

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application by Portland)
Community College for Public Safety Training)
Facility in the Primary Agriculture (PA-80) Zone) FINAL ORDER NO. 32-2016
as Authorized Under ORS 215.312)

WHEREAS, on December 30, 2015, Portland Community College (hereinafter "applicant") submitted an application for a public safety training facility under ORS 215.312. The 282-acre subject property, which is located east of the Scappoose Airport, is zoned Primary Agriculture (PA-80) and identified as Tax Map ID Nos. 3N1W0500300, 3N1W0600200, 3N1W0600505, 3N1W0500500, 3N1W0600504, 3N1W0800800, 3N1W0800900, and 3N1W0700103; and

WHEREAS, ORS 215.312 provides that a public training facility that meets the requirements of that statute may be established on up to 300 acres of land in an area zoned for exclusive farm use and that in reviewing the application, the local government need not amend its comprehensive plan nor zoning code and shall apply only the procedural provisions and objective development standards that apply to uses permitted outright in the zone; and

WHEREAS, ORS 215.312 further provides that the Board of Commissioners shall hold at least one public hearing to allow testimony regarding the location of the facility; and

WHEREAS, following proper notice, the Board of Commissioners held a hearing on the application on May 18, 2016, and heard testimony, which focused on concerns about the lack of detail in the application, potential archaeological and cultural resources at the site, transportation and noise impacts, and a desire to have a hearing held in Scappoose; and

WHEREAS, the Board then closed the hearing and deliberated toward a decision. The Board felt that many of the concerns raised would be more appropriately addressed at the public hearing for a site design review, which would be required prior to development and would involve a specific development proposal. The Board further felt that the hearing for the site design review should be held in Scappoose, which is closer to the proposed facility; and

WHEREAS, the Board then voted unanimously to tentatively approve the application subject to conditions, as recommended in the Staff Report, with the addition of a condition requiring any and all hearings to be held in the evening in Scappoose.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the following findings in support of its decision:
 - 1. The findings and conclusions in the Staff Report to the Board of County Commissioners dated May 18, 2016, which is attached hereto as Exhibit A and incorporated herein by this reference, to the extent those findings are consistent with this Final Order; and
 - 2. The above recitals.

B. Based on the foregoing and the whole record on this matter, the Board of County Commissioners **APPROVES RF 16-02** for a Public Safety Training Facility on the 282-acre subject property in the PA-80 zone as authorized under ORS 215.312, subject to the following conditions:

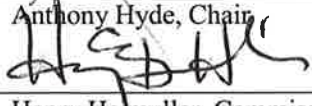
1. This Farm Facility Permit shall remain valid for two (2) years from the date of the final decision. This permit shall become void, unless the proposal has commenced with a development permit in conformance with all conditions and restrictions established herein within the two-year validity period.
2. This Farm Facility Permit authorizes only the development and construction of a public safety training facility on the 282 acre subject property. This Permit, in turn, enables the applicant to apply for a Building Permit and other permits necessary for the proposed resource-related site development following completion of Site Design Review and compliance with applicable development standards for the outright permitted use. This Farm Facility Permit addresses and allows this land use only and does not guarantee approval of any other permits necessary for the future development of the subject property.
3. Prior to any development, the applicant shall submit and be approved for a Site Design Review to be scheduled for the Planning Commission hearing and review. Any and all hearings on the site design review shall be held in the evening in Scappoose.
4. Any future development of the site shall comply with the development standards of the Primary Agriculture Zone (Section 300) and Sensitive Habitat Overlay Zones, including County Zoning Ordinance Sections 1100 Flood Hazard Overlay, 1120 Sensitive Bird Habitat, 1140 Greenway Overlay, 1170 Riparian Corridors, 1180 Wetlands, 1185 Natural Area Overlay and 1190 Game Habitat Overlay.
5. Those areas of the subject property that are open space, not used as a particular prop training venue, shall be used for beneficial farm uses to the extent possible.

DATED this 22nd day of June, 2016.

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By:  _____

Anthony Hyde, Chair

By:  _____

Henry Hemmuller, Commissioner

By:  _____

Earl Fisher, Commissioner

Approved as to form

By:  _____
Office of County Counsel

EXHIBIT A

**COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT
May 11, 2016
PCC Public Safety Training Facility
Public Hearing**

FILE NUMBER: RF 16-02

APPLICANT: Portland Community College - PO Box 19000, Portland, OR. 97280-0990

OWNER: Airpark Development LLC - PO Box 1754, Lake Oswego, OR.

PROPERTY The property is located in Columbia County unincorporated area bordering to the east of the Scappoose Urban Growth Area east of the Airport.

SIZE: 282 acres

ZONING: Primary Agriculture (PA-80)

MAP ID NUMBERS: 3N1W0500300, 3N1W0600200, 3N1W0600505, 3N1W0500500, 3N1W0600504, 3N1W0800800, 3N1W0800900, 3N1W0700103

REQUEST: Portland Community College (PCC) proposes to site and build a regional public safety training facility on approximately 282 acres in the relatively flat plain area near the Scappoose Airport. Recent changes to the Oregon Revised Statutes allow such a facility as an outright permitted non-farm use in the exclusive farm zone if within the community college district.

APPLICABLE REVIEW CRITERIA:

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Oregon Revised Statute (ORS)

ORS 215.312 Public Safety Training Facility 3

Columbia County Zoning Ordinance

Primary Agricultural Use Zone

Section 307 General Review Standards 4

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Hearings

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BACKGROUND:

The applicant, Portland Community College (PCC), is requesting general land use approval for a Public Safety Training Facility in Columbia County. The proposed site is zoned for exclusive farm use, Primary Agricultural PA-80. The exclusive farm PA-80 zone is intended to preserve, enhance and stabilize those prime agricultural lands and farm use areas which offer the greatest potential for food and fiber production. However, during the 2013 session, the Oregon Legislature passed amendments to Oregon Revised Statute (ORS), creating ORS 215.312 specifically addressing the Public Safety Training Facility. The new statute allows PCC to apply for such a regional training facility as an outright permitted use in the exclusive farm use area, if it is located in the PCC service area in Columbia County. Any decision made by the County is not a land use decision as defined in ORS 197.015. The county must hold at least one public hearing to allow interested parties to testify regarding the location of the new proposed facility.

The site chosen is approximately 1 ½ miles east of the Columbia River Highway (US 30) on the large relatively flat farm area of the Columbia River valley floor, east of the Scappoose Airport. The site is located generally between a proposed airpark industrial access road that also serves as the Urban Growth Boundary line, and Jackson creek further to the east. The County will review this request as an outright permitted use such as a "farm facility" authorized by Section 304 permitted uses and apply the development standards of the Primary Agriculture Zone, the County Road Standards and Site Design Review standards. Any development permits will require the applicant to obtain a County Road Access Permit and to submit a copy of said permit with the required building permit applications needed for the construction of the various structures of the proposed use. The property is located within the Scappoose Rural Fire District (SRFD) service area. Because the interior access roads are more than 150 feet these roads/driveways will need to be improved to Fire Apparatus Access Standards and approved as such by the SRFD as one condition of building permit issuance.

According to the FEMA Flood Insurance Rate Map No. 41009CO 463D, the majority of the site is not located in a Flood Hazard Area, but located in the X zone, areas of 0.2% annual chance of flood (500 year), protected by levees. There are some Flood Hazard Zone A areas, 0.1% chance of flood (100 year) near Jackson Creek. The State Wetland Inventory Map of Scappoose indicates there are identified wetlands in several pockets near Jackson Creek and a larger wetland in the southern portion of the site. As far as wildlife, sensitive plant & natural areas, the Scappoose-Spitzenburg Area Beak Map shows that the site is within a significant Major Waterfowl Habitat Area, and it is within a Scappoose Bottoms Natural Area. On the southern portion of the proposed site, southeast of the airport, the Sensitive Wildlife general area map indicates a Northwestern Pond Turtle habitat with insufficient information for determination of significance.

The applicant submitted maps depicting the conceptual locations of future functional training uses. Generally, the proposed development avoids mapped wetlands and proposes that new structures will be constructed at least 30' away from all property lines, 50' away from Jackson Creek riparian corridor and is flexible enough to accommodate any additional setbacks for sensitive or protected areas identified. The subject property is bordered to the north and east by other PA-80 zoned properties and is adjacent on the west by a "Future North-South Connector Road" serving as the Urban Growth Boundary of Scappoose. Electrical, water and utility lines will be provided along this future connector road and can be extended to the any new structures via the project's access/driveways. Emergency services are provided to the site by the Scappoose Rural Fire District

and the County Sheriff.

APPLICABLE REVIEW CRITERIA

Beginning with Oregon State Statute - ORS 215.312

Chapter 215 — County Planning; Zoning; Housing Codes 2015 EDITION

215.312 Public safety training facility. (1) As used in this section, “public safety training facility” or “facility” means one or more improvements established by Portland Community College in support of curriculum focused on public safety training or education, including public safety response to an emergency, as defined in ORS 401.025.

(2) In addition to the nonfarm uses that may be established in an area zoned for exclusive farm use under ORS 215.283 (1), Portland Community College may establish a public safety training facility as an outright permitted use on up to 300 acres of land in an area zoned for exclusive farm use, notwithstanding:

(a) The statewide land use planning goals and administrative rules adopted by the Land Conservation and Development Commission.

(b) The minimum lot or parcel size under ORS 215.780.

(3) Portland Community College may establish the public safety training facility jointly in cooperation with one or more other public bodies, as defined in ORS 174.109.

(4) Portland Community College shall:

(a) Use the public safety training facility to support curriculum focused on public safety training and education; and

(b) Make the facility available for use by other public bodies for public safety training or education of public safety personnel, as defined in ORS 181A.355, and other providers of emergency services, as defined in ORS 401.025.

(5) A public safety training facility authorized by this section:

(a) Must be sited on land that is within a community college district in Columbia County.

(b) May not be established unless Portland Community College applies for land use approval of the facility on or before December 31, 2015.

(6) When making decisions approving the public safety training facility authorized by this section, the local government:

(a) Shall apply only those procedural provisions and objective development standards of its land use regulations that apply to uses permitted outright under ORS 215.283 (1).

(b) Is not required to amend the acknowledged comprehensive plan or land use regulations to implement this section.

(7) Before approving the public safety training facility authorized by this section, the local government shall hold at least one public hearing and allow interested persons to testify regarding the location of the facility.

(8) A decision made by the local government to approve the public safety training facility authorized by this section is not:

(a) A land use decision or a limited land use decision, as those terms are defined in ORS 197.015; and

(b) Subject to review by the Land Use Board of Appeals under ORS 197.805 to 197.855. [2013

Note: 215.312 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Finding 1: This statute was passed during the 2013 Legislative Session. If a state statute is adopted and the local government (County) has not amended its ordinances to implement the statute, then the county will apply the statute directly to any land use decisions. Staff finds the application RF 16-02 for a PCC Public Safety Training Facility is an authorized use in the PA-80 Zone. The County does not need to amend county comprehensive plan policies and/or the zoning ordinances to review this application. PCC applied for land use approval, this application RF 16-02, on December 30, 2015. The subject property of the application is located near Scappoose that is within the community college district. In addition, an LDS staff field visit provided no evidence that the property's topographical characteristics would compromise the issuance of any proposed building or development permits. The remainder of this report will evaluate the submitted application according to objective development standards in Sections 307 and 308 of the Zoning Ordinance. If the research and subsequent Findings determine the propose public safety training facility complies with the applicable provisions of the Zoning Ordinance, staff finds the Board of Commissioners will be able to conditionally approve the submitted request for RF 16-02 and authorize this new use, provided the applicant meets all conditions imposed and obtains the necessary development permits.

Continuing with the applicable provisions of Columbia County Zoning Ordinance, Section 307 - General Review Standards:

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:
 - 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
 - B. The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- .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 2: In explanation, Sections 304, 305 and 306 list various uses which may be allowed in the Primary Agriculture PA-80 Zone. These listed uses are based on and likely mirror many uses

allowed in Oregon Revised Statutes ORS 215. 283 uses permitted in exclusive farm zones in nonmarginal lands counties. Section 304 Permitted Uses lists those uses that are permitted outright such as farm use and creation, restoration and enhancement of wetlands, fish and wildlife habitat projects. Section 305 Administrative Review lists those uses that are permitted, subject to review and approval under prescriptive standards in Sections 307, 308 & 1550. And, Section 306 Conditional Uses lists those uses that may be approved pursuant to those above listed Sections and also, Conditional Use standards with a mandatory public hearing.

A public safety training facility is not listed in the County Zoning Ordinance but will be listed when the county updates the zoning ordinance to be in compliance with state statutes and planning rules. Until the county updates it's ordinance, the county is required to apply the state statute directly, see Finding 1. The County will review this request as if the Training Facility were listed in Section 305 Administrative Review, permitted subject to prescriptive standards.

The application as a concept plan shows proposed buildings, props and other facilities setback significantly from property lines and Jackson Creek riparian corridor. Although the specific setbacks are not presented, the overall training facility is so large with 282 acres, that setback distances could easily be in the 100s of feet. Additional mitigation measures could be required if impacts are subsequently revealed. The adjoining farm uses do not appear to be impacted to a degree which would change or increase the cost of accepted farming practices if prior to development and building, a site design review is required to minimize any impacts of any particular training module. As far as impacts to the site itself, the applicant states that some unused portions of the facility will be expansive, open space that could be put to farm uses grazing and crop cultivation. Staff recommends that open areas not impacted by development be maintained or sublet for beneficial farm use. This criteria can be met with conditions.

Continuing with Section 307 General review Standards

- .3 For all residential development approved under 305.1 through 305.13, the owner shall sign and record in the deed records a document binding on the landowner and any successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices normally allowed under law.
- .4 Permit Expiration:
 - A. For any discretionary decision under Sections 305 and 306, except as provided for in Subsection 307.5 below, if not within an urban growth area, the approval period for development is void two (2) years from the date of final decision if a development permit is not issued by Land Development Services;
 - B. The Director may grant extensions of up to one year if the applicant requests an extension in writing prior to the approval period expiration and it is determined that the applicant was not able to begin or continue development during the approval period for reasons which the applicant was not responsible;
 - C. Approval of an extension granted under this subsection is an administrative decision, is not a land use decision as described in

ORS 197.015 and is not subject to appeal as a land use decision;
and

- D. Additional one year extensions may be authorized where applicable criteria for the decision have not changed.
- .5 For a proposed residential development decision under Subsections 305.1 through 305.13, if not within an urban growth boundary, the approval period shall be valid for four (4) years and an extension granted under B. above shall be valid for two (2) years.

Finding 3: This application is not for residential use. Paragraphs 307.3 & .5 above are not applicable. If this land use permit for a public safety training facility is approved as a resource facility as provided in Section 305, the approval period shall be for 2 years. A development permit must be issued by the county within the approval period. Extensions may be granted by the Director. This criteria can be met with conditions.

Continuing with Columbia County Zoning Ordinance Section 308, Primary Agriculture

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

- .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.
- .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 4: Many of the existing property lines of the proposed site will likely be changed in the near future. As can be seen in the applicant's maps, the subject property includes several tax lots, some of which actually extend into the City Urban Growth Area. In consultation with LDS staff, the applicant would like to "property line adjust" many property lines to coincide with political boundaries and possibly make one large parcel to accommodate the Training Facility. That way setbacks to property lines may not encumber particular building sites. The minimum lot width and depth will be assured by County staff during this property line adjustment (PLA) review. No new parcels are created in from the PLA process, so parcel frontage on a public right-of-way public would not be a hindrance. Staff does not know whether the new proposed north-south connector roadway will be a public road. Structural setbacks, height restrictions and signs will be reviewed prior to building permit issuance. The Oregon Department of Fish and Wildlife was notified of this request. We have received no comments. With a condition that the applicant apply for Site Design Review, Section 308 Development Standards can be met.

Continuing with Columbia County Zoning Ordinance Section 1616 Special hearings

- 1616 Procedure for Special Hearings: The procedure for Special Hearings shall, to the greatest extent practicable, be the same as for other quasi-judicial land use hearings as set forth in the Columbia County Zoning Ordinance, Planning Commission Ordinance, and Subdivision and Partitioning Ordinance, and ORS Chapters 92, 197 and 215. When a Special Hearing is held in lieu of a Planning Commission hearing, the hearings officer's decision may be appealed as provided in Sections 1700 through 1703 of this ordinance. When a Special Hearing is held in lieu of a Board of County Commissioners' hearing, the hearing officer's decision may be appealed as provided in ORS Chapter 197 for appeals to the Land Use Board of Appeals.

Finding 5: The enabling legislation for a Public Safety Training Facility (ORS 215.312) requires that the local government must hold at least one public hearing. The Board of Commissioners decided to hold the on Wednesday, May 18, 2016. The statute, ORS 215.312, also states that the decision made by the local government is not a land use decision and is not subject to review by the Land Use Board of Appeals (LUBA). The procedure for this special hearing will be conducted similar to other quasi-judicial land use hearings, given the particulars of the statute.

COMMENTS:

Scappoose Rural Fire District: No comment received.

Oregon Department of Fish & Wildlife: No comments have been received.

Oregon Department of Agriculture: No comments have been received.

County Roadmaster: No comments have been received.

Scappoose-Spitzenburg CPAC: No comments received.

Scappoose Bay Watershed Council: No comments received.

Scappoose Drainage District: No comments received.

Columbia River PUD: No comments received.

As of the date of this report May 11, 2016 no comments have been received by Land Development Services.

CONCLUSION, RECOMMENDATION, & CONDITIONS:

Based upon research about the property and findings of the Staff Report for **RF 16-02** staff recommends the Board of Commissioners **APPROVE** this request for a Public Safety Training Facility on the subject 282 acre PA-80 zoned tract, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. This Farm Facility Permit shall remain valid for two (2) years from the date of the final decision. This permit shall become void, unless the proposal has commenced with a development permit in conformance with all conditions and restrictions established herein within the two-year validity period.
2. This Farm Facility Permit authorizes only the development and construction of a public safety training facility on the 282 acre subject property. This Permit, in turn, enables the applicant to apply for a Building Permit and other permits necessary for the proposed resource-related site development following completion of Site Design Review and compliance with applicable development standards for the outright permitted use. This Farm Facility Permit addresses and allows this land use only and does not guarantee approval of any other permits necessary for the future development of the subject property.
3. Prior to any development the applicant shall submit and be approved for a Site Design Review to be scheduled for the Planning Commission hearing and review.
4. Any future development of the site shall comply with the development standards of the Primary

Agriculture Zone (Section 300) and Sensitive Habitat Overlay Zones, including County Zoning Ordinance Sections 1100 Flood Hazard Overlay, 1120 Sensitive Bird Habitat, 1140 Greenway Overlay, 1170 Riparian Corridors, 1180 Wetlands, 1185 Natural Area Overlay and 1190 Game Habitat Overlay.

6. Those areas of the subject property that are open space, not used as a particular prop training venue, shall be used for beneficial farm uses to the extent possible.

Attachments:

RDF 16-02 submitted application & proposed site plan
Address, Zoning and Vicinity Maps