with the future planned transportation system.*
- B. *Construction of off-site improvements may be required to mitigate impacts resulting from development that relate to capacity deficiencies and public safety; and /or to upgrade or construct public facilities to County Standards. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.*

Finding 49: The Applicant will satisfy the original DR 21-03/V 21-05 condition of approval #14 requiring improvements to Hermo Road.

Review Criteria and Findings Specific to CU 23-11

Section 300 PRIMARY AGRICULTURE USE ZONE – 80 (PA-80)

301 Purpose:

The Primary Agriculture Zone or Exclusive Farm Use (EFU) This district is intended to preserve, enhance, and stabilize those prime agricultural lands and farm use areas within the County which are being used, and offer the greatest potential, for food and fiber production. This district also provides for open space, watershed protection, maintenance of clean air and water, and fish and wildlife habitat, including the creation, restoration and enhancement of wetlands.

303 Table of Authorized Uses and Development:

The following uses, activities and development are authorized in the Primary Agriculture Zone, subject to review and approval under applicable regulatory standards:

TABLE OF AUTHORIZED USES & DEVELOPMENT			
Roads, highways and other transportation facilities, requiring an exception	CUP/PC	CUP/PC	306.9, 307, 308

TRANSPORTATION – 306 CUP:

.9 Roads, Highways and other Transportation Facilities and Improvements as set forth in OAR 660-012-0065 related to Transportation Improvements on Rural Lands and not otherwise provided for in this Section, subject to adoption of an Exception to Statewide Planning Goal 3 and to any other applicable goal with which the facility or improvement does not comply, subject to compliance with Section 307, General Review Standards and Section 1503.

Finding 50: The application narrative provides the following discussion and response to this criterion:

“Where this rail infrastructure crosses PA-80 zoned land, it is permissible under OAR 660-012-0065 “Transportation Improvement on Rural Lands,” which allows “(j) Railroad mainlines and branchlines” subject to the conditional use criteria in ORS 215.296.

According to P&W, the proposed rail improvements are, collectively, a “branch line”: “NEXT’s rail tracks will be considered industry track, which is another term for branch line or spur” (Exhibit 20). P&W goes on to explain:

As a general matter, “branch line” is a broad term that encompasses any track that branches off from mainline track.

Portland & Western Railroad, Inc. also does not consider the tracks at NEXT’s facility a “switch or rail yard.” All cars entering and exiting NEXT’s facility will be for NEXT’s sole use at the site itself. A switch/rail yard’s goal is to block cars for furtherance to other destination points.

There are no definitions of “railroad mainlines” or “branchlines” in OAR chapter 660, and no definitions of these terms appear in the Oregon Revised Statutes. Most of the Oregon cases interpreting rail terminology are from the pre-war period but given the importance of rail transportation at that time, they are worth considering for guidance. The only case that appears to interpret these terms is Union Pacific Railroad Company v. Anderson, which described them as follows:

The commonly understood meaning of the words “main line” of a railroad is the principal line, and the branches are the feeder lines like the tributaries of a river. The court so stated in the O., C. & E. case, quoting dictionary definitions to that effect. It also quoted from 22 R.C.L. 744 the following:

A ‘trunk railway’ is a commercial railway connecting towns, cities, counties or other points within the state or in different states, which has the legal capacity, under its charter or the general law, of constructing, purchasing and operating branch lines or feeders connecting with its main stem or trunk, the main or trunk line bearing the same relation to its branches that the trunk of a tree bears to its branches, or the main stream of a river to its tributaries.

- Union Pacific Railroad Company v. Anderson, 167 Or 687 (1941) at 711–712.

What is apparent in the above analysis is that a “main line” or “trunk line” can be analogized to a river or tree trunk while a “branchline” can be analogized to a tributary or branch. Further case law research did not reveal any definition of a “spur” line that suggests that a “spur” line is not within the broader category of “branchlines.”

There is Oregon legal precedent demonstrating that the terms “spur” and “branchline” are synonymous. For example, the factual recitation by the Oregon Supreme Court in Corvallis & A. A. R. Co. v. Portland, E. & E. Ry. Co., 84 Or 524 (1917) uses the two terms interchangeably:

Plaintiff alleges in effect that on April 17, 1911, and for some time prior thereto, it owned and operated a railroad line from Corvallis to Monroe, and also owned certain railway equipment, rolling stock, real and personal property, rights of way, contracts, and franchises; that among the contracts was one made during the year 1909 between the plaintiff and the Corvallis Lumber Manufacturing Company, hereafter to be designated as the Lumber Company, by the terms of which plaintiff agreed to construct a branch line from its main track on or before May 15, 1910, extending into section 16, and also to extend that spur to a point within the boundary lines of the northwest quarter of section 20 on or before June 1, 1911, the Lumber Company to furnish logs from said timber for transportation to Corvallis over the branch line when constructed [...].

The above passage illustrates two (2) concepts: first, there is no principled difference as far as the Court was concerned between the term “spur” and “branchline”, and second, it demonstrates that a rail connection requested by a single company (in this case, the Corvallis Lumber Manufacturing Company) is still a “branchline” even though it serves a single use.

More recently, the Oregon Land Use Board of Appeals relied on a non-legislative 2001 ODOT Oregon Rail Plan to interpret the meaning of “branchline,” as that term was enacted as part of OAR 660-012-0065 in 1995. In so doing, LUBA approved of ODOT’s definitions of branchline as “a secondary line of a railway, typically stub-ended.” 1000 Friends of Oregon v. Columbia County, __ OR LUBA__ (LUBA No. 2022-039, slip op at 21–22, October 22, 2022). This definition does not differ in material respects from the definition “branchline” in Union Pacific, quoted above. As the branchline in this instance consists of a single line between the track and facility and ends in stub, the proposed railroad branchline fits ODOT’s definition as well.”

“The proposed rail branchline is a transportation facility subject to Conditional Use Permit approval. This narrative provides responses to the cited Sections 306.9, 307, and 308. However, it should be noted that contrary to the language in the table regarding such facilities “requiring an exception,” no goal exception is required for this use pursuant to ORS 215.283(3), ORS 215.296, and OAR 660-012-0065. Those statutes and rules are discussed below, in the response to subsection 306.9.”

The application continues:

“Specifically, ORS 215.283(3) states that:

Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 (Standards for approval of certain uses in exclusive farm use zones) for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

Criterion (b) refers both to ORS 215.296 and to the “...rules of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.” These rules are codified at OAR 660-012-0065, Transportation Improvements on Rural Lands, which states in part that:

(1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.

(3) The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:

(b) Transportation improvements that are allowed or conditionally allowed by ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993), 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) or OAR chapter 660, division 6 (Forest Lands);

(j) Railroad mainlines and branchlines;

ORS 215.296, Standards for approval of certain uses in exclusive farm use zones, states that:

(1) A use allowed under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2) or (11) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2) or (11) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

The provisions above outline the rationale through which the rail branchline should be authorized by the County. The analysis required by ORS 215.296 is included in the response to Section 307.1, below.”

Staff finds that the applicant’s analysis of the definition of a “branchline” is consistent with previous interpretations as well as the Oregon Land Use Board of Appeals’ interpretation via 1000 Friends v. Columbia County, ___ OR LUBA ___ (LUBA No. 2022-039). If the Board finds that the proposed rail development is a rail branchline, the use does not require a goal exception as described in the applicant’s submission.

307 General Review Standards:

.1 All uses in the Primary Agriculture Zone shall meet the review standards found in the above enabling Sections 304, 305 or 306. To also ensure compatibility with farming and forestry activities, the Planning Director, hearings body or Planning Commission shall determine that a use authorized by Sections 304, 305, or 306, except as specifically noted, shall meet the following requirements:

Finding 51: Findings for Section 307 generally begin by quoting large/entire sections of the applicant’s narrative responses in order to capture the applicant’s argument. These large quotes are followed by staff evaluation and findings. The application narrative addresses Section 307 criteria as follows:

“Consistent with the Oregon Supreme Court’s ruling in *Stop the Dump Coalition v. Yamhill County*, this narrative provides a farm-by farm analysis for the farm impacts test. Two separate impact areas are examined: the first is the impact area associated with Branchline Section A (which extends from the Portland & Western Railroad mainline to the proposed renewable diesel production facility and the second is the impact area associated with

Branchline Section B (which begins at the southern boundary of the proposed renewable diesel production facility and extends westward toward Hermo Road). The analysis then characterizes existing agricultural practices in the two impact areas and demonstrates that the proposed rail branchline does not violate either of the approval criteria in this subsection. Responses to each criterion are outlined below.”

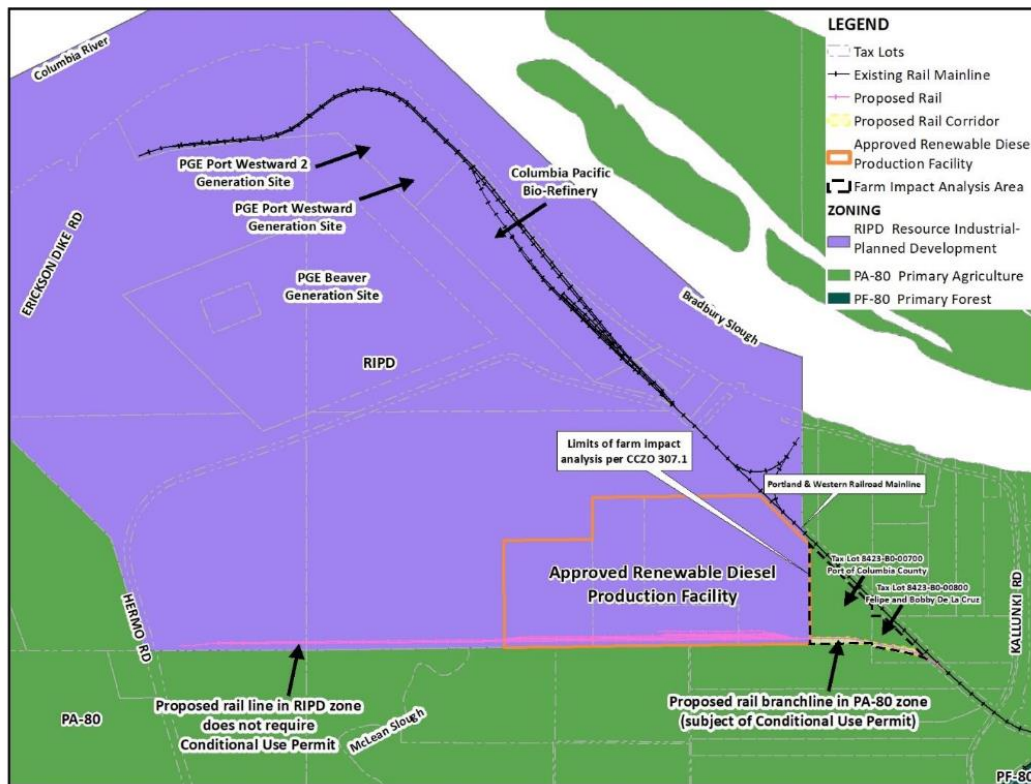
A. *The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*

Finding 52: The application narrative provides the following rationale to address this criterion:

“As illustrated in Figure 3, the proposed railroad branchline crosses two (2) parcels: one owned by Felipe and Bobby De La Cruz (tax lot 8423-B0-00800) and one owned by the Port of Columbia County (tax lot 8423-B0-00700). As illustrated in Figure 3 and the zoning map in Exhibit 2, both parcels are zoned PA-80. Adjacent resource lands include property zoned PA-80 to the north, east, and south.

Based on the location of the Portland & Western Railroad mainline, which bifurcates a small amount of resource land, the only area affected by the proposed branchline will be land north of the branchline and south and west of the existing Portland & Western mainline. Since the proposed railroad branchline will isolate a triangle bounded by the rail mainline to the northeast, the proposed railroad branchline to the south, and the proposed renewable diesel production facility to the west (on land zoned RIPD), the impact area analyzed for this standard is limited to portions of the two (2) parcels that will be crossed by the railroad branchline.”

Figure 3 Area Zoning and Limits of Farm Impacts Analysis (Application Submission Figure 3)



The application continues:

“The analysis area for the branchline totals 14.1 acres. There are no nearby lands devoted to forest use, but there are agricultural lands. Aerial photography and the Cropland Data Layer indicates that the northern tip of the De La Cruz parcel is wetland. The wetland delineation report (Exhibit 11) depicts the railroad branchline as a wetland, but the report did not analyze the remainder of the impact area. The central portion of the De La Cruz parcel (within and north of the proposed railroad branchline corridor) is used for hay/grassland; similarly, the single Port parcel west of the De La Cruz parcel contains wetlands and is used for hay/grassland as well. Hay and row crops are fairly resilient and are not sensitive to the sound or vibration associated with rail traffic, as evidenced by the proximity of these crops to the existing rail mainline.

Farm practices for hay production and row crops include activities such as tilling/soil preparation, planting, irrigation, spraying fertilizer, managing weeds, mowing, and harvesting. Construction and operation of the railroad branchline could cause minor changes in access routes to fields (for instance, the branchline will cross an existing access route for the De La Cruz parcel) and changes in patterns of cultivation, seeding, fertilizing, and harvesting near the facility. The farming activities north of the proposed rail line could continue even with the construction of the railroad branchline since the applicant (as the Owner of the railroad branchline) proposes to provide a private rail crossing to allow passage of farm equipment (see Exhibit 3, Sheet C2.7). The risk of conflict between farm equipment and trains on the branchline is low because the trains will be infrequent and moving slowly as they accelerate and decelerate due to proximity to the end of the line.

Taken individually, neither alterations to access routes nor increased time to access fields is by itself a condition that would cause farm operators to significantly change their farm practices. Furthermore, the cumulative effect of these changes does not require farm operators to significantly change their practices. As depicted on the Field Access Map (Exhibit 21), no existing field access points are eliminated by the proposed branchline. There are sufficient rail crossings available to access the fields and the railroad branchline will not significantly change farming practices or cause substantial delays.

The railroad tracks are constructed on a gravel bed that minimizes fire potential from any sparks that may be generated. The proposed branchline is also in the vicinity of PGE’s existing transmission lines and associated maintenance road, which are subject to vegetation control to minimize conflict with electrical facilities. The rail line will also be next to stormwater ditches and a pond, which will further reduce fire potential.

Construction of the railroad branchline will be near existing irrigation and drainage ditches, which will remain in place. As depicted on Sheet C2.7 of Exhibit 3, a culvert is proposed where the existing ditch will be crossed by the rail infrastructure. The proposed culvert will be designed and sized as part of final engineering drawings during the permitting phase of the project. Utilizing standard engineering practice, the design engineer will ensure that the cross-section and slope of the culvert provides adequate hydraulic capacity to convey water flows from their upstream contributing areas to their existing downstream channels. Accordingly, NEXT’s proposed branchline will not negatively impact drainage and irrigation.

Railroad operators are required by Federal and State law to prepare oil spill response plans and to utilize rail cars meeting the latest safety standards to minimize the potential for impacts on nearby lands.”

With this information and at the time of writing this staff report, staff has seen no evidence that the proposed rail branchline will force a significant change in farm or forest practices within the impact area.

- B. The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.*

Finding 53: The application narrative provides the following rationale to address this criterion:

“As discussed in the response to criterion A, only two (2) parcels are within the impact areas that have the potential to be affected by the proposed railroad branchline. Again, as noted above, parcels within the impact areas contain wetlands, though portions have been used for grass/hay and mint in recent years. The impact area contains one (1) parcel owned by Felipe and Bobby De La Cruz and one (1) parcel owned by the Port of Columbia County. See Figure 3. [Figure 3 reproduced above]

Farm practices for hay production and row crops include activities such as tilling/soil preparation, planting, spraying fertilizer, managing weeds, mowing, and harvesting. Construction and operation of the branchline does not interfere with these activities by increasing land values (e.g., by converting agricultural land to non-farm/residential use) or by altering the landscape in a manner that would trigger the need for farm operators to incur significant additional expenses. Trains are designed to stay on their tracks, so unlike a roadway or path, the railroad branchline would not introduce automobiles, pedestrians, or cyclists into agricultural lands where they were not previously present. As a result, no additional measures need to be taken by farmers to prevent trespassers.

Train traffic on the railroad branchline will not lead to any appreciably higher level of dust than is currently present from the Portland & Western Railroad mainline which already borders the impact area (all portions of the impact area are already within 800 feet of the rail mainline). Consequently, construction of the railroad branchline will not cause farmers to incur significant costs to utilize additional water or pumping equipment to suppress dust or wash their products.

The railroad branchline will not increase the cost of farming inputs (seed, fertilizer, pesticides, etc.) and will not increase farmers’ liability or financial exposure. The impact area is not used for grazing so there would be no need to expend funds to install fencing to prevent livestock from crossing the tracks. The applicant proposes to construct a private rail crossing at its own expense to allow passage of farm equipment to the PA-80 property that would be isolated by the railroad branchline (see Exhibit 3, Sheet C2.7).”

At time of writing this staff report, staff has seen no evidence the proposed rail development will significantly increase the cost of accepted farm and forest practices.

- .2 In addition to the requirements in 307.1A. and B., the applicant may demonstrate that the standards for approval will be satisfied by imposing clear and objective conditions to ensure conformance to applicable standards of the proposed PA-80 use.*

Finding 54: Staff finds that the applicant has provided evidence demonstrating that the proposed railroad branchline satisfies the criteria in Section 307.1 without requiring additional conditions of approval. There has been no evidence submitted to show that this proposal does not satisfy Section 307.1. This criterion does not apply.

308 Development Standards:

- .1 The minimum average lot width shall be 100 feet for all activities except farming and forestry.*
.2 The minimum average lot depth shall be 100 feet for all activities except farming and forestry.

- .3 All newly created lots or parcels and those with permitted, reviewed or conditional uses, shall have a minimum of 50 foot frontage on a public or private right-of-way and an approved access in accordance with this ordinance, the Columbia County Road Standards and the Rural Transportation System Plan.*

Finding 55: The parcels included in this application are well over 100 feet deep and wide. The proposal is to develop within an easement; the proposal does not create new lots or parcels. The proposal is for a rail use – access to the use is proposed via the proposed fuel facility and the existing rail spur serving Port Westward. The site includes well over 50 feet of frontage along Hermo Road at Tax Lot 8421-00-00600. These standards are met.

- .4 Setbacks. The following are minimum setbacks for all buildings and structures. In addition, all structures are subject to any special setback lines, where specified on designated arterial or collectors.*

- A. No structure shall be constructed closer than 30 feet to a property line. In the event the subject property is bordered by a zone with more restrictive setbacks, the more restrictive setback of the adjoining zone shall control on the side of the subject property adjoining the more restrictive setback.*

Finding 56: As this criterion applies to the rail branchline and not the facility, no structures subject to setback standards are proposed.

- B. Setbacks in wetland areas shall be required in accordance with Sections 1170 and 1180 of the Columbia County Zoning Ordinance.*

Finding 57: As discussed in the response to Sections 1170 and 1180, as the wetlands on site are not associated with streams, rivers, sloughs, or lakes, there is no protective riparian corridor boundary around the wetlands. As further discussed in the response to Section 1180, the wetlands on site are not deemed significant and are thus permitted by that section. The applicant is seeking approval from the U.S. Army Corps of Engineers for wetland alterations and the Oregon Department of State Lands has issued permits for wetland alterations. The applicant will perform approximately 488 acres of off-site wetland mitigation south of the site in accordance with Federal and State law. To the extent Sections 1170 and 1180 are met, this standard is met. Please see responses to Section 1170 and 1180.

- .5 Height. There shall be a height limitation of 100 feet in the PA-80 Zone for farm use structures, except for on those lands containing abandoned mill sites that were rezoned to industrial uses pursuant to ORS 197.719 or are subject to Airport Overlay Zone, or any structure which has received a conditional use or variance approval which allows a greater height of said structure. Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 50 feet or 2½ stories, whichever is less.*

Finding 58: No buildings or structures regulated by height requirements are proposed as part of the rail branchline development. This standard is met.

- .6 Signs. The standards and requirements described in Section 1300 of the Columbia County Zoning Ordinance shall apply to all signs and name plates in the Exclusive Farm Use Zone.*

Finding 59: The application indicates that “no advertising signs are proposed” and that “signs pertaining to rail safety are not regulated by Section 1300”. A condition of approval is proposed to ensure sign standards are met.

- .7 The Oregon Department of Fish & Wildlife shall be notified and provided with the opportunity to comment on any development within a Goal 5 protected wildlife habitat area.*

- .8 Dwellings and other structures to be located on a parcel within designated big game habitat areas pursuant to the provisions of Section 1190 are also subject to the additional siting criteria contained in Section 1190.*

Finding 60: Columbia County Comprehensive Plan, Part XVI, Article VIII(A), Big Game Wildlife Habitat, identifies three (3) types of big game habitat. As depicted in Conditional Use Exhibit 6, the site is not within a Big Game Habitat area, Peripheral Big Game Habitat area, or Columbia white-tailed deer range in the County's Wildlife Game Habitat map. The map does identify the area as major waterfowl habitat and ODFW has not provided comments related to the current proposal. Please see additional findings under Section 1190.

Section 1503 CONDITIONAL USE

- .1 Status: Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested; subject to such reasonable modifications, conditions, and restrictions as may be deemed appropriate by the Commission, or as specifically provided herein.*
- .2 Conditions: The Commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other reasonable conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use being allowed.*
- .3 Conditional Use Permit: A Conditional Use Permit shall be obtained for each conditional use before development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the Commission, in addition to those specifically set forth in this ordinance. On its own motion, or pursuant to a formal written complaint filed with the Planning Department, upon proper notice and hearing as provided by Sections 1603 and 1608 of this ordinance, the Commission, (or Board on appeal) may, but is not required to, amend, add to or delete some or all of the conditions applied to Conditional Use Permits issued by the Planning Commission or Board of Commissioners. The power granted by this subsection may only be exercised upon a finding such amendment, addition or deletion is reasonably necessary to satisfy the criteria established by Section 1503.5 below.*

Finding 61: Staff finds that the proposed branchline is a transportation facility consistent with the PA-80 zone and applicable statutes and administrative rules. Previous findings found compatibility with the nearby agricultural uses as detailed in Section 300. These criteria also allow the Board to make a tentative decision and instruct the Director to draft findings to support the decision. As stated previously, the hearing for CU 23-11 was properly noticed and published in local newspapers. The Board took jurisdiction of DR 21-03 MOD and CU 23-11 on November 1, 2023 pursuant to Section 11 of the Planning Commission Ordinance. With this information, staff finds that these criteria are met.

- .5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:*
- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;*

Finding 62: This standard requires a determination of consistency with Section 300. As discussed in findings under Section 306, Staff has considered submitted evidence and has concluded that the proposal is a rail branchline. Should

the Board find the proposed rail development is a transportation facility defined as a “rail branchline” consistent with Section 300, this standard is met.

B. The use meets the specific criteria established in the underlying zone;

Finding 63: This standard requires a determination of consistency with Sections 306, 307, and 308. As previous findings address, Staff finds that this proposal is consistent with Sections 306, 307, and 308.

C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;

Finding 64 The land use application provides the following rationale:

“The most persuasive evidence of the site’s suitability for a railroad branchline is that it will branch off the existing Portland & Western Railroad mainline. The branchline alignment is suitable because it is the most direct route to the portion of the site needing rail access (the southern end) and the size of the proposed rail corridor is relatively limited, consisting of a corridor identified as the minimum necessary by Portland & Western Railroad, with a total area of approximately 1.7 acres. The branchline will be located close to the existing mainline, which has operated for many years and has not been identified as being incongruous with the adjacent farm uses.

The railroad branchline site is nearly flat. The site is protected from flooding by the Beaver Drainage Improvement Company’s dikes and associated stormwater conveyance and pumps, and is therefore adequately drained. A culvert is proposed where the existing ditch will be crossed by the rail infrastructure (Exhibit 3, Sheet C2.7), and existing ditches will remain in place. As detailed in the preliminary stormwater report (Exhibit 18), sufficient infrastructure is in place or proposed to collect, treat, and discharge runoff. While the site does contain wetlands that will be impacted by the proposed development, the applicant is seeking approval from the U.S. Army Corps of Engineers for wetland alterations and the Oregon Department of State Lands has issued permits for wetland alterations. The applicant will perform approximately 488 acres of off-site wetland mitigation south of the site in accordance with Federal and State law.”

Staff agrees the proposed rail development area is large, generally flat, protected from flood, and can be designed to manage stormwater. The proposed rail corridor development area also includes wetlands that were found to be not significant. The applicant states that they are seeking approval from the U.S. Army Corps of Engineers for wetland alterations and the Oregon Department of State Lands has issued permits for wetland alterations. Staff finds that with not other evidence, this standard is met.

D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

Finding 65: The land use application provides the following rationale:

“The proposed railroad branchline is intended to serve a renewable diesel production facility approved under a separate Site Design Review application. The rail line will not in itself generate more traffic on the area roadway system as it will instead facilitate increased usage of the Portland & Western Railroad mainline to move materials that would otherwise be shipped by truck. As depicted on the Field Access Map (Exhibit 21), no existing field access points are eliminated by the proposed branchline. There are sufficient rail crossings

available to access the fields and the railroad branchline will not significantly change farming practices or cause substantial delays. The rail line does not create a demand for public facilities as it needs no potable water, sanitary sewer, natural gas, or other utilities. The rail line does not impede existing or planned public facilities identified for the area surrounding the Port Westward Industrial Park. The Commission can conclude that the proposed railroad branchline is timely.”

Staff finds there is no evidence that the proposed rail development will conflict with provision of transportation, public facilities, or services for the area.

E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Finding 66: The land use application provides the following rationale:

“The new railroad branchline will not alter the character of the area as the surroundings are already traversed by the Portland & Western Railroad mainline serving Port Westward Industrial Park. In the RIPD zone to the west, the primary permitted uses include farm and forest uses and industrial operations including “Production, processing, assembling, packaging, or treatment of materials; research and development laboratories; and storage and distribution of services and facilities” (CCZO 683.1). The current character of the RIPD property includes both agricultural land and industrial uses. The proposed railroad branchline will complement the RIPD zone by serving a proposed renewable diesel production facility immediately to the west.

In the abutting PA-80 zone, the primary permitted uses include farm and forest uses and their accessory structures, including farm dwellings. The current character of the PA-80 property includes agricultural land, which can continue to exist in proximity to the proposed branchline (e.g., a private rail crossing will be installed to allow passage of farm equipment, see Exhibit 3, Sheets C2.7). The response to Section 307.1 provides further evidence that the proposed railroad branchline will not force a significant change in accepted farm or forest practices and will not significantly increase the cost of accepted farm or forest practices on lands zoned for farm or forest use.

Train traffic on the railroad branchline will not lead to any appreciably higher level of dust than is currently present from the Portland & Western Railroad mainline which already traverses the area. Consequently, construction of the railroad branchline will not cause farmers to incur significant costs to utilize additional water or pumping equipment to suppress dust or wash their products.

The railroad tracks are constructed on a gravel bed that minimizes fire potential from any sparks that may be generated. The proposed branchline is also in the vicinity of PGE’s existing transmission lines and associated maintenance road, which are subject to vegetation control to minimize conflict with electrical facilities. The rail line will also be next to stormwater ditches and a pond, which will further reduce fire potential.

Construction of the railroad branchline will be near existing irrigation and drainage ditches, which will remain in place. As depicted on Sheet C2.7 of Exhibit 3, a culvert is proposed where the existing ditch will be crossed by the rail infrastructure. The proposed culvert will be designed and sized as part of final engineering drawings during the permitting phase of the project. Utilizing standard engineering practice, the design engineer will ensure that the cross-section and slope of the culvert provides adequate hydraulic capacity to convey water flows from their upstream contributing areas to their existing downstream channels. Accordingly, NEXT’s proposed branchline will not negatively impact drainage and irrigation.

The facility will comply with all applicable Federal, state, and local regulations regarding construction and operations to ensure that off-site impacts comply with governing standards.”

Staff concurs with the applicant and has seen no evidence in these proposals that the proposed use will alter the character of the surrounding area in a manner that will substantially limit, impair or preclude the use of surrounding properties for farm or forest uses.

F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

Finding 67: The following findings address Comprehensive Plan goals and policies applicable to the rail branchline conditional use application.

Rail Conditional Use Goals and Policies:

PART V – AGRICULTURE

Goal: To preserve agricultural land for agricultural uses.

Finding 68: The proposed area for rail development is relatively small in size, totaling approximately 1.7 acres. Allowing this area to be developed with rail infrastructure will not result in a significant reduction in agricultural acreage. The response to Section 307.1 provides further evidence that the proposed rail development will not force a significant change in accepted farm or forest practices and will not significantly increase the cost of accepted farm or forest practices on agricultural lands.

Policies: It shall be a policy of the County to:

4. Protect agricultural lands from non-farm encroachments.

Finding 69: The proposed rail development will be located in an area already heavily impacted by the existing Portland & Western Railroad line and electrical transmission lines, corridors, and easements. Farm use can continue in the vicinity of these existing impediments, so the proposed rail development does not represent a significant encroachment onto other adjacent agricultural lands.

15. Permit non-farm/non-forest uses only when not in conflict with agricultural or forestry activities.

Finding 70: Due to its relatively small area (approximately 1.7 acres), the proposed rail branchline can be conditioned to resolve potential conflicts with agricultural activities as detailed in the response to Section 300, and there are no nearby forest zones with forestry activities. The response to Section 307.1 provides further evidence that the proposed rail branchline, with the proposed condition of approval related to the rail crossing, will not force a significant change in accepted farm or forest practices and will not significantly increase the cost of accepted farm or forest practices on nearby lands. With the proposed condition of approval, existing agricultural uses will continue to function consistent with to the current status quo of farmland adjacent to existing rail and electrical transmission lines.

16. Require that an applicant for a non-farm use record a waiver of the right to remonstrate against accepted farm or forest practices including spraying.

Finding 71: A condition of approval requiring a waiver of remonstrance is proposed to meet this standard.

17. Allow non-farm uses in accordance with ORS 215.283 and ORS 215.284.

Finding 72: As discussed in responses to Sections 303 and 306, the proposed rail development relies on a determination by the Board that it is a rail branchline – a transportation facility authorized by ORS 215.283.

PART X – ECONOMY

Goals:

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.

Finding 73: The proposed rail development will improve the efficiency and augment an adjoining renewable diesel fuel production facility, approved under a separate site design review application. That facility will generate both construction jobs and long-term office, management, and operational positions, contributing to economic growth in the immediate area and beyond.

2. To utilize Columbia County's natural resources and advantages for expanding and diversifying the economic base.

Finding 74: The proposed rail development will facilitate efficient transportation to and from a proposed adjoining renewable diesel production facility that will rely upon on Port Westward's dock and deepwater port facilities. Port Westward is home to a 1,500-foot dock on the Columbia River and is one of only five public deepwater ports in the state of Oregon, with a 43-foot navigation channel to accommodate vessels needing deepwater port access. The production facility itself will make use of this natural resource and strategic advantage, and the rail development will augment the facility by allowing for additional transportation options of limited amounts of material.

Policies: It shall be a policy of the County to:

1. Encourage the creation of new and continuous employment opportunities.

Finding 75: As noted above, following construction of the renewable diesel fuel production facility, the use will provide direct employment opportunities for office, management, and operations staff. The proposed rail development will support this proposed employment opportunity.

2. Encourage a stable and diversified economy.

Finding 76: The renewable diesel fuel production facility proposed under a separate application will increase the size and value of the County's industrial sector, which is an important part of Columbia County's overall economic base. The proposed rail development will support this employment opportunity and help diversify the County's economy.

6. Preserve prime maritime industrial sites from pre-emptive uses until needed for industrial uses.

Finding 77: Under separate application approved by the County, the applicant will construct and operate a renewable diesel production facility at Port Westward, which is a unique deepwater port resource unavailable elsewhere within Columbia County. Construction of the facility will be consistent with the County's policy of utilizing the prime maritime site for an industrial use that relies upon the port and dock. The proposed railroad branchline will support the production facility by providing additional efficient transportation options for materials and product.

8. Reserve valuable industrial sites for industrial uses.

Finding 78: The renewable diesel production facility approved under a separate application makes use of land zoned Resource Industrial - Planned Development and identified as appropriate for industrial development by the County Board of Commissioners. The proposed rail development, though located on agriculturally zoned land, is limited in size and scope and will promote a significant investment at a site zoned for industrial development.

10. *Support improvements in local conditions in order to make the area attractive to private capital investment. Consideration of such factors as the following shall be undertaken:*

A. *Tax incentives*

B. *Land use controls and ordinances*

C. *Capital improvements programming*

Finding 79: This policy calls upon the County to implement strategies that make the site attractive for private development. The applicant is willing to make a sizable investment in site and infrastructure upgrades as needed to accommodate the proposed renewable diesel production facility on property west of and adjacent to the proposed rail development. As noted by the applicant, the County can help realize some of this policy direction by granting the applicant's requested conditional use permit for the railroad branchline in accordance with State and County land use regulations.

PART XIII – TRANSPORTATION

Goal: The creation of an efficient, safe, and multi-modal transportation system to serve the needs of Columbia County residents.

Finding 80: The proposed rail development capitalizes on the proximity of the existing rail line and will allow movement of materials that would otherwise be shipped by truck to and from the planned manufacturing use adjoining to the west.

Objectives:

1. *To maximize efficient use of transportation infrastructure for all users and modes.*

Finding 81: The proposed railroad branchline capitalizes on the proximity of the existing rail line and will allow movement of materials that would otherwise be shipped by truck to the proposed renewable diesel production facility. The Board can find that the railroad branchline will reduce traffic on area roadways, reserving roadway capacity for all users and modes.

Policies:

5. *The County shall work to enhance freight efficiency, access, capacity and reliability, including access to intermodal facilities such as ports and airports. Industrial uses shall be encouraged to locate in such a manner that they may take advantage of the water and rail transportation systems which are available to the County.*

Finding 82: The proposed railroad branchline is consistent with this policy because it will allow an approved rural industrial use at Port Westward Industrial Park to take advantage of existing rail transportation facilities, namely Portland & Western Railroad's existing line. This will increase freight efficiency and provide added capacity to move product while minimizing impacts on roadways.

6. *The County will support reducing the number of rail crossings and will support measures to enhance safety at rail crossings.*

Finding 83: The project does not require a new public road crossing of any rail lines.

20. *The County will coordinate transportation and land use planning and decision-making with other transportation agencies and public service providers, such as ODOT, cities within the County, and the Port, when their facilities or services may be impacted by a County decision or there may be opportunities to increase the efficiency and benefits of a potential improvement.*

Finding 84: As part of its evaluation of land use applications including this one, the County coordinates with affected agencies and partners. The applicant has also coordinated with Port, County, and ODOT staff with respect to site design and transportation analysis.

Contd. Section 1503 Conditional Use:

G. The proposal will not create any hazardous conditions.

Finding 85: The applicant will be required to follow all applicable safety laws and regulations in constructing and operating the proposed rail development, as approved by Portland & Western Railroad and required by state and Federal regulations.

.6 Design Review: The Commission may require the Conditional Use be subject to a site design review by the Design Review Board or Planning Commission.

Finding 86: The proposed railroad branchline contains no structures regulated by design review. Design review findings for the facility are found under Section 1550.

Review Criteria and Findings Applicable to Both DR 21-03 MOD and CU 23-11

Section 1100 FLOOD HAZARD OVERLAY (FH)

Finding 87: The site is protected from flooding by dikes and associated stormwater conveyance and pumps within the Beaver Drainage District. According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map 41009C0050D, dated November 26, 2010, the dike system has been provisionally accredited by FEMA. This map indicates that the site is in FEMA's shaded Zone X, corresponding to areas protected by levees from 1% annual chance flood. The proposed driveway, pipe rack, and rail corridor are also in shaded Zone X. Therefore, the site is not in the Special Flood Hazard Area and is not subject to the standards of this chapter.

Section 1120 SENSITIVE BIRD HABITAT OVERLAY (SBH)

Finding 88: Columbia County Comprehensive Plan, Part XVI, Article VIII(F), Non-Game Wildlife Habitat, lists areas identified as significant nesting sites by the Oregon Department of Fish and Wildlife. Port Westward is not a listed area for Bald Eagle nests, Blue Heron rookeries, or Northern Spotted Owl nests. As illustrated in Exhibit 5, the site is not within any areas identified as Natural Areas, Non-Game Areas, or Sensitive Areas on the County's Threatened, Endangered, and Sensitive Wildlife and Plant and Natural Areas map.

Columbia County Comprehensive Plan, Part XVI, Article VIII(G), Upland Game Habitat lists three mineral spring areas identified as habitats for band-tailed pigeons, none of which include Port Westward. As illustrated in Exhibit 6, the site is not within an identified Upland Game Habitat area in the County's Wildlife Game Habitat map. Since the site is not within the identified habitat areas, development at the site is not subject to the Sensitive Bird Habitat Overlay Zone.

Section 1130 HISTORIC OVERLAY (HO)

Finding 89: Historic and culturally significant sites and structures are identified in Article XI of the Comprehensive Plan. None of the listed sites and structures are on or adjacent to the site. Development at the site is not subject to the Historic Overlay.

Section 1170 RIPARIAN CORRIDORS, WETLANDS, WATER QUALITY, AND FISH AND WILDLIFE HABITAT PROTECTION OVERLAY ZONE (RP)

1172 Riparian Corridor Standards:

A. *The inventory of Columbia County streams contained in the Oregon Department of Forestry Stream Classification Maps specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, "Lakes of Columbia County." A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, "Lakes of Columbia County" is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:*

1. *Lakes. Along all fish-bearing lakes, the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below.*
2. *Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all fish bearing streams, rivers, and sloughs with an average annual stream flow of less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below.*

Average annual stream flow information shall be provided by the Oregon Water Resources Department.

3. *Fish-Bearing and Non-Fish-Bearing Streams, Rivers and Sloughs (Greater than 1,000 cfs). Along all streams, rivers, and sloughs with an average annual stream flow greater than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 75-feet upland from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below. Average annual stream flow information shall be provided by the Oregon Water Resources Department.*
4. *Other rivers, lakes, streams, and sloughs. Along all other rivers, streams, and sloughs, the riparian corridor boundary shall be 25 feet upland from the top-ofbank, except as provided in CCZO Section 1172(A)(5), below.*
5. *Wetlands. Where the riparian corridor includes all or portions of a significant wetland, as identified in the State Wetlands Inventory and Local Wetlands Inventories, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland. Significant wetlands are also regulated under provisions in the Wetland Overlay Zone, Columbia County Zoning Ordinance, Section 1180.*

Finding 90: The proposed development identified in DR 21-03 MOD and CU 23-11 is not subject to CCZO Section 1170, as confirmed by the County Board of Commissioners in Final Order 12-2022 for DR 21-03 and V 21-05:

The County Riparian Corridor Overlay Zone (CCZO 1170) ("Riparian Corridor") states that riparian corridor boundaries will be established based upon streams and lakes as identified in the maps referenced in the CCZO 1172.A and for wetlands if they are significant as identified in the State Wetlands Inventory and the Local Wetlands Inventories. The Board finds that the Facility is not with the Riparian Corridor boundary because there are no County-designated streams or lakes on the Facility site and because the wetlands on the Facility site are not significant, as explained in more detail below.

The Facility will not enter or abut any lake, river, or stream areas mapped in the Columbia County Stream Classification Maps and in the map "Lakes of Columbia County", which are

attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B). The Board recognizes that under CCZO 1172, the Riparian Corridor boundary may apply to also include all or portions of a "significant wetland." (CCZO 1172.A.5). Applicant submitted a wetland delineation report for the Facility with its Application. (Exhibit 11 to Application, Anderson Perry Wetland Delineation Report). The report indicates there are wetlands in the Facility site. The Oregon Department of State Lands ("DSL") reviewed the wetland delineation report for the Facility site and agreed with its delineation. DSL provided a memorandum dated December 15, 2021, which recommended that the County find the wetlands are not significant. The County agrees with DSL's recommendation and finds that Applicant has provided substantial evidence that the wetlands on the Facility site are not significant and therefore, are not regulated by the County's Riparian Corridor overlay. (CCZO 1172).

The modifications proposed with the application of DR 21-03 MOD fall within the same Facility boundaries as previously analyzed and no modifications are proposed within the 25-foot riparian buffer around McLean Slough.

The railroad branchline site does not contain or abut any lakes, rivers, or streams or traverse McLean Slough. Oregon Department of Forestry Stream Classification data do not identify any fish-bearing streams, lakes, or sloughs at the site (see Conditional Use Exhibit 8). Similarly, the "Lakes of Columbia County" map (attached as Conditional Use Exhibit 9) illustrates that there are no identified lakes in the vicinity of Port Westward.

The proposed railroad branchline will be in the vicinity of existing ditches that are not streams, sloughs, or wetlands; the site-specific Wetland Delineation Report (Conditional Use Exhibit 11) identifies numerous non-wetland irrigation ditches which "...drain south to the Columbia River via McLean Slough, Beaver Slough, and the Clatskanie River." None of these sloughs or the Clatskanie River flows through the site or have buffers within the railroad branchline site.

The wetland delineation report (Conditional Use Exhibit 11), which has now been approved by the Oregon Department of State Lands (Conditional Use Exhibit 12), indicates that the wetlands in the study area are supported by precipitation, irrigation water, surface runoff, and groundwater rather than rivers, streams, or sloughs (the wetlands fall into the "flats" rather than "riverine" hydrogeomorphic class). Therefore, the distance to the riparian corridor boundary need not be measured from the edge of the wetlands since the wetlands are not riparian in nature.

Therefore, the applications for DR 21-03 MOD and CU 23-11 do not trigger application of the Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone.

Section 1180 WETLAND AREA OVERLAY (WA)

1182 Definition:

A significant wetland is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. In case of dispute over whether an area is of biological value and should be considered a significant wetland, the County shall obtain the recommendation of the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands.

Finding 91: Multiple potential wetlands exist within the site boundaries as illustrated in the Statewide Wetlands Inventory excerpt in Conditional Use Exhibit 10 and in the County's map in Conditional Use Exhibit 7. The applicant therefore engaged a wetlands consultant to perform a site-specific wetland delineation, with the resulting report

attached as Exhibit 12. The wetland delineation report, which reveals considerable differences in wetland size and location compared to the Statewide Wetlands Inventory, has been approved by the Oregon Department of State Lands (DSL) (Conditionals Use Exhibit 12). As discussed in Conditional Use Exhibit 14, based on the wetland delineation report approved by DSL, the presence of plants adapted solely to wetlands is very low, as most of the plants consist of species that grow in wetlands and non-wetlands. Since the vegetation within the delineated wetland does not constitute a prevalence of plants “adapted for life in saturated soil conditions,” the wetlands do not meet the County’s adopted definition of significant wetlands.

In addition to the vegetation profile, the biological value of the delineated wetlands is limited. Conditional Use Exhibit 13 notes that the wetland delineation report analyzed 17 functions, of which only four received higher ratings, while five received moderate ratings and seven received lower ratings. Since the wetland delineation report has been approved by DSL, there does not appear to be any dispute by subject matter experts on whether these wetlands have little biological value. DSL issued a written statement explaining the non-significance of affected wetlands in December 2021 (Conditional Use Exhibit 14). The Columbia Soil and Water Conservation District and the Oregon Department of Fish and Wildlife also provided comments, attached as Exhibits 16 and 17 respectively. Based on this evidence, the County Board of Commissioners concluded that the wetlands do not meet the County’s adopted definition of “significant” wetlands, as confirmed by the County Board of Commissioners in Final Order 12-2022 for DR 21-03 and V 21-05:

The Board finds the County’s Wetland Area Overlay set forth in CCZO 1180 does not prohibit development of the Facility because the wetlands that will be impacted by Applicant’s Facility are not “significant wetlands.” As discussed above, Applicant’s wetlands consultant delineated the wetlands on the Facility site and DSL approved the delineation. The County’s Wetland Area Overlay states that use and development activities in the overlay zone are permitted outright or conditionally if they will not destroy or degrade a “significant wetland” as defined in CCZO 1182. (CCZO 1183).

[...]

Accordingly, the Board finds the wetlands on the Facility site lack the biological value to be considered significant for purposes of CCZO Chapter 1180. Therefore, the Board finds that development of the Facility within delineated non-significant wetlands is permitted pursuant to CCZO 1183.

The applicant is seeking approval from the U.S. Army Corps of Engineers for wetland alterations and the Oregon Department of State Lands has issued permits for wetland alterations. The applicant will perform approximately 488 acres of off-site wetland mitigation south of the site in accordance with Federal and State law. The modifications of previous approval and the proposed railroad branchline proposed with the current applications fall within areas previously delineated as nonsignificant wetlands and are therefore permitted under Section 1180.

Section 1185 NATURAL AREA OVERLAY (NA)

Finding 92: The Oregon State Register of Natural Heritage Resources, attached as Conditional Use Exhibit 12, does not include any sites in the vicinity of Port Westward. Furthermore, the Nature Conservancy does not own any natural areas within Columbia County. Finally, the inventory of natural areas in Columbia County Comprehensive Plan, Part XVI, Article IX, Natural Areas does not identify any sites in the vicinity of Port Westward. Therefore, development at the site is not subject to the Natural Area Overlay Zone.

Section 1190 BIG GAME HABITAT OVERLAY (BGR)

Finding 93: Columbia County Comprehensive Plan, Part XVI, Article VIII(A), Big Game Wildlife Habitat identifies three types of big game habitat. As depicted in Conditional Use Exhibit 6, the site is not within a Big Game Habitat area, Peripheral Big Game Habitat area, or Columbia white-tailed deer range in the County's Wildlife Game Habitat map. Therefore, development at the site is not subject to the Big Game Habitat Overlay Zone.

Section 1603 QUASIJUDICIAL PUBLIC HEARINGS

- .1 *The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section upon receipt by the Planning Department of the missing information.*
- .2 *Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763*

Finding 94: The applications for DR 21-03 MOD and CU 23-11 were received on September 19th, 2023. The applications were then deemed complete by the Planning Manager on October 19th, 2023. Notice of this public hearing, scheduled for January 10th, 2024 were mailed to surrounding property owners within 500' of the subject properties on November 29th, 2023. This notice was also sent to all parties that participated in the original approval of DR 21-03 & V 21-05. Additional notices were published in the Chronicle on December 27th, 2023. With this process, these standards are met.

Section 1608 Contents of Notice

- .1 *The date, time, and place of the hearing;*
- .2 *A description of the subject property, reasonably calculated to give notice as to the actual location, including but not limited to the tax account number assigned to the lot or parcel by the Columbia County Tax Assessor;*
- .3 *Nature of the proposed action;*
- .4 *Hearing to be held according to the procedures established in the Zoning Ordinance.*

Finding 95: The notice sent on November 29th, 2023 contained all of the required information as outlined in CCZO 1608. These standards are met.

Section 1618 Design Review Board

- .1 *The Board of Commissioners may appoint a 5 member Design Review Board. The Planning Commission shall sit as the Design Review Board in the absence of a separate Design Review Board. The Board of Commissioners shall strive to find engineers, architects, landscaped architects, surveyors, and other professional persons who are familiar with land development to serve on the Board. No more than one realtor or one builder may serve on the Board at any one time. One Commission member may be appointed to the Board but will not be eligible to act on any appeals made as a result of the Design Review Board's decisions*

- .2 *Duties: The Design Review Board or Planning Commission shall review the site design plans as required by this ordinance. They shall review all actions referred to them by the Board of Commissioners, the Commission, or the Hearings Officer. These reviews shall be conducted in accordance with the provisions of this ordinance.*
- .3 *Approval: The approval of an action by the Design Review Board or Planning Commission shall be by a majority vote of those present. The Design Review Board or Planning Commission must have a quorum to make decisions regarding design review applications.*
- .4 *Conditions: The Design Review Board or Planning Commission may attach reasonable conditions to an approval. These conditions shall become part of the building permit. No final approval of a building may be given by the Building Official until these conditions have been met or an adequate bond posted to insure the completion has been approved by the Director and filed with the County Clerk's office.*
- .5 *Appeal: An appeal of a Design Review Board decision may be made to the Planning Commission in accordance with the provisions of Section 1700 of this ordinance. Appeals of the Planning Commission decision shall be directly to the Land Use Board of Appeals, according to the process for appeals adopted by it. [effective 7-15-97]*

Finding 96: The Board did not appoint a Design Review Board for the request of DR 21-03 and CU 23-11. However, on November 1st, 2023, in a Board of Commissioners Work Session, Staff discussed the proposal with the Board and recommended that the Board take jurisdiction of the subject applications. The Board took jurisdiction of the applications under Section 11 of the Planning Commission Ordinance which states, in part:

“The Board may also assert original jurisdiction over any land use application and bypass prior Planning Commission review. The procedure and type of hearing for such an appeal or review shall be the same as prescribed by this ordinance for Planning Commission decisions, or as provided by the Columbia County Zoning Ordinance, Subdivision and Partitioning Ordinance or other applicable statutes, ordinances, orders, rules or regulations.”

The Board will review the requests in accordance with the provisions of the Zoning Ordinance. The approvals or actions by the Board shall be by a majority vote of those present and the Board must have a quorum to make decisions regarding this modified design review and Conditional Use application. The Board may attach reasonable conditions to any approval given. These conditions shall become part of the building permit and no final approval may be given by the Building official until the entirety of these conditions have been met or an adequate bond posted. With this information, these standards will be satisfied throughout the review process.

Columbia County Stormwater and Erosion Control Ordinance

I. INTRODUCTION B. Applicability

- 1. *Provisions of this ordinance apply to:*
 - a. *Building permits for residential, commercial, industrial and accessory uses that involve disturbing more than 2000 square feet of land or activities disturbing more than 1000 square feet of land on sites with known and apparent erosion problems;*

Finding 97: The submitted proposal for DR 21-03 MOD includes an engineered Preliminary Stormwater Report (Site Design Review Exhibit 19), certified by Brian Anthony Tino, a Registered Professional Engineer with Maul Foster &

Alongi, Inc. This report describes the four identified drainage areas. The Main Plant stormwater conveyance and treatment system were designed to detain and treat the 100-year, 24-hour storm. The stormwater detention system will detain peak flows and provide treatment via sedimentation. The submittal generally meets the intent of the Columbia County Stormwater and Erosion Control Ordinance, however a Final Stormwater Plan is required and a Building Permit will not be issued until the plan is approved by the county.

In the submitted modified Site Design Review Plans (Site Design Review Exhibit 4), and as addressed in Site Design Review Exhibit 19, the applicant has met the intent of the Ordinance. A Final Erosion Control Plan will be required and a Building Permit will not be issued until the plan is approved by the county. Staff finds the proposal can be conditioned to be consistent with the County's Stormwater and Erosion Control Ordinance.

Agency Comments

Columbia County Assessor: 8422-00-00100 has 52.68 acres under farm deferral, 8422-00-00200 has 30.63 acres under farm deferral, 8423-B0-00800 has 4.41 acres under farm deferral. These accounts are subject to disqualification when improvements are made.

No other comments from affected agencies were received as of the date of this staff report.

CONCLUSION, RECOMMENDATION & CONDITIONS

Based on the facts and findings above, Planning Staff recommends the Board of Commissioners **APPROVE** the application for a modification of a Type II Site Design Review (DR 21-03 MOD). The approved site plan will allow the relocation of the originally proposed rail tracks, tree buffer, and storm facilities northward from the PA-80 zone to the RIPD zone. The subject property is identified in Columbia County Assessor records as Tax Lot Numbers 8422-00-00100, 8422-00-00200, 8422-00-00300, 8422-00-01100, 8421-00-00700, 8416-00-00200, and 8416-00-00300.

Also, based on the facts and findings above, Planning Staff separately recommends the Board of Commissioners **APPROVE** the application for a Conditional Use permit in order to establish a railroad branchline through the Primary Agriculture Zone (PA-80). The subject property is identified in Columbia County Assessor records as Tax Lot Numbers 8423-B0-00700 and 8423-B0-00800. Staff recommends the approval subject to the following conditions of approval:

CONDITIONS OF APPROVAL

- 1) This Design Review and Conditional Use shall remain valid for two (2) years from the date of the final decision. This permit shall become void, unless the proposal has commenced in conformance with all conditions and restrictions established herein within the two-year validity period. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to develop.
- 2) All applicable permits from state and federal agencies, such as the Oregon Division of State Lands (DSL) and Oregon Department of Fish and Wildlife (ODFW) must be obtained by the land owner prior to commencing site clearing or development activities.
- 3) Applicant shall prepare a management plan for the rail crossing providing clear timeframes for unobstructed use of the rail crossing consistent with farm activity requirements and a means to resolve conflicts.
- 4) The property owner shall sign and record, in the deed records of Columbia County, a Waiver of Remonstrance regarding past, current or future accepted farm or forest operations of adjacent and nearby lands. A copy of this recorded document shall be submitted to LDS.
- 5) The applicant shall obtain all applicable permits for any proposed future signage. These proposals shall meet all requirements in Section 1300 as well as any other applicable sections of the Columbia County Zoning Ordinance.
- 6) The proposed development area shall be sited as presented in the applicant's submitted site plans and specifications reviewed and approved by the Board. This shall include all improvements including the proposed stormwater retention areas.
- 7) The applicant shall obtain approval from Clatskanie Rural Fire Protection District prior to the authorization of the Final Site Plan.
- 8) The applicant shall prepare a Final Stormwater Plan including specific swale design plan and profile details; a Building Permit will not be issued until the plan is approved by the county.
- 9) The applicant shall prepare a Final Erosion Control Plan; a Building Permit will not be issued until the plan is approved by the county.

- 10) Any changes to approved plan(s) and/or elevations shall be reviewed and approved by the County prior to implementation in compliance with the applicable provisions of the Oregon Structural Specialty and Fire Codes. All work shall accurately reflect County approved plans.

Prior to the Issuance of Occupancy:

- 11) The applicant shall complete the following road improvements: The complete reconstruction of approximately 1.65 miles of Hermo Road between Quincy-Mayger Road to the entrance to the Port Westward Industrial site to include two 12-foot travel lanes, rock shoulders, safety slopes, and roadside ditches then paving of the entire length of Hermo Road to final grade between Quincy-Mayger Road to Kallunki Road to bring the entire road up to current County road standards. This work includes final design, permitting, and construction.
- 12) Planning Staff shall review all proposed parking and landscaping improvements in order to conduct a site visit to ensure that all requirements have been constructed as proposed. This site visit is required prior to final planning approval.

ATTACHMENTS

- 1) Applicant Site Design Review Submission Package September 18, 2023
 - a. Columbia County-NEXT Renewable Fuels Site Design Review Modification Narrative
 - b. Correspondence about fee for Site Design Review modification
 - c. Exhibit 1: NEXT Renewable Fuels SDR Modification Application
 - d. Exhibit 2: SDR Vicinity Map and Zoning Map
 - e. Exhibit 3: Approved Site Design Review Plans
 - f. Exhibit 4: NEXT Plans for Revised Rail Corridor
 - g. Exhibit 5: Firmette 41009C0050D with site marked
 - h. Exhibit 6: Clatskanie Area Map – Threatened, Endangered, and Sensitive Wildlife
 - i. Exhibit 7: Clatskanie Area Map – Wildlife
 - j. Exhibit 8: Clatskanie Area Map – Wetland
 - k. Exhibit 9: SDR Stream Map
 - l. Exhibit 10: Excerpt from Lakes of Oregon, Volume 1, Clatskanie
 - m. Exhibit 11: Statewide Wetlands Inventory – Streams and NW
 - n. Exhibit 12: AP Wetland Delineation Report Revised July 2021
 - o. Exhibit 13: DSL Approval of Wetland Delineation
 - p. Exhibit 14: Anderson Perry Wetland Memo
 - q. Exhibit 15: DSL Correspondence
 - r. Exhibit 16: Columbia SWCD Correspondence
 - s. Exhibit 17: ODFW Correspondence
 - t. Exhibit 18: Oregon State Register of Natural Heritage Resources
 - u. Exhibit 19: NEXT Preliminary Stormwater Report
 - v. Exhibit 20: Transportation Impact Analysis
 - w. Exhibit 21: Transportation Impact Analysis Update Letter dated February 28, 2023
 - x. Exhibit 22: Architectural Rendering

- y. Exhibit 23: Pipeline and Water Intake Map
- 2) Applicant Conditional Use Submission Package June 16, 2023
 - a. Columbia County-NEXT Renewable Fuels Conditional Use Review Narrative
 - b. Exhibit 1: Conditional Use Permit Application Form
 - c. Exhibit 2: Vicinity Map and Zoning Map
 - d. Exhibit 3: NEXT Plans for PA-80 Rail Branchline
 - e. Exhibit 4: Firmette 41009C0050D with site marked
 - f. Exhibit 5: Clatskanie area map – Threatened, Endangered
 - g. Exhibit 6: Clatskanie area map – Wildlife
 - h. Exhibit 7: Clatskanie area map – Wetland
 - i. Exhibit 8: CUP Application Stream Map
 - j. Exhibit 9: Excerpt from Lakes of Oregon, Volume 1, Clatsop
 - k. Exhibit 10: Statewide Wetlands Inventory – streams and NWI
 - l. Exhibit 11: AP Wetland Delineation Report Revised July 2021
 - m. Exhibit 12: DSL Approval of Wetland Delineation
 - n. Exhibit 13: Anderson Perry Wetland Memo 211208
 - o. Exhibit 14: DSL Correspondence 211215
 - p. Exhibit 15: Columbia SWCD Correspondence 220105
 - q. Exhibit 16: ODFW Correspondence 220118
 - r. Exhibit 17: Oregon State Register of Natural Heritage Resources
 - s. Exhibit 18: NEXT Preliminary Stormwater Report 230131
 - t. Exhibit 19: Pipeline and Water Intake Map_NEXT
 - u. Exhibit 20: Letter from Portland & Western Railroad 211119
 - v. Exhibit 21: Field Access Map
 - 3) Affidavit of Mailing with Notices
 - 4) Published Legal Notices
 - 5) Waiver of Remonstrance