

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

November 26, 2008

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde, Commissioner Joe Corsiglia and Commissioner Rita Bernhard, together with Spencer Parsons, Assistant County Counsel and Jan Greenhalgh, Board Secretary.

Commissioner Hyde called the meeting to order and led the flag salute.

MINUTES:

Commissioner Bernhard moved and Commissioner Corsiglia seconded to approve the minutes of the August 27, 2008 Staff meeting and November 12, 2008 Board meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

HEARING: CDBG GRANT APPLICATION:

This is the time set for a public hearing to solicit input on the CDBG grant application with the Oregon Economic and Community Development Department for public facilities and housing improvements.

Janet Wright gave the staff report on the application by Community Action Team for a CDBG grant with OECD for the Columbia County Flood Recovery Home Buyout Program. The project will assist primarily low and moderate income homeowners in Columbia County with disaster affected homes. Under the application process, the Board is required to hold a public hearing to take any citizen input.

The hearing was opened for public testimony.

With no testimony coming before the Board, the hearing was closed. With that, Commissioner Bernhard moved and Commissioner Corsiglia seconded to approve the CDBG grant application through OECD for public facilities and housing

improvements. The motion carried unanimously.

CONSENT AGENDA:

Commissioner Hyde read the consent agenda in full. With no changes/additions, Commissioner Bernhard moved and Commissioner Corsiglia seconded to approve the consent agenda as follows:

- (A) Ratify the Select-to-Pay for 11/18/08 & 11/25/08.
- (B) Order No. 84-2008, "In the Matter of Amending the Rules and Regulations and Fee Schedule Governing Columbia County Forests, Parks, Beaches, Docks and Other Recreational Facilities Subject to Ordinance No. 94-9".
- (C) Approve the request for a hardship fee waiver for Sam Owens for a septic system repair permit in the amount of \$431.00.
- (D) Reappoint Rod Bennion, Bill Goodwin, Nita Greene, Rosemary Lohrke, Melvin Moore, Mark Nations, Wes Schlenker and Frank Walling to the Columbia County Transportation and Road Advisory Committee, terms to be staggered.
- (E) Reappoint Rita Bernhard, Carol Brandt, Woody Davis, Earl Fisher and Stan Mendenhall to the Commission on Children & Families for a 4 year term.
- (F) Ratify Commissioner Hyde's signature on the Reconveyance Trust Deed documents with Melvin Califf.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (G) Amendment #47 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.
- (H) GIS Data License Agreement with Williams Gas Pipeline and authorize the Chair to sign.

The motion carried unanimously.

COMMISSIONER HYDE COMMENTS:

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Commissioner Hyde is glad to be back to work, although against the wishes of his doctor.

Last week, the Board attended the annual AOC conference. These conferences are always a very good opportunity to share information and to network.

Commissioner Hyde mentioned that December 3rd is the one year anniversary of the 2007 flood. There will be a spaghetti feed and town hall meeting in Vernonia that day.

COMMISSIONER CORSIGLIA COMMENTS:

Commissioner Corsiglia enjoyed the AOC conference and then headed to the coast for the weekend.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard also attended the AOC conference, which is always very informative.

Although the Board was attending the conference last week, they still spent a lot of time dealing back and forth on issues dealing with the Boise closure. This closure has a huge effect on Columbia County and the Board will be working with the different agencies to help the many displaced workers.

EXECUTIVE SESSION UNDER ORS 192.660(2)(e) - REAL PROPERTY:

The Board recessed the regular session to go into Executive Session as allowed under ORS 192.660(2)(e). Upon coming out of Executive Session, no action was taken by the Board.

The Board recessed the meeting at 10:30 a.m. and reconvened on December 1, 2008 at 7:00 pm at the Scout Cabin in Vernonia, Oregon. Present were Commissioner Hyde, Commissioner Corsiglia, Commissioner Bernhard, Spencer Parsons, Glen Higgins and Jan Greenhalgh.

HEARING: TIM BERO - COMP PLAN AMENDMENT & ZONE CHANGE:

This is the time set for the public hearing, "In the Matter of the Application of Tim and Michelle Bero for a Comprehensive Plan Map Amendment and Zone Change for Two Parcels Directly North and West of the Vernonia Airport".

Spencer reviewed the purpose of this hearing and noted that the hearing would be held on the record of the Planning Commission unless the Board votes to open the hearing for additional testimony. At this time, Commissioner Bernhard moved and Commissioner Corsiglia seconded to open the hearing to accept new testimony. The motion carried unanimously.

Regarding exparte contact, Commissioner Corsiglia stated that he walked the property with Mr. Bero about a year ago, however that was prior to any application being filed. Other than that, the Board declared no exparte contact or conflicts of interest. Spencer then read the pre-hearing statement into the record as required by ORS 197.763. He entered County Counsel's hearing file into the record along with a list of all contents, marked **Exhibit 1**. Additional items entered into the record will be: **Exhibit 2** is letter from Mark Greenfield dated 12/1/08; **Exhibit 3** is email from the Division of State Lands 11/17/08; **Exhibit 4** is a memo from Columbia County Environmental Services dated 11/4/08 with an attached valuation report dated 10/31/08; **Exhibit 5** is a letter from Fred Fulmer dated 11/2/08, **Exhibit 6** is a letter from Jim Presley dated 10/30/08, **Exhibit 7** is a letter from Heather Hines dated 9/15/08; **Exhibit 8** is a zoning map prepared by LDS.

Glen Higgins, Chief Planner, presented the Staff Report. The purpose of this hearing is to consider the application by Tim and Michele Bero for a zone change and major map amendment on approximately 27.8 acres, adjacent to the Vernonia Airport from PF 76 to Airport Industrial (AI) to facilitate the development of airport related industrial uses and to lengthen the existing runway. The applicant has also submitted additional findings for an exception to Goal 4 for placement of a campground on the remaining 43 acres. The rezone from PF-76 to AI and the campground proposals both require exceptions that are identified in the Statewide Planning Goals. The Planning Commission held a hearing on August 18, 2008 and recommended denial of the application with a vote of 3-2 based on the fact that the application did not meet the criteria. Glen then went through the applicable

criteria and staff findings. Based on the findings, staff is recommending approval, with conditions listed in the staff report dated 11/5/08 for both the rezone of 27.8 acres to AI to facilitate development of airport related industrial uses and to rezone the remaining 43 acres for the placement of a campground.

The hearing was opened for public testimony.

PROPONENTS:

Mark Greenfield, AAL, 495 NW Greenleaf Road, Portland, OR 97229: Mark is representing the applicant Tim & Michele Bero. He submitted his written information into the record marked **Exhibit 9**. As Glen stated, the Planning Commission vote was a split vote for denial and staff's recommendation was for approval. The letter Mark just submitted identifies supplemental evidence and information that the Bero's gathered since the Planning Commission entered its recommendation on August 18, 2008. On that date, the opponents submitted a substantial amount of new testimony into the record of the Planning Commission. Tonight is the first opportunity for the applicant to fully respond to that testimony. The evidence and testimony gathered by the Bero's fully rebuts the arguments by opponents, demonstrates consistency with the applicable review standards and justifies approval of this application. At this time, Mark asked that the record be left open for 7 days to allow rebuttal evidence. He also asked that, if the Board approves the application, that he have the opportunity to submit supplemental findings. In reviewing his submittal, Mark started with the Goal 4 Exception. Of the approximate 28 acres proposed for airport uses, 22 acres are identified for runway extension and for runway protection. There are setback requirements that do not allow them to develop 22 out of the 28 acres. Of the remaining 6 acres, 4 will be for parking and roads and the remaining 2 for industrial development. The current runway is about 2,800 feet long and considered inadequate. This proposal would extend the runway about 900 feet and would create safer conditions for airport takeoffs and landings. The remaining 2 acres would be used for industrial development. The applicant intends to construct a rural-scale aviation based airport related manufacturing facility. The building would be up to 35,000 square feet with the potential to employ 13-20 full time positions to manufacture experimental aircraft components and simulation training equipment for the US Air Force and to develop a new assembly facility for light-sport aircraft.

Commissioner Bernhard has reviewed the materials and there were some comments and concerns about having firearms on site. Mark stated that was mentioned at the Planning Commission however it is not part of this application.

Regarding the reasons for the exception - the purposes of the AI zone are to provide the area with activities directly supporting or are dependent upon aircraft for transportation and to provide appropriate locations for airport related light industrial uses. The information submitted clearly fit within the purposes of this zone. It will provide hangars, runway expansion and land for rural scale industrial uses. While the exception would reduce the supply of forest land, this property is not really available for timber harvesting. This exception is consistent with State Statute and consistent with LCDC's rule. ORS 836.600 states "to encourage and support the continued operation and vitality of Oregon's airports.

Further, the application is consistent with the NW Oregon Regional Economic Development Plan, which encourages more diversified industrial development in Columbia County, including aviation development. A letter has been submitted from Shawna Sykes, Employment Division, which gives some employment statistics that shows why this is particularly important to Vernonia. In September 2008, the unemployment rate in Vernonia was 7.1%, which may be worse now. For the private sector, 87% of the people in Vernonia have to commute outside the area for work.

Vernonia needs jobs and this application is a good step in that direction. Besides demonstrating reasons to support a Goal 4 exception, the application must address alternative locations and compatibility. The applicant has demonstrated why alternative locations cannot reasonably accommodate the proposed airport related manufacturing uses. The APG memorandum and the findings address the compatibility with adjoining and nearby uses. Mike Sheehan had suggested looking at either the Hillsboro or Scappoose airports. Mark stated that, Scappoose is about 30 miles away and Hillsboro even further. There really are no other alternatives.

There are neighbors that are opposed to this application. However, where they live is zoned Primary Forest or Forest Agriculture, it is not zoned for Rural Residential and is not identified for residential use. In the alternative, airport uses and the airport are favored uses at this location. In conclusion with regards to the exception, Mark pointed out that there was a second letter from LCDC basically indicating satisfaction with this application. The Department of Aviation supports this project development at Vernonia Airport.

Mark addressed the adequacy of Public Facilities and Services. In order to be granted a Major Map Amendment you have to show that it is feasible to provide adequate facilities and services. In response to the opposing testimony, the applicant hired LandTech Incorporated, an engineering firm, to address those issues. The new information set forth in the LandTech report extends well beyond what was in the initial application to address opponent concerns and it provides substantial factual support for the conclusion that such facilities and services either are or can be provided.

In terms of water, each of the 35,000 square foot buildings would require about 1,400 gallons per day (gpd). According to the existing well logs, the existing well can provide up to 10 gallons per minutes or up to 14,400 gpd. This quantity of water is far in excess of the 1,400 gpd needed for one building or the 2,800 gpd needed to serve two buildings. Testimony was given that some of their wells run dry. The analysis show that many of these wells are non-conforming or were not dug deep enough. The LandTech report concluded that "no data exists to support a claim that an increase in draw down from the existing Bero well would adversely impact any neighboring well". In short, that assertion is merely speculation unsupported by fact.

In terms of fire, in a letter from the Vernonia Fire Chief Paul Epler, approximately 700,000 gallons of water would be available to provide fire flow for proposed and future development. The LandTech report noted that it could be easily provided from the existing pond located on the northern part of the subject site.

Regarding septic issues, pits were dug and the County Environmental Services Specialist, Erin O'Connell reported that "Based on the results of the study, sewage disposal appears feasible through the construction of a standard sewage disposal system". Mark noted that the applicant can accept a condition limiting the number of full time employees for the initial building to 20 full time employees per shift, with a maximum of two shifts per day.

Storm Water Drainage: The LandTech reports indicates that a water quality swale can be constructed to treat runoff that's generated by the project and there could be roadside ditches that would control surface runoff.

Roads: There is a private road that extends from Airport Road to Longview Fibre that is not currently built to county standards and the Lancaster Engineering report indicates what would be necessary to build the road up to standards. Additionally, the City of Vernonia could provide new access to the airport, because the Bero site would be part of the airport boundary. In conclusion, all of the public facilities and services can be provided.

There is also a second exception application for the small campground. Campgrounds are allowed uses of the Primary Forest zone, except when it is within 3 miles of an urban growth boundary. The campground would consist of a maximum of 6 campsites, of which 2 may be yurts and the others RV sites. These sites would be used for persons flying into the airport or visitors of the people flying in.

When this application first came before the Planning Commission, DLCD raised some concerns about it. They said the applicant had not provided enough information.

So the additional information was provided. The applicant took this seriously and had discussed options with the county and DLCD staff and came up with a revised application. In a letter from DLCD dated July 23, 2008 indicates that they no longer object to the accuracy of the analysis.

In conclusion, based on the findings of fact, reasons submitted in documentation and the substantial evidence in the record supporting these findings and reasons, the applications for a goal exception and rezoning to Airport Industrial and the approval of up to six campground spaces, comply with the applicable standards and warrant approval.

Tim Bero, Applicant, 55325 Timber Road, Vernonia: He has been an employer and manufacturer for 18 years. There are other employers that would like to site their business in Vernonia, however, there is no infrastructure or buildings available for them. We need to pave the way so that other companies come to Vernonia to do business. Currently, there is a bleeding economy in our community. If we can accommodate businesses, then that would generate spending in our restaurants, stores, gas stations, housing market, etc. Some residents feel that bringing in companies will destroy our small town. A granite company recently moved into town which is helping to diversify our community and making it a better place to live. Tim has provided the Board with a site plan and it

is his intent to build a flex space, which can be divided into 4,000 foot structures. The application has complied with all of the setback requirements. Tim addressed the public facilities and service requirements which will all be met. Tim has lived in Vernonia for 18 years and feels that there is not enough opportunity for the people and they are underemployed. The workforce here is very good and should be utilized.

Commissioner Hyde asked about the road on the right of the site map and if it goes up to the existing hangers. Mark Greenfield stated that there is an access road there but it crosses the runway. Commissioner Hyde knows the area and doesn't think it crosses the runway. He just wants to know if it would be possible to create a route in and out of the proposed industrial site. Tim agrees that it may be a possible alternative.

Commissioner Corsiglia asked about the existing hangers and if the FAA has made any comments about them. Tim stated that the existing hangers are non-conforming but because they are existing, they can stay there.

Commissioner Bernhard asked if anything were to happen to those hangers, could they be rebuilt? Glen Higgins explained that if the hangers burnt down, they could be rebuilt in the same location within one year. However, considering the safety and proximity to the runway, they should be moved back.

Andrew Glomb, PTC International, Poland: Andrew presented some written information to the Board, marked **Exhibit 10**. He is here because he would like to, with a US partner, buy and sell Altra Light aircrafts. In 2005, the FAA instituted a new class of aircraft. These same aircrafts have been built in Europe for several years. He has been building these for 15 years and in aviation for 20 years. He has also been involved with flight simulation for 5 years and sells the simulators in Europe to a US company based in Sacramento, California. Since 2005, there is now a \$200 million market in the US. This is anticipated to double every year. These planes only have a 100 horse-powered engine, so they generate little noise, about the same as a car. He has sold many of these in Europe but the real business is to manufacture together with a US partnership because about half of the value of the aircraft is made from US components. He believes the best scenario is to bring the fuselages to the US, then build and sell the aircraft here in the US. After visiting many other sites, he signed an agreement with

Mr. Bero in 2007. He feels the Vernonia site is the best site because there are not many other manufacturers in the western states, access is easy because of the proximity to the Portland Airport, although the runway needs some realignment, it is a good runway, there are no migratory birds, soil conditions are good and a perfect size airport. He believes that Mr. Bero will be a good partner in this venture. He has been in manufacturing for many years and he has a passion for aviation. Because the aircrafts will be sold here, it will bring money into the community, in terms of lodging, food, etc. This business has the potential to put the Vernonia airport on the map. To summarize, he has heard a lot of support for this application and he hopes that it will be approved.

Sally Harrison, 1689 N. Mist Drive, Vernonia: She is the Mayor of Vernonia, however, she is here just as a citizen. She has been listening to these plans for some time and is very excited about the possibilities. The Board knows that this town needs jobs. After the flood last year, a group from Portland University did a study, known as Vernonia 20/20. They wanted to quantify exactly what Vernonia wants to see in the year 2020. At the top of the list and way above everything else is providing jobs. She would hope that the Board take this into account and approves this application.

Michael and Marie Botchie, 30827 Beaver Homes Road, Rainier: Mike and Marie has property here in Vernonia and lived here for over 10 years. They recently had to move to Rainier and relocated their business there because Vernonia couldn't accommodate them. They couldn't even find office space in Vernonia. This is not what they wanted because they love it here in Vernonia and it's where they want to be. They started their business in 2000 and what started out small, has continued to grow, currently employing 15 people. Marie stated that they did not want to move out of Vernonia because they love it here. She and her husband are here to support Tim and Michelle because they have a potential to come back to Vernonia and site their business at the proposed site. Their business is with FedEx so it is airport related and would be a perfect fit.

Mike explained that they are currently in the process of getting approval to manufacture material handling equipment (conveyors), that FedEx uses to load their planes. As Marie stated, there is no available space in Vernonia for their business. Because of how fast their business is growing, they are close to looking for bigger space again.

Gayle Lee, PO Box 308, Vernonia: She is a member of the Columbia County Planning Commission, however she was not present at the meeting when they voted on this application. She wanted to state that, if she had been there, she would have voted to support this. She believes that light industry is important to this community. Many communities give tax breaks and other incentives to bring business in. Here is someone that wants to create jobs for the community and we should do what we can to help them accomplish that.

Bud Dow, 13648 Keasey Road, Vernonia: He is the Chair of the Economic Development Committee and the Airport Committee. He wanted to thank Andrew and Tim for their presentation. What this community needs is more of the passion that they have. We need to bring industry here. This is a great opportunity for the airport to piggyback off Tim Bero to use this land and to determine what kind of buildings can be built there. He has received a lot of calls from people looking for hangers and if they were available, they would be rented out immediately.

Commissioner Hyde stated that there is approximately 15 acres at the airport that is currently zoned for light industrial and asked why that isn't being used. Bud explained that they need fire protection, sanitation and water facilities. Here is an opportunity for a business that wants to build there and provide those services to the existing buildings and help the community.

Mike Seager, 536 1st Avenue, Vernonia: He is a certified flight instructor and logged more than 15,000 hours at the Vernonia Airport. He has been on the Airport Board for 25 years and very involved in what's going on at the airport. There are schools that use this airport for flight training. Based on a study done in the 1990's, there are about 4,000 takeoffs and landings here per year. In 2001, the Airport Board did a plan, however they can't get any funding. He has been in the community for 29 years and there has never been any jobs to keep the people here. This application looks like a good opportunity to get something started at the airport. The airport has wanted to build hangers for a long time. He has a hanger in Scappoose and currently, there is a 5-6 year waiting list. If we had hangers here, they would be rented out immediately. He is in support of this application. If approved, it would enhance the 15 acres by providing fire protection and public facilities.

Brett Costley, 1282 Louisiana Ave, Vernonia: He sits on the Vernonia City Council, but is here speaking as a private citizen. He has lived here for 11 years and everyone knows we need economic development here. We have a plan on the table here that would do that and he is in favor of this. The airport is underutilized and runs in the red most of the time. He cannot see how this plan would be negative to the airport and the city's property.

Michelle Bero, 55325 Timber Road, Vernonia: She wanted to comment on pilots flying both ways into the airport. For herself, she is a very new pilot and the longer the runway, the better she will feel landing either way.

OPPONENTS:

John Burns, 18280 SW Jay Street, Beaverton: He is here on behalf of his friends that live on Airport Way, specifically Tim Sook and Lee DuVall. As some background, he had an architectural engineering firm in Alaska for 15 years and involved in that type of business for years. He wanted to say that the neighbors here are not against jobs, growth, etc., they only want to ensure that the rules are being followed, so that the people that are supposed to be protected by those rules, are protected. He will be speaking here tonight on two primary issues. First is the deficiency of the application and staff review, leaving the Board unable to form a complete judgement on this request. There are many missing sections from the list of criteria. The second is to clarify many misconceptions about the Vernonia Airport. He submitted his written testimony into record, marked **Exhibit 11**. John went through his testimony, noting what he believes to be missing criteria.

Section 210.1 - Compliance with Minimum Lot Sizes: Any parcel created must conform with all aspects of the CCZO. The application, as written, will leave a less than 76 acre parcel in the PF-76. Although smaller lots are permissible for certain uses, an existing residence or the proposed B&B is not allowed. This would be creating a non-conforming use.

Section 221 - One Use Per Lot or Parcel: the applicant has previously suggested that, notwithstanding Parcels A & B described in the applicants submittal, this is not intended to be a legal partitioning of the existing parcel, merely a process called "split zoning". If so, they violate the limit of one use per lot. They

intend to build an airport industrial occupancy on the property, run a campground, and convert the residence into a B&B. If they do partition the property, there are still two uses on Parcel B.

Section 1120 - Sensitive Bird Habitat: there was some mention of birds, that there are both eagle and blue heron habitat at this location. The Department of Fish & Wildlife has been contacted to confirm the extent of this condition and they feel this matter will need more attention.

Section 1150 - Airport Landing Overlay Zone: You would think this would have been included in the criteria. The applicant has proposed a 900 foot runway extension. The Airport Overlay Zone is defined by language that if you extend the runway, you extend the overlay zone. A 900 foot extension would bring 206 additional acres under the impact of the airport overlay zone.

Section 1183 - Wetlands Permitted Uses: Uses of the underlying zone may not fill, drain or commit other alteration that would reduce the biological value of a wetland. The applicant's own submittal includes expert opinion that the area proposed for the runway extension and AI project are in fact wetlands and DSL concurs. This is about doing a zone change, but as explained by staff and Mr. Greenfield, you have to meet the criteria of finding a comparative advantage. Commissioner Bernhard stated that this hearing is for the zone change, but any specific projects in the future would have to go through another process. Some of the things being discussed here would most likely be dealt with during that process. John stated that he is addressing the Goal 4 Exception. The Board cannot approve this unless they can see a comparative advantage.

Section 1502.1(A)3 - Zone Change - Major Map Amendment: This was not listed or dealt with in the staff test that adequate facilities are available or that they are planned to be provided concurrently with the development. An issue was brought up during the Planning Commission hearing about the road standards. This is another issue that could be dealt with later, but the Board should be aware that this project will require a public road. It has been stated that this is on a 40 foot wide private easement. This easement is not acceptable to the County Road Department under their road standards. Commissioner Hyde asked when has a commercial use required a public road? John understands that is written in the County Road Standards. Commissioner Hyde stated that it only requires a public road to the site, not on the site. John agreed however, the access to the property

impacts the property owners on that private road. John stated that Commissioner Hyde asked a very good question earlier about potential road access on the north side. There is a lot of land involved here and nothing says the puzzle pieces can't be moved around. The existing runway happens to be exactly 120 feet off the northern property line. So the 250 foot primary surface should be object free. John is not here to design the project but agrees that Commissioner Hyde is on to something with that suggestion.

Although the Board has heard from a very experienced pilot and a builder of experimental aircraft, let's not lose track of the fact that the runway extension is an exception of the requirement for ODOT. It is in excess of the length requirement, so there is no need to extend it. Further, in 2000, the Oregon Aviation Plan recorded deficiencies in the runway width, the current 45 feet should be 60 feet, the runway should be object free and have runway protection zones (hills). None of these deficiencies have been corrected. The approach path is supposed to be 1:20 on each end. It is now 1:5 on the east and 1:16 on the west. This is not a bad small airport nor a good small airport. There have been 7 accidents occur there since 1967, two of which were fatalities. Referring to an oversized map, John explained that there is already 15 acres zoned AI at the airport and currently usable and therefore, this application does not meet the Goal 4 Exception.

In summary, the existing airport has significant issues that the City of Vernonia and any potential user should recognize before encouraging use. The issues are mostly unresolvable, and any investment should be carefully considered. If Airport Industrial use is still deemed appropriate, AI land already exists and should be utilized first. John submitted an oversize map, marked **Exhibit 12**.

David Fife, 59420 Airport Road, Vernonia: He first submitted his written testimony into the record, marked **Exhibit 13**. The primary reason to grant a Goal 4 Exception is "*the use would have a significant comparative advantage due to its location*"..."*which would benefit the county economy*". This is quoted from page 16 of the Bero/CIDA submittal. to grant the exception assuming an advantage, presumes that the proposal would be viable with respect to permitting for access, construction, utilities, etc. The proposer and staff has told the Board that a lot of details will come later in subsequent processes, but to evaluate and

approve a Goal 4 Exception, the Board must be aware of the long list of technical deficiencies this property and the proposal face. There is no reason to believe the project can overcome the issues to achieve the purported "advantage". Granting the exception on the basis of an "advantage" requires a discussion of other properties which offer similar benefits. He is for growth and for jobs, but keep in mind that this application is not a Vernonia application, it is a county application. So we need to look at the county as a whole. The Scappoose Airport has AI zoned property for sale or lease. The airport is an existing NPIAS airport with a 5100 x 100 foot paved runway, served with fuel, power plant and other aviation maintenance services. The Bero project located here will keep taxes and jobs in the county with a loss of PF-76 resources.

Commissioner Hyde asked how that would help the Vernonia citizens. David stated that this is a county application. Hyde understands that, but the Board also looks at the community and how it would economically help the community, so again, how would going to Scappoose help Vernonia, economically.

David stated that the Vernonia Airport has 10 acres of available AI land and if Mr. Bero wants to move his business there, he can have it tomorrow. However, in 1993, Mr. Bero came to the county and said he needed to move his business immediately. He petitioned Vernonia and Scappoose at the same time. He was instrumental in getting the Vernonia Airport rezoned because he had a deadline to move by. The Commissioner's held emergency meetings, it went to LUBA, and the property was rezoned for Mr. Bero and he walked away. The emergency disappears. Here we are in 2008 discussing the same thing. It was stated earlier that the Vernonia Airport doesn't have any facilities. It was also stated that if Mr. Bero has this development on his property, then he will put those facilities in, i.e., fire suppression, water, etc. Why doesn't he lease the City of Vernonia the water rights to his pond. That is a viable solution that would benefit Vernonia. It would put the leasing and the money of an airport that is in the red back into Vernonia. If you want to benefit Vernonia, lease Mr. Bero the AI zone that he had to have in 1993, let him build his building there and keep the income and jobs in Vernonia and get the Airport out of the red. Referring to an oversized map, he stated that there is other zoning in this area other than PF-76. There is RR-5, FA-19, PA-38, CSU and CSR. There is a lot of land around there. The valley has been turned into a residential neighborhood, but there are still farms there. A lot of this land is used for farming, raising cattle and timber

production. Even Mr. Bero's property was used for timber before he purchased it.

Commissioner Hyde asked if David was aware that when the previous owner, Mr. Knife, made an application for his home back in 1995, that the rule for PF-76 was that the home had to be built as close to the road as possible. The City of Vernonia intervened on behalf of Mr. Knife, because the city was interested in that property being ultimately an extension of the runway and requested that the county allow the home to be built back further. In fact, Commissioner Hyde wrote the letter to the County as the Mayor of Vernonia at that time. Mr. Fife was not aware of that.

Referring back to the oversized map, David stated that there are 10 parcels that Airport Way serves. According to the County Road Standards under Private Roads or Easements Section I, Part B.1, *"Up to six lots or parcels may be accessed by a private road or easement (more than 6 parcels may use a private road or easement for access if the parcels are pre-existing). Additional parcels shall not be created along a private road or easement if there are currently more than six parcels along the private road or easement or if the partition would result in a total of more than six parcels. Prior to final approval of the partition, the private road or easement must be developed, from the intersection with the public road to the end of the easement or to the limits of the partitioned property (whichever is less), to the "Private Road" standards".* Section Part B.2, Creation of New Public Roads states *"New public roads created in conjunction with a partition shall be improved in accordance with the "Creation of New public Road" standards".*

Creating an 11th parcel will violate the roads standards. In Section IV a.1 of the Road Standards states that *"private roads shall not be approved for commercial or industrial land divisions".* This is all very clear in the standards. Airport Way is now served by a private road and David has submitted all the deeds showing this is a private road. Regarding the subject property, there is no public facilities or infrastructure available there. His point here is that there are other properties that are better equipped and have those services.

Commissioner Corsiglia feels that the word "available" is a gray area, because it can be brought there. If the power company has the availability of service to the site, it doesn't necessarily have to be in the ground at the time. David agreed, but the available 15 acres is a lot closer to be serviced. In looking at the zoning code, we must look at more viable sites before approving a major map

amendment.

Commissioner Hyde assumes they may need to look at other areas, however he is under the assumption and for him, we would be looking at other areas in Vernonia, not Scappoose, Clatskanie, or Hillsboro. We are talking about the economy of Vernonia.

Commissioner Bernhard stated that the Board has worked with a number of companies over the years and generally they want to own the property and develop it themselves.

If they are going to invest a lot of money into infrastructure, etc., they want to benefit from it.

David is a business owner and has leased his building for years. He would like to own it, but he doesn't and it works. He thanked the Board for their time and for listening to his comments.

Patty Brockman, 15360 Airport Way, Vernonia: She submitted two oversized maps, marked **Exhibits 14 & 15** along with her testimony from the Planning Commission hearing, with some additions, marked **Exhibit 16**. One of the new variables that recently came to her attention has to do with the 2007 flood. Currently, you need a new flood elevation certificate in order to do any development or rebuild in her case, which requires any development on Airport Way, has to be constructed at a minimum of at least 1 foot above the elevation of 647 feet. Currently, the end of the runway is 647 feet and the Bero property has several sections that are much lower than that. The road is much lower than that, as is her property.

So in addition to everything else, Mr. Bero's entire project would have to be raised by as much as 3 or more feet in some areas. This causes huge concerns for the neighbors who are on the downside of that, because water runs downhill.

Commissioner Hyde stated that would be addressed in the site design review process.

Another concern is that they purchased this property to build a new home and they did a lot of research before purchasing the property. They would not be able to recoup any of their investment if their home was sitting across the street from an industrial park because it would decrease their property value. Further, if there are any road improvements that take from their property, it would be closer to their well, leach field and trees would have to be removed. She also feels that building an industrial park across the road would take away from the esthetic view.

Windy Fife, 59420 Airport Road, Vernonia: Windy submitted her testimony into the record marked **Exhibit 17**. She stated that granting a Goal 4 Exception requires discussion of the lost resource productivity and values. The staffs review is inadequate, it emphasizes the PF-76 value is limited to growing and harvesting timber. Forestry Use is defined by the CCZO as 1) production of timber; 2) open space; 3) waterfowl and wildlife habitat.....; 7) grazing area. It seems that a lot of this was lost. There are herds of elk that come down where Mr. Bero is proposing to put the campground. This area also supports eagle and blue heron activity which are protected under the CCZO. Further, the Oregon Department of Fish & Wildlife has been engaged to verify the extent and value of the eagle and blue heron habitat. This property also contains wetlands. On evaluating the loss of resource area in PF-76, the application says the lost resource area will be 27.8 acres. A letter from Mr. Seager, as the Vernonia Airport Manager, cites the Airport Overlay as prohibiting tree production within the Overlay west of the runway. The staffs review are pretty much silent on the effect of expanding the Overlay footprint by extending the runway 900 feet as proposed. The current overlay width is 10,000 feet and with the 900 foot runway extension it would be an additional 9,000 sf added to the restriction of the overlay.... 206 acres. She worries about the fire protection, the nearby river and golf course. Airports near golf courses, ponds or big game habitat are never recommended because of the birds and other habitat on the runways. Commissioner Hyde disagrees. He has flown a lot around the country and it would be hard to find an airport without a golf course close by. Windy stills feels that it would bring the safety level down. Her last concern is with the campground. There is already a campground about 300 yards away. The Vernonia Airport Park campground is an established city owned campground nestled in the trees between the Vernonia Golf Club and the Vernonia Airport. There is also Anderson Park in Vernonia and the new LL Stub Stewart State Park. She will not go over everything in her written submittal but asked that the Board review it.

Betty Schmidlin, 53739 Nehalem Hwy S, Vernonia: She submitted her written testimony into the record marked **Exhibit 18**. Her concern is that she owns property adjacent to the Vernonia Airport. If this is granted, the new airport overlay will definitely effect her property. According to Mr. Bero's supplemental filing, the airport plan would need a strip of her property, which isn't right. She thanked the Board for their time here tonight.

Heather Hines, 15640 Airport Way, Vernonia: She is here representing a dog rescue business on Airport Way. Because they operate a business here, they are in support of growth and increased economy. They employ residents of Vernonia and, as they grow, hope to employ more. On a personal note, she has been sitting in the back of the room tonight and listening to the sneers and negative comments from the supporters of this application when the opponents were speaking. She would just ask that they consider the impact on the homeowners affected by this application, because no one has given any respect to these homeowners through this whole process.

At this time, she resubmitted her Offsite Wetland Determination Report from Caroline Stimson of DSL, and the Elevation Certificate, both marked **Exhibit 19** because it was not referenced in the staff report. The road that is referred to as "Transportation Network" in the application review is in fact a private road that exists on a 40 foot easement that goes by her property. That easement was granted by the neighbors in 1951. The easement was granted for private use, not for commercial purposes. With all of the submittals and testimony, she is confused about the number of employees will this bring in. She has heard anywhere from 12 as far up to 120 employees. That is a lot of traffic on that road. Commissioner Hyde asked earlier if the neighbors would be satisfied with the traffic diverted somewhere else. Absolutely! Commissioner Hyde stated that when he read this file, the main objection seemed to focus on the traffic. He was just looking for a win-win situation for all. Heather appreciates that and stated that no one else has come to the neighbors to find a way to make it work.

Commissioner Bernhard wanted to respond to Heather's comment that the Board doesn't care about the neighbors. That is simply not true and she takes personal offense to that comment. The Board is here tonight because they want to hear from the people and their concerns. Heather was not speaking about the Commissioners, more the opponents in this case. She has heard comments like "what did you think was going to happen when you bought property across from an airport". The neighbors acknowledge and support the airport. However, they never thought they were going to be facing industrial row and large buildings. This will definitely impact the value of the properties. This is not a wide road so the buildings will be directly across the road.

Regarding the campground, we have heard that it is to potentially accommodate Mr. Bero's customers. However there are RV spaces included and customers will

not be flying in with their RV's. That means the RV's will be coming down the road. She would argue with ODOT, because she cannot believe that with 20-80 employees, plus customers, plus RV's, that wouldn't adversely impact the road.

As her last comment, she heard from 2 people that they could not understand why, unless there was some kind of agenda, why the neighbors would be opposed to this. That is a ridiculous statement. How can a person not understand why anyone on this road wouldn't be opposed to this.

Pat Zimmerman, 52057 Rabinsky Road, Scappoose: She submitted her written testimony into the record marked **Exhibit 20**. She wanted to comment on some of the issues brought up here tonight. All emotion aside, this is a request for a major map amendment based on an exceptions reason and it is controlled most completely by State ORS's and OAR's. The outstanding criteria of the OAR's is on whether or not to grant the reasons exception shall be based upon findings of fact supported by substantial evidence in the record of the local proceeding. There is no question that "substantial" is required to approve the exception. Tonight we have heard everything from 12 employees, 2 shifts of 20 employees, 50 to 220 visitors coming in to stay and none of this is in the record, except for what was submitted tonight. Her point is that the ODOT analysis, the Department of Aviation analysis and the analysis as to whether the Transportation Planning Rules has an effect upon this decision, were all made on what was in the record on August 18, 2007. There has been massive changes from what was proposed at that time. It is her belief that there is no substantial evidence in the record to allow the Board to grant a reasons exception.

Commissioner Bernhard stated that the Board opened this hearing to new evidence and therefore needs to consider that new evidence. Pat stated that the point still stands that the analysis' were done based on old information. The State agencies should be given the most current information to evaluate.

There are three uses proposed in this application. One is aircraft assembly. Second is to build simulator pieces for Air Force training simulators. It said that this has to be done at an airport because they have to be able to fly the parts to test them. She doesn't see the Air Force flying around in Cessna's. Third is that to grant a reasons exception it requires, under certain circumstances, that a discussion on why other areas, which do not require an exception, cannot

reasonably accommodate the use. For the reasons pointed out, she does not see how the Board can grant a reasons exception.

With regards to the campground, there has been a lot of testimony about other campgrounds in the area. The applicant, at various different times said that the campground he proposes will only be for the people who flew in. At other times, he states that it would be partially for those who flew in and partially for RV's. Then he has stated that there will be no tent camping, it would only be for those who use the airport. She knows for a fact that the only thing you can get in an airplane the size of those that land there, is a tent. Again, there has been many different stories and changing all the time, with no idea what the reality is.

Donna Hepler, 58525 Kirk Road, Vernonia: She wanted to point out that this area is a small and narrow valley. A river runs through this valley and she lives on the other side of it and she knows what the flooding is like. The river is unpredictable. Many of the residents are still recuperating from the last flood. She would ask the Board to think about allowing industrial buildings in a flood area next to a river. Any development on all sides of that river effect everybody. She is not against development, in fact she is aware of property up Elks Road that is flat so why not put it up there. If this development is allowed, the ground level would have to be raised with fill on 26 acres. This will greatly effect the neighbors. She has already experienced this will fill next to her home. It displaces water onto other people. Again, she is for positive change, so why not look at higher ground. This is not the place.

Tony Krause, 15360 Airport Way, Vernonia: A lot of what he is hearing, the primary focus seems to be the economic growth and the opportunity for jobs in Vernonia. There is a possibility of some jobs, but it is still unclear how many. We also have no idea what the hourly rate or benefits of those jobs would be. So we are looking at a major map amendment, displacing 6 homes of people that currently live here or invest here and contribute to the economy. Further, if this is allowed and all the requirements are met, there is no guarantee that those jobs will go to people living in Vernonia. Anyone will be able to apply for these jobs. So his question is how is this going to benefit Vernonia. The idea of piggybacking the airport onto this development is a good concept and if the infrastructure was built, it may lead to someone thinking about how they may be able to implement

some other business opportunity that Vernonia could benefit from. Lastly, based on the facts so far, he believes that property values will be depreciated if this is approved.

Mike Sheehan, 33126 Callahan Road, Scappoose: Mike submitted testimony into the record marked **Exhibit 21**. Mike is an attorney representing the neighbors adjacent to the subject property, specifically Mr. & Mrs. Fife. Mike went through an outline of reasons why the applications cannot be approved. The question here is not about development or the road, it's a question of whether this proposal meets the exception criteria for approval. Under ORS 197.732 stated that "*areas that do not require a new exception cannot reasonably accommodate the use*". So the County needs to look around and see if there are any other areas that can reasonably accommodate the use, without an exception. You need to show why a particular site is justified and show why other areas that do not require an exception, do not reasonably accommodate the proposed use. On page 3 of his submittal (iii) "can the proposed use be reasonably accommodated inside an urban growth boundary", this is a question that needs to be answered. On page 4 (d) "the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts". He has heard a lot of testimony tonight and there is so much emphasis on the economic development parts that it makes one think twice that, if it came down to really enforcing the laws to protect the people, maybe those laws should be enforced. One of the things talked about was the overlay zone. It is his understanding that if the runway is extended, it creates a loop that is pushed out further. Within that loop, there are limitations to what you can do with your land. So if a person had 100 foot tall firs existing, you can have them until you cut them but you can't replant them if you are in the airport overlay zone. So this can have an impact on neighboring land owners which is akin to eminent domain, a taking of their property by limiting their ability to replant trees once cut down. Regarding the easement issue. Easements are given and a level of use on an easement is determined at the time the easement is granted. You cannot take an easement 50 years later and go from having 2 people on it and turning it into an interstate level of traffic. To that extent, you cannot have 100 people going over that road per day. Commissioner Hyde stated that he has logged up there and, when logging there are at least 100 trucks per day on that road. However, Commissioner Hyde agrees that the easement needs to be looked at. Moving on, Mike addressed the water runoff from the runway and impermeable surfaces. Also, because of the increased traffic, there is a

potential for petroleum contamination runoff. In the standards, they talk about whether or not to allow reasons exception, that's where you need to deal with not having a substantial impact on the neighboring landowners. You can't deal with that at sign design review. This is something the Board needs to deal with at this point because it is a criteria of the exception, which can't be granted until you determine that impacts on the property owners can be mitigated. A very prominent and leading land use attorney's in the state has brought the issue up with respect to the Scappoose Airport and said that if you have residential development near the airport, it has a substantial possibility of serious hearing damage from the airplanes. Regarding multiple zones, the applicant is proposing to establish a major industrial use and there is a question about adding multiple zones, at least two zones on the same property. There is a zoning ordinance provision that says you can't do that. He just wanted to point that out. The county doesn't appear to meet the requirements of the Airport Planning Goal, so it is not listed as a criteria and he would suggest that the Board look at that.

One of the criteria in the Aviation Facility Planning Requirement, is that the uses have to be compatible with existing land uses surrounding the airport. As for the economic development, Mr. Bero went through this process years ago and promised he would create a bunch of jobs, but it never happened and no jobs created.

Commissioner Hyde stated that he was on the city council at that time, who made the application, and the difference was it went from heavy industrial to light industrial. So instead of allowing smelters out there, it only allowed light industrial. The point to be made from that is, if they don't come, what's the impact. Mike would agree with that, however if we are going to go through all this trouble and make these provisions, then at least we should have some guarantees.

REBUTTAL:

Mark Greenfield responded to some of the comments made here tonight. He will also be putting these comments in writing and submit them to the county. There has been a lot of talk tonight about compatibility and that the uses have to be compatible. What wasn't said is that the OAR has a provision that says "when compatibility issues arise, the decision maker shall take reasonable steps to eliminate or minimize the incompatibility through location, design or conditions.

However, a decision on compatibility pursuant to this rule shall further the policy in ORS 836.600. That is the policy he mentioned earlier that local governments are to support the continued operations and vitality of the airport. The Board has also heard that the applicant doesn't meet the exception criteria. He clearly stated in his earlier testimony that the applicant does meet that criteria. Regarding the overlay zone, if you expand an airport or runway, you will expand the overlay zone. The Port of Portland is currently talking about expanding their runway. If Mr. Sheehan was correct about this being a taking, then no airport anywhere could expand their runways. We have also heard a lot about the road. There are two things that could happen. One, depending on the easement, we improve the size of the graveled area. Second, it may be feasible to go through the airport on the north side. Mark reiterated that this hearing is for the zone change. Any development would then go through another process and many of these concerns would be addressed at that time. With that, Mark will put his full comments in writing and submit them to the Board.

Andrew Glomb also responded. This is an airport business and we either do it at an airport or they don't do it. Vernonia is a good airport because they can development it to suit their needs. He would not consider Scappoose or Hillsboro airports. He heard comments tonight that he is building experimental aircrafts. This is not true. They are fully licensed by FAA and are safer than any Cessna because of their safety designs. It is a quiet and clean aircraft. He will be having the fuselages painted in Europe in an approved facility and then transport them here, where \$50-\$60 thousand in US made parts will be used to complete the aircraft. This will create jobs for the community. The most important thing here is safety for the airport which the extension will do. He thanked the Board for their time.

With no further testimony coming before the Board, the hearing was closed to all oral testimony. After some discussion, Commissioner Bernhard moved and Commissioner Hyde seconded to leave the record open for final written testimony to January 7, 2009, rebuttal until January 14, 2008, arguments only to January 21, 2009 with deliberations to be held January 28, 2009. Commissioner Corsiglia abstained. The motion carried.

With nothing further coming before the Board, the meeting was adjourned.

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Dated at St. Helens, Oregon this 26th day of November, 2008.

NOTE: A tape of this meeting is available for purchase by the public or interested parties.

*BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON*

By: _____

Anthony Hyde, Chair

By: _____

Joe Corsiglia, Commissioner

Recording Secretary:

By: _____

By: _____

Rita Bernhard, Commissioner

Jan Greenhalgh