

# COLUMBIA COUNTY BOARD OF COMMISSIONERS STAFF REPORT

January 12, 2022

## Site Design Review, Use Permitted Under Prescribed Conditions in the RIPD Zone, Variance - Type II Conditional Use Review – Type III

**HEARING DATE:** January 19, 2022

**FILE NUMBER:** DR 21-03, CU 21-04 & V 21-05

**APPLICANT:** NEXT Renewable Fuels, Inc., Attn: Christopher Efir  
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**OWNERS:** Port of Columbia County  
PO Box 190  
Columbia City, OR 97018  
(503) 397-2888  
  
NEXT Renewable Fuels, Inc.  
  
Felipe and Bobby De La Cruz  
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Clatskanie, OR 97016

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**LOCATION:** 81009 Kallunki Rd. Clatskanie, Oregon

**TAX MAP ID #:** Facility  
Port of Columbia County: 8422-00-00100, 8422-00-00200, 8422-00-01100, 8421-00-00700, 8416-00-00200, 8416-00-00300  
NEXT Renewable Fuels, Inc.: 8422-00-00300  
  
Branch Line  
Port of Columbia County: 8421-00-00600, 8422-00-00400, 8422-00-00500, 8422-00-00600, 8423-B0-00700  
De La Cruz: 8423-B0-00800

**TAX ACCOUNT #:** Facility  
Port of Columbia County: 28060, 28063, 28064, 28065, 28107  
NEXT Renewable Fuels, Inc.: 28062  
  
Branch Line  
Port of Columbia County: 28060, 28063, 28064, 28065, 28107  
De La Cruz: 28108

**ZONING:**

Facility

Resource Industrial – Planned Development (RIPD)

Branch Line

Primary Agricultural Use Zone (PA-80)

Both

Riparian Corridors (RP); Wetland Area (WA)

**SIZE:**

Site

680 Acres

Facility Development Area

Approx. 150 Acres - 109 acres for the primary site development, ~41 acres for driveway, pipelines and associated improvements.

Branch Line Development Area

12.3 Acres

**REQUEST:**

- Use Permitted Under Prescribed Conditions in the RIPD zone, Site Design Review for a proposed renewable diesel production facility at Port Westward Industrial Park
- Variance to buffering and screening standards
- Conditional use to allow a rail branch line in the PA-80 zone

**APPLICATION COMPLETE:**

07/15/21

**150 DAY DEADLINE:**

02/23/22

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## SUMMARY

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The applicant, NEXT Renewable Fuels proposes to develop a renewable diesel production facility at the Port Westward Industrial Park (Port Westward), within the Resource Industrial-Planned Development (RIPD) zone. The facility will produce renewable diesel fuel from materials such as cooking oil, animal fats and tallow, and corn oil. The applicant has submitted two separate applications, which the County has consolidated for review: (1) an application for a Site Design Review, Use Permitted Under Prescribed Conditions in the RIPD zone and Variance for the facility; and (2) a Conditional Use for the rail branchline in the Primary Agriculture – 80 Acres (PA-80) Zone.

The project proposed with this application 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. Development of the proposed facility within the RIPD zone requires a **Site Design Review** application and approval of a Use Permitted Under Prescribed Conditions in the RIPD zone. Due to security requirements relating to fence height and line-of-sight, a **Variance** from landscaping and fencing requirements is proposed.

Primary site access is proposed from a driveway to Hermo Road, with secondary emergency access to Kallunki Road. The driveway is proposed within the RIPD zone. The applicant also proposes to develop a “rail branchline” that will be accessory to and serve the proposed renewable diesel production facility. The branchline is proposed to connect to Portland & Western Railroad’s facilities to accommodate shipment of additional materials and potentially a small amount of finished product. Rail transport may amount to approximately 313 rail cars per week, on average. Access to the branchline will be from the Portland & Western Railroad line and the proposed fuel facility site. A gravel-surfaced rail crossing will be provided on Tax Lot 8423-00-00800. A portion of the rail branchline is outside the RIPD zone and within the Primary Agriculture (PA-80) zone southeast and southwest of the site – development of the branchline in the PA-80 zone requires a **Conditional Use** application.

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

The proposed construction of facility, pipelines, and branchline will result in temporary and permanent impacts to wetlands. The County requested recommendations from the Department of State Lands (DSL), Oregon Department of Fish & Wildlife (ODFW), and the Columbia Soil and Water Conservation District (SWCD) regarding the significance of the wetlands and received a recommendation from DSL that the impacted wetlands are not significant. The applicant has submitted applications to the U.S. Army Corps of Engineers and the Oregon Department of State Lands for wetland alterations and proposes to perform off-site wetland mitigation south of the site. The proposed wetland removal and mitigation requires approval by the Department of State Lands and the US Army Corps of Engineers.

## Application Timeline

The brief timeline below provides an overview of materials received by the County for the NEXT application. Staff raised concerns regarding the proposed branchline definition, water-related use definition, and wetland significance. The Applicant responded with updated application submissions on December 14, 2021.

- NEXT Pre-Application Conference: February 6, 2020
- NEXT Application Submissions: January 19, 2021
- County Incompleteness Letters: February 17, 2021
- NEXT Updated Application Submissions: July 13, 2021
  - Including significant changes to rail location and rail volume.
- NEXT ORS 215.427 Completeness: July 15, 2021
- NEXT Updated Application Submissions: August 12, 2021
- NEXT Memorandum on Interpretation of CCZO 1175.B, 1184.E and OAR 660-012-0065: September 30, 2021
- County Memo Identifying Critical Issues: sent October 25, 2021
- NEXT Updated Application Submissions: December 14, 2021

## Staff Summary

Staff notes this multi-faceted application and staff report are complex and lengthy. In general, Staff finds the proposed facility is well-suited to the adopted intent of the Port Westward exception area and implementing RIPD zone. The RIPD zone is designed to be supportive of large-scale development and has relatively few requirements. As discussed in these findings, Staff finds the facility and associated branchline, driveway access, pipelines and utilities generally meet the development standards of the base zones, or can be met with proposed conditions of approval.

Where base zone requirements for landscaping and screening are not met, the applicant has requested a variance. There are also elements of the application's interaction with County code that have received additional scrutiny and are worth County Board review and determination. These items are outlined below.

- The applicant has provided evidence that indicates a variance to landscaping and screening standards to meet security requirements for sightlines and fence height is merited. Staff concurs. Please see Staff findings under Section 1504 for further information on the variance proposal.
- The proposed rail development through the PA-80 zone raised definitional concerns related to design of the proposed use and applicability of the statutory exemption for railroad branchlines in farmland. However, the applicant provided evidence from Portland & Western Railroad clarifying the design and definition of the proposed branchline and addressing Staff concerns. Please see Staff findings under Section 303 for further information on the railroad branchline use.
- A small portion of the project crosses the 25-foot riparian boundary of the McLean Slough. The application provides evidence the project relies on proximity and access to the waters of the Columbia River, and therefore can meet the County's code exemption for water-related uses. Please see Staff findings under Section 1170 for further information on riparian area protection and exemptions.
- The proposed facility and nearly all associated improvements interact with delineated wetland areas. In response to Staff concerns, the applicant worked diligently with DSL to evaluate and address significance of these wetlands. Consistent with County code provisions, the County has received a recommendation from DSL, and the applicant has provided evidence, that the delineated wetlands are not significant and should therefore

not be regulated by the County’s wetlands overlay. The County has requested and received additional feedback from ODFW and CSWCD. All agency comments are included in Attachment 7. To be clear, regardless of County regulations the applicant must still meet DSL and Army Corps of Engineers requirements for wetlands fill, removal and mitigation. Please see Staff findings under Section 1180 for further information on wetlands significance and protection.

The remainder of this report includes findings for the proposed NEXT facility and associated rail branchline in relation to the applicable standards in the Columbia County Zoning Ordinance as well as the Columbia County Stormwater and Erosion Control Ordinance.

Figure 1 Aerial Map of Subject Property

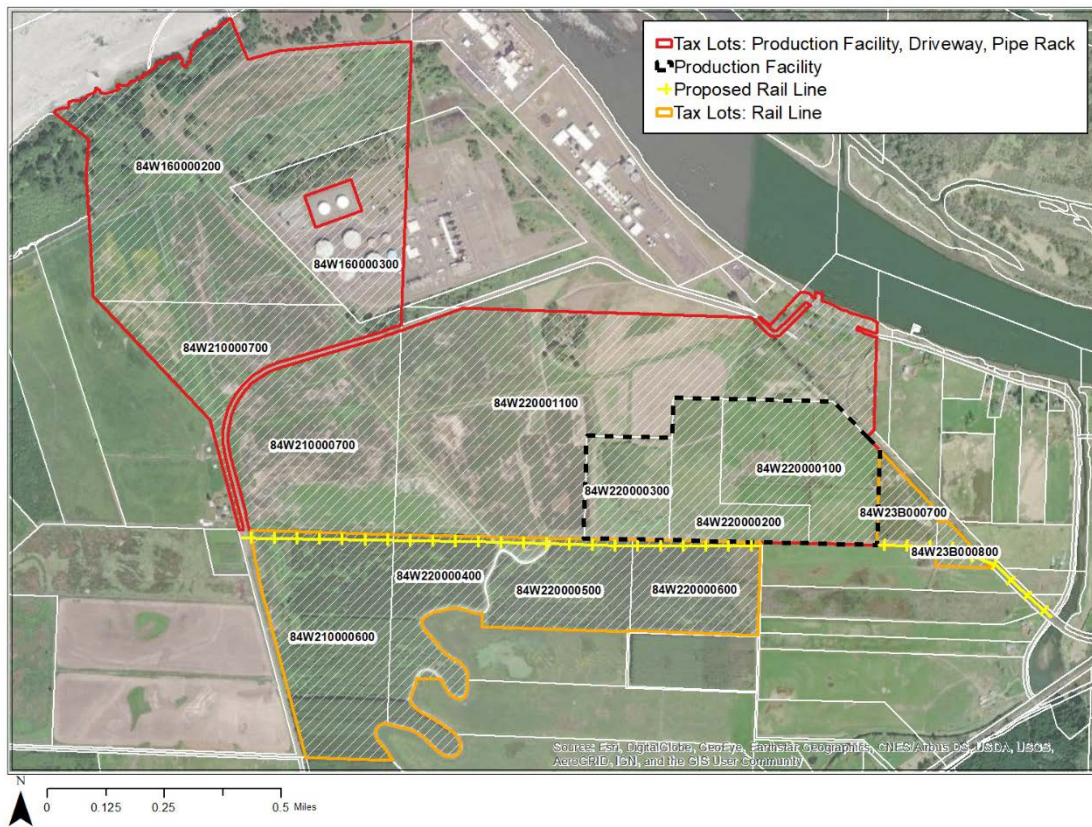
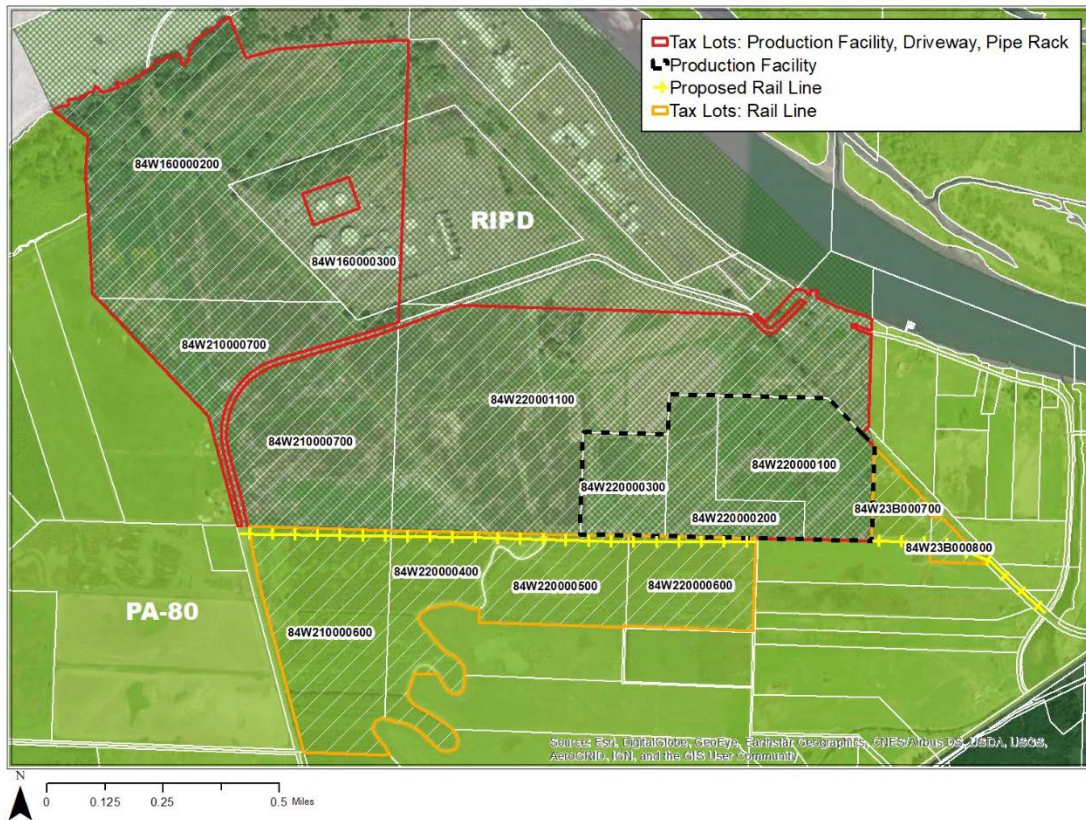




Figure 2 Zoning Map



## REVIEW CRITERIA & FINDINGS - COLUMBIA COUNTY ZONING ORDINANCE:

Criteria Specific to the facility (DR 21-03 & V 21-05). The proposed facility, driveway access, pipelines, and utilities are located within the RIPD zone. These 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
- Section 1504 Variances

Criteria Specific to the Rail Branchline in the PA-80 zone. Where the proposed rail branchline traverses the PA-80 zone, this staff report provides findings for:

- Section 300 Primary Agriculture Use Zone-80 (PA-80)
- Section 1503 Conditional Use Review

Criteria Applicable to Both Applications. Overlay zones are addressed for all elements of the proposal in findings for:

- 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

## Criteria Specific to the Facility

### 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:*

**Finding 1:** The proposed renewable diesel production facility falls within the category of permitted uses noted above and is allowed if the conditions below are satisfied. The applicant is proposing a facility and associated accessory infrastructure (pipelines, rail spur, electrical lines, etc.) that will convert recycled organic materials into renewable transportation fuels.

- 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.*

**Finding 2:** This application proposes development of an industrial facility, associated pipelines to the Port, rail access, and a private drive access. For development within the RIPD zone, applicable goals and policies are specified as related to rural industrial development and the relevant Port Westward exception statement. These policies include:

- Part X. Economy
- Part XII. Industrial Siting
- Industrial Lands Exceptions
- Port Westward Exception Statement

- Part XIV: Public Facilities and Services

### **RIPD-Applicable Goals and Policies.**

The following information demonstrates how the use conforms to applicable Comprehensive Plan goals and policies, specifically those pertaining to the Goal Exceptions to accommodate rural industrial development at Port Westward.

#### *1986 Comprehensive Plan Exception Statement*

##### *I. Proposal*

*The proposed use designation is Rural Industrial, and it is intended to take advantage of the location on the Columbia River, the existing dock facilities, railroad, and urban services, as well as potential linkages to the electric generating facilities.*

##### *V. Proposed Use Of The Property*

*Probable uses would likely be related to the existing services, including the railroad, the dock, and the tank farm.*

*\*\*\*]*

*Uses likely to be located here are best illustrated by four proposals submitted to the current leaseholder since 1980. Proposals have included a 200-acre oil refinery, a 150-to-200-acre coal port, an 80-acre petrochemical tank farm, and a 230-acre coal gasification plant. [...].*

*\*\*\*]*

##### *VII. LCDC Evaluation*

###### *A. Goal 2 Factors*

###### *1. "Why these other uses should be provided for."*

*\*\*\*]*

###### *d. Types of industrial users allowed on resource land.*

*The LCDC rules outline three specific types of industrial uses which might be used to justify an exception on resource land. Port Westward is an appropriate site for all three types of industrial uses.*

*The first types are "unique site-specific resources" which include a river or ocean port. Port Westward is already a partially developed, deep draft river port.*

*The second attribute is uses which are "hazardous or incompatible with densely populated areas." Port Westward clearly is an appropriate site for this type of user. The 80-acre petrochemical tank farm identified earlier is a clear example.*

*Those uses often require rail, harbor facilities, and large sites.*

*A third type of use includes those which would have a "significant competitive advantage due to the location of energy facilities."*

**Finding 3:** The above excerpts explain the intended purpose of the Port Westward Exception Area. This application is consistent with its intended purpose for the following reasons:

- It will take advantage of marine transportation available on the Columbia River, specifically the deepwater port.
- It will use existing dock facilities.
- It will utilize existing rail connections.
- It will allow renewable diesel production to be located far from population centers, thus avoiding hazardous or incompatible impacts on densely populated areas.
- The proposed facility is similar to the existing tank farm, PGE electrical generating facilities, and the Columbia Pacific Bio-Refinery.

**2007 Comprehensive Plan Exception Statement**

*The [rural industrial] use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such decision should include a discussion of the lost resource productivity and values in relation to the county’s gain from the industrial use, and the specific transportation and resource advantages which support the decision.*

*\*\*\*]*

*The County’s Comprehensive Plan has designated 905 acres of the Port Westward area as a Goal 3 exception. The property is located adjacent to the Port Westward rural industrial area and can take advantage of the location with access to the Columbia River, and the existing dock facilities, railroad and urban services, including PGE’s Beaver Power Plant. Allowing future rural industrial development on the Property would benefit the County’s economy by bringing jobs to the area for construction of a project and then a lesser level of employment for the operation and management of any facility.*

**Finding 4:** The above excerpts explain why the Board of Commissioners expanded the Port Westward Exception Area in 2007. This application is consistent with this statement for the following reasons:

- It will take advantage of the existing infrastructure (noted above).
- It will be in proximity to existing industrial operations with similar impacts.
- It will bring temporary construction jobs and permanent ongoing operations jobs to Port Westward.

**PART X – ECONOMY**

*Goals:*

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

**Finding 5:** The proposed facility will require a significant amount of construction activity, resulting in high-paying construction jobs to build the project for approximately 24 months. Once built, the facility will employ office, management, and operations staff, at the following estimated staffing levels:

<b>ESTIMATED STAFFING LEVELS</b>				
<b>Weekdays</b>			<b>Weekends</b>	
<b>Office/Mgt.</b>	<b>Shift 1</b>	<b>Shift 2</b>	<b>Shift 1</b>	<b>Shift 2</b>
<b>8:00 AM – 5:00 PM</b>	<b>6:00 AM – 6:00 PM</b>	<b>6:00 PM – 6:00 AM</b>	<b>6:00 AM – 6:00 PM</b>	<b>6:00 PM – 6:00 AM</b>
<b>83</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>35</b>

In addition to the on-site employees, the project will also result in supportive jobs such as those for the terminaling company operating at the dock. Employees are also likely to patronize area businesses in and around Clatskanie, creating new indirect employment opportunities in surrounding areas. Products to support this facility will be imported via the river and rail from beyond the County, further contributing to economic growth in the immediate area and beyond.

The applicant will make a significant investment to construct and operate an industrial facility, broadening the County’s employment base while complementing the existing uses at Port Westward.

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

**Finding 6:** The project will utilize one of the County's best natural resources: the efficient transportation corridor provided by the Columbia River, designated as part of the U.S. Department of Transportation's M-84 Marine Highway Corridor. This resource was one of the main advantages during the site selection process. The proposed use does not yet exist at the Port, which contributes to the County's expanding and diversification of its economic base.

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

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

**Finding 7:** As noted above, following construction of the proposed facility, it will provide direct employment opportunities for office, management, and operations staff with approximately 220 new jobs and is anticipated to result in supportive jobs at area companies. The approximately 24-month construction duration is also expected to create temporary construction jobs on site.

2. *Encourage a stable and diversified economy.*

**Finding 8:** The proposed facility 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 development is planned to be a long-term facility to support renewable diesel fuel production on the site, showing a long term and stable commitment to the regional economy.

3. *Reflect the needs of the unemployed and of those persons who will enter the labor market in the future.*

**Finding 9:** The approximately 220 jobs created by the project will be family wage jobs, as opposed to lower-paying retail and consumer-facing service sector jobs.

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

**Finding 10:** As the project relies on a large site served by river and rail transportation and is isolated from a population center, it is entirely consistent with the intended purpose and uses of Port Westward and fulfills the County's policy of utilizing land set aside for marine-related industrial uses.

8. *Preserve valuable industrial sites for industrial uses.*

**Finding 11:** The proposed industrial project is proposed to be constructed on land zoned Resource Industrial - Planned Development. The industrial use is consistent with the zone.

12. *Encourage new industrial growth within the urban areas so as to utilize existing public facilities.*

**Finding 12:** Port Westward is an exception area located outside urban growth boundaries. When the Port Westward Exception Statement was adopted, the County found that the unique features of Port Westward made it substantially different from urban industrial land, and therefore likely to attract industries that could not necessarily use urban industrial land.

*"Port Westward, Reichhold Chemicals, and the Bernet site are compatible with industrial uses that are either land extensive, incompatible with the urban environment, marine related or a combination of the above. These types of uses do not compete with industrial areas within urban growth boundaries but are complementary to those uses."*

The proposed use is consistent with the Port Westward Exception Statement as detailed earlier because it is land extensive, has impacts that are potentially hazardous in densely populated areas, and requires marine access.

## *PART XII – INDUSTRIAL SITING*

### INDUSTRIAL DEVELOPMENT: GOALS AND POLICIES

#### *Goals*

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

**Finding 13:** The proposed facility will require a significant amount of construction activity, resulting in high-paying construction jobs to build the project. Once built, the facility will employ approximately 220 office, management, and operations staff. In addition to the on-site employees, the project will also result in supportive jobs such as those for the terminaling company operating at the dock. Employees are also likely to patronize area businesses in and around Clatskanie.

3. *To encourage industrial growth in Columbia County to diversify its economy. New industry should locate to take maximum advantage of existing public and private investments.*

**Finding 14:** The proposed renewable diesel production facility will result in both construction and ongoing operational jobs, which helps improve economic diversification and results in Port fees and local property tax revenue. The site's location allows the facility to take advantage of the existing deepwater port, rail facilities, and both public and private utilities serving Port Westward.

*Policies: It shall be policy of the County to establish, implement, and maintain an industrial development program that:*

1. *Encourages the creation of new and continuous employment opportunities.*

**Finding 15:** As noted above, following construction of the proposed facility, it will provide approximately 220 employment opportunities for office, management, and operations staff and is anticipated to result in supportive jobs at area companies.

5. *Recognizes the existence of sites suitable to be developed as deep-water ports but are not needed at this time.*

**Finding 16:** The proposed facility will utilize the existing deepwater port at Port Westward, one of five (5) deepwater ports in the state.

11. *Directs industries that are either land extensive, resource related, marine related, and/or incompatible with urban populations to those sites which are appropriate to the use and are currently zoned for that use.*

**Finding 17:** As detailed above, the proposed facility is land extensive (requiring 109 acres excluding off-site acreage for the driveway, pipe rack, etc.), and marine related (utilizing the Columbia River and the existing dock at the deepwater port). The facility will perform operations that are potentially hazardous and are thus appropriate outside urban locations. The site's location in the RIPD zone is consistent with this policy.

12. *Is consistent with the exception statements for those sites requiring an exception to the applicable resource goal.*

**Finding 18:** Consistency with the exception statements for Port Westward is demonstrated above.

**RESOURCE INDUSTRIAL DEVELOPMENT: GOALS AND POLICIES**

*Goal: It is a goal of the County to provide for industrial development on rural lands when such development can be shown to support, utilize, or in some manner be dependent upon, the natural resources of the area.*

**Finding 19:** The County has provided for industrial development within Port Westward by adopting the Port Westward exception area and the RIPD zone. The proposed facility will utilize a natural resource (the Columbia River) as it will depend on the deepwater port for the tanker vessels that will transport materials to and from Port Westward. As the project is consistent with the intended and allowed uses within Port Westward, it is consistent with this goal.

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

3. *Restrict industrial development on land zoned Resource Industrial Planned Development to those uses that:*

- A. *Are not generally labor intensive;*
- B. *Are land extensive;*
- C. *Are located with adequate rail and/or vehicle and/or deep water port and/or airstrip access;*
- D. *Complement the character and development of the surrounding area;*
- E. *Are consistent with the rural facilities and existing and/or planned for the area; and,*
- F. *Will not require facility and/or service improvements at public expense; or,*

**Finding 20:** Policies 3A through 3F are nearly identical to the purpose statement outlined in CCZO Section 681. The applicant provided responses to that section to demonstrate how the proposed facility is consistent with the purpose of the RIPD zone so the responses to those items are not repeated here.

- G. *Are not appropriate for location within Urban Growth Boundaries due to their hazardous nature.*

**Finding 21:** The proposed use will rely on the deepwater port facility at Port Westward. While regulated by federal and state safety protocols, production of renewable diesel involves flammable inputs and outputs, chemical emissions, and heavy transportation infrastructure, which may present potential hazards to incompatible uses, such as residential living. For these reasons, the Board can find that the proposed use is consistent with Policy 3G.

***PART XIII – TRANSPORTATION***

*Objectives:*

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

**Finding 22:** The project will be served by existing transportation infrastructure, including marine, rail, and roadways. Consistent with TSP Project #9, the Applicant proposes to satisfy Public Works requirements for necessary improvements to Hermo Road. A condition of approval is proposed to meet this standard. The applicant will install a rail branchline connecting to Portland & Western Railroad's existing rail line, providing rail access to Astoria and the Portland region.

*Policies:*

2. *The dedication of adequate rights-of-way to meet the standards set in the Transportation Plan shall be required of any person seeking a Zone Change, Conditional Use Permit, Subdivision, or Partition. [...].*

**Finding 23:** The applicant is not seeking a Zone Change, Conditional Use Permit, Subdivision, or Partition as part of this application for the development of the facility. The applicant is seeking a Conditional Use permit for accessory rail infrastructure through farmland in a separate application. The closest public roadway is Hermo Road, which is classified as a local road in the 2017 Columbia County 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. Therefore, no right-of-way dedication is merited.

The closest segment of Kallunki Road (to which the site will have secondary emergency access) is also designated as a local road. This roadway has a 40-foot right-of-way, which is below the TSP's stated optimum right-of-way width.

However, as the existing roadway fits within the right-of-way and the site does not immediately abut Kallunki Road, no right-of-way dedication is required for this application.

3. *All expanding or new development shall contribute a fair and proportionate share toward appropriate off-site improvements to county roads whenever a development results in a major increase in traffic on an existing county road.*

**Finding 24:** As discussed in the Transportation Impact Analysis (Attachment 2n), the proposed facility is anticipated to 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 (6) 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 and improvements to Hermo Road, which the Applicant proposes to fund through a road improvement agreement with the County. A condition of approval for Hermo Road improvements is proposed to meet this standard.

Based on this analysis, the TIA does not recommend any mitigation strategies as a result of the proposed facility. The County has a planned project (TSP Project #9) to improve Hermo Road in the vicinity of the project site. The Applicant will satisfy Public Works requirements for necessary improvements to Hermo Road, through a condition of approval.

4. *County will manage access to roadways to reduce congestion and conflicting travel patterns. The County will work with the Oregon Department of Transportation (ODOT) to limit the number of access points onto Principle Arterials. Direct access to U.S. Highway 30 will be limited as much as is practical in order to reduce the potential for congestion and conflicting traffic patterns which would disrupt the flow of traffic.*

**Finding 25:** The project will not have direct access onto Highway 30 or Principal Arterials.

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 26:** Although this is a policy for the County to implement, the project is consistent with this policy because it is specifically located at Port Westward to take advantage of existing water and rail transportation facilities.

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

**Finding 27:** The project does not require a new public road rail crossing.

7. *The County will work with the Port of [Columbia County] to encourage the establishment and use of dock facilities.*



**Finding 28:** The project will utilize the Port of Columbia County's existing deepwater dock facilities at Port Westward.

9. *Restriction of the location of new pipelines and high voltage transmission lines to within existing rights-of-way will be encouraged whenever possible.*

**Finding 29:** The proposal is to develop pipelines within the project site; the proposed pipelines cross Hermo Road and are within the Hermo Road right-of-way to the extent possible.

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 30:** 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.

#### PART XIV – PUBLIC FACILITIES AND SERVICES

##### Policies

.1 *Require that adequate types and levels of public facilities and be provided in advance of or concurrent with development.*

**Finding 31:** Port Westward Industrial Park already contains multiple public and private facilities that can accommodate development of the site. Port Westward has the PGE electrical generating facilities, the Clatskanie People's Utility District electrical substation, roadways, rail lines, utilities, drainage facilities, levees, pipelines, electrical transmission lines, and associated support facilities. The project will be served by existing transportation infrastructure, including marine, rail, and roadways. Consistent with TSP Project #9, the Applicant will satisfy Public Works requirements for necessary improvements to Hermo Road, through a proposed condition of approval. Taken together, these conditions provide adequate types and levels of public facilities for the proposed project.

.2 *Require that the level of facilities and [sic] provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:*

- A. *Public or community water systems.*
- B. *Public or community sewage systems.*
- C. *Collector and/or arterial street systems.*
- D. *Fire protection by a rural fire protection district, or an equivalent level of service.*

**Finding 32:** The site is within a Rural Industrial zone (Rural Industrial – Planned Development). Port Westward is served by private water systems and a small private industrial wastewater system (see Attachment 2p), local roads, and the Clatskanie Rural Fire Protection District, consistent with this policy. No expansions to these systems are proposed or required for this project.

4. *Encourage new development on lands within urban growth boundaries or built and committed exception areas.*

**Finding 33:** The site is outside an urban growth boundary but is within an exception area that was created to accommodate industrial development that capitalizes on the unique combination of rail and deepwater port access available at Port Westward. The proposed development is consistent with this policy.

13. *Support a level of fire safety and service in all areas of the County sufficient to minimize the risk of fire damage to life and property.*

**Finding 34:** The site’s location within the Clatskanie Rural Fire Protection District capitalizes on the District’s experience and partnership with existing Port Westward industrial operations to ensure appropriate levels of fire protection.

#### **PART XV – ENERGY CONSERVATION**

##### *Policies*

3. *The County shall encourage the development of recycling facilities and the use of recycled resources.*

**Finding 35:** The proposed renewable diesel production facility will create fuel by using recycled organic materials such as used cooking oil, which is fully supportive of this policy.

4. *The County will encourage the development of alternative energy sources.*

**Finding 36:** The proposed renewable diesel production facility will create fuel by recycling existing materials rather than by refining fossil fuels. This facility will help implement the County’s policy.

#### **Contd. 683 Uses Permitted Under Prescribed Conditions:**

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;*

**Finding 37:** The site is relatively flat, with existing elevations that vary by less than 10 feet across the entire production facility site (see Attachment 2c, Sheet C1.10), which is ideal for large industrial development. The site is protected from flooding by the Beaver Drainage District’s dikes and associated stormwater conveyance and pumps and is therefore adequately drained. As detailed in the preliminary stormwater report (Attachment 2m), sufficient infrastructure is in place or proposed to collect, treat, and discharge runoff. The site has been planned for industrial development for many years and the proposed use is appropriate given its physiological characteristics.

However, proposed development in this application impacts riparian areas associated with McLean Slough (allowance of impacts to the riparian area relies on definition of the project as “water-dependent” or “water related” – see discussion under Section 1170), mapped NWI wetlands (prohibited – see discussion under Section 1180), and additional delineated wetlands that will be impacted by the proposed development (Attachment 2k). The applicant is also seeking approval from the U.S. Army Corps of Engineers and the Oregon Department of State Lands for wetland alterations and has proposed off-site wetland mitigation.

.2 *Existing land uses and both private and public facilities and services in the area;*

**Finding 38:** The site is part of the Port Westward Industrial Park, which is home to multiple industrial uses (PGE power generation facilities, Columbia Pacific Bio-Refinery, Clatskanie PUD substation) and supporting facilities and services (roadways, rail lines, utilities, drainage facilities, levees, pipelines, and electrical transmission lines, private water system, and wastewater system). The nearby industrial uses are not sensitive to expansion of industrial activity at Port Westward. The existing dock serves these industrial uses and is particularly well suited for serving the proposed use for shipment of feedstock and finished products. The existing agricultural uses to the east and south are not likely to be negatively impacted by the proposed industrial use due to the applicable County land use regulations and permit

standards, fire code provisions implemented by the Clatskanie Rural Fire Protection District, and multiple state and Federal permits which the applicant will need to obtain prior to beginning operation of the facility. The proposed site development is consistent with existing land uses and available facilities and services.

- .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.*

**Finding 39:** The goals and policies of the Comprehensive Plan's rural industrial element were addressed above. As explained, the project is consistent with all the applicable rural industrial goals and policies, and the site is suitable for the proposed use given the existing services available to serve rural industrial development at the site.

- 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.*

**Finding 40:** The Port has water rights authorizing intake of water from the Columbia River/Bradbury Slough. Port Westward Industrial Park is served by private water systems that utilize wells and draw from the river. As illustrated on Attachment 2c, Sheet C1.30, a connection to the existing water supply will be made near the north end of the site. The Port has indicated that sufficient capacity is available within the Port's existing water rights (see Attachment 2p).

- .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.*

**Finding 41:** Port Westward Industrial Park has a private industrial wastewater system and a discharge system for tenants' process water (see Attachment 2p). As illustrated on Attachment 2c, Sheet C1.11, the applicant is proposing a wastewater pretreatment facility for all storm and greywater prior to discharging to the sewer system near the north end of the site. Discharge from domestic use within buildings may be stored in holding tanks prior to being hauled off or may be treated via sand filters and leach fields pending results of on-site system evaluation. The applicant will obtain all necessary permits from County Sanitarian and/or the Oregon Department of Environmental Quality, as applicable.

- .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.*

**Finding 42:** The applicant proposes 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 through a proposed condition of approval. The TIA (Attachment 2n) demonstrates that the roadway network, following improvements consisting of roadway widening and paving along Hermo Road, has adequate capacity for the proposed development. In light of the applicant's plan to improve the roadway, the TIA does not recommend any additional mitigation strategies. The site will have secondary emergency access to Kallunki Road (a public right-of-way) but the secondary access is not proposed for regular use.

- .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 43:** Port Westward Industrial Park has an existing high-pressure fire suppression system designed to accommodate development in the industrial park, and the site is within the Clatskanie Rural Fire Protection District. The proposed on-site fire protection facilities will be designed per Oregon Fire Code standards and industry best practices

and will be reviewed and approved by the Fire Marshal prior to utilization, consistent with a proposed condition of 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 44:** The proposed site plan (Attachment 2c, Sheet C1.11) 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.

*.3 Signs as provided in Chapter 1300.*

**Finding 45:** Prior to sign installation, the applicant will obtain all necessary permits and submit signage designs to County staff for review where required by code, consistent with a proposed condition of approval. Preliminary signage designs are depicted in Attachment 2c, Sheet C1.40.

*.4 Off street parking and loading as provided in Chapter 1400.*

**Finding 46:** The proposed use complies with applicable parking and loading standards, as discussed below in the responses to Section 1400.

**Conclusion:** Staff finds that this proposal is consistent with the purpose of the RIPD Zone and the provisions for Uses Permitted Under Prescribed Conditions in Section 683.3 with conditions.

## 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 47:** 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 48:** 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, pipe rack, etc.). As illustrated in the proposed site plan (Attachment 2c, Sheet C1.11), this 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 49:** 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 50:** 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 illustrated in the proposed site plan (Attachment 2c, Sheet C1.11), all proposed buildings are set back at least 95 feet from the site boundary, which is appropriate for the proposed 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 (see Attachment 2c, Sheets L1.10-L1.11 and Exhibit 17). 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 51:** The applicant proposes 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 through a proposed condition of approval. The TIA (Attachment 2n) demonstrates that the roadway network, following improvements consisting of roadway widening and paving along Hermo Road, will have adequate capacity for the proposed development. In light of the obligations in the Development Agreement, the TIA does not recommend any mitigation strategies. The site will have secondary emergency access to Kallunki Road (a public right-of-way) but the secondary access is not proposed for regular use. For the above reasons, the County Roadmaster, and by extension the County Board, can find 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 52:** The County Board of Commissioners has taken jurisdiction of the hearing consistent with Ordinance 91-2. Findings reviewing Sections 681, 683, 684, and 1550 are included in this staff report.

## **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 53:** The proposed development within the RIPD zone is classified as a Type 2 project since it affects greater than 5,000 square feet. The applicant is seeking Type 2 Design Review approval with this application. 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 54:** The proposed development is classified as a Type 2 project since it affects greater than 5,000 square feet. The applicant is seeking Type 2 Design Review approval. The County Board of Commissioners has taken jurisdiction of this review consistent with Ordinance 91-2. 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 55:** A pre-application conference for this application was held with County staff on February 6, 2020.

**1554 Pre-application Conference Committee:**

*The committee shall be appointed by the Planning Director and shall consist of at least the following officials, or their designated staff members.*

*Only affected officials need to be present at each pre-application conference.*

- A. The County Planning Director.*
- B. The County Director of Public Works.*
- C. The Fire Marshal of the appropriate Rural Fire District.*
- D. The County Building Official.*
- E. The County Sanitarian.*
- F. A city representative, for projects inside Urban Growth Boundaries.*
- G. Other appointees by the Planning Director, such as an Architect, Landscape Architect, real estate agent, appropriate officials, etc.*

**Finding 56:** This is a Type 2 Design Review. A Pre-application conference was held on February 6, 2020 where the applicant was given the submittal requirements prior to Land Development Services accepting an application for this land use proposal in the RIPD Zone. Notice of this pre-application meeting was sent to the County Public Works Department, Columbia River Fire and Rescue, the County Building Official, County Sanitarian, and the applicant. Staff finds the criteria in Sections 1551.B, 1552 and 1553 have been met.

**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 57:** 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.

**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 58:** Vicinity maps are included as Attachment 2b and Attachment 2c, Sheet G0.01.

- 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 59:** An existing conditions plan depicting these elements is included as Attachment 2c, Sheets V1.10 and V1.11.

### **1556 Site Plan Submittal and Analysis:**

**Columbia County Stormwater and Erosion Control Ordinance** *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 60:** Applicant was notified of missing items in an incompleteness letter dated February 17, 2021. Applicant required the County proceed with review of the application despite the missing information in a letter dated July 15, 2021 as allowed by ORS 215.427.

### **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 61:** On July 15, 2021 the applicant indicated the application for DR 21-03 was complete and required the County to process the application under ORS 215.427. Documentation submitted with DR 21-03 included civil, landscaping, and stormwater plans. The application did not include building elevations, sections, materials information or floor plans.

## **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 62:** The majority of existing vegetation will be removed from the site to accommodate the proposed development. Appropriate erosion control measures will be implemented as depicted in Attachment 2c, Sheets EC1.10-EC5.10.

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 63:** 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 64:** Adjacent properties to the north and west are zoned RIPD and are in the Port Westward Industrial Park, so no buffering or screening is required to the north and west. Adjacent properties to the south and east are agricultural, so buffering is required to the south and east.

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 65:** Portland General Electric has provided comments discouraging the planting of any trees under the nearby transmission lines (see Attachment 2q). As depicted on Attachment 2c, Sheet L1.10, 10 feet of perimeter plantings are provided on the south and east fence lines where facing other uses and where not precluded by overhead power transmission lines and rail lines. This standard is not met but can be met through a variance to buffering and screening requirements. Perimeter plantings are also proposed south of the paved permanent laydown yard south of the driveway.

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 66:** As depicted on Attachment 2c, Sheet L1.10, no buildings, roads, or parking are proposed in the required buffers along the south and east boundaries. 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 67:** As depicted on Attachment 2c, Sheets L1.10 and L1.11, the proposed buffers will have a row of trees, shrubs, and groundcover, except in locations where a variance is requested due to PGE requirements. Should a variance be approved, 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 68:** The applicant has requested a variance to buffering and screening requirements in order to meet PGE and Homeland Security requirements. Please see variance findings under Section 1504.

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 69:** 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 70:** All proposed parking areas are at least a third of a mile from Hermo Road. Therefore, no screening is required between parking areas and the road.

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

**Finding 71:** No berms, walls, or raised planters are proposed in the parking area landscaping.

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

**Finding 72:** A variance for screening is proposed to meet Homeland Security-related sight line regulations.

#### **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 73:** As illustrated on Attachment 2c, Sheet C1.11, the applicant proposes 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 (see Attachments 4 and 6b). The applicant is seeking a variance to authorize 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. With the approval of the variance request, this standard is met.

#### **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 74:** 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 Attachments 2d & 3d). Therefore, the Board can find that this standard does not apply.

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

**Finding 75:** As detailed in the responses to Sections 1170 and 1180, proposed development in this application impacts the Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone and the Wetland Area Overlay. The applicant is seeking approval from the U.S. Army Corps of Engineers and the Oregon Department of State Lands for wetland alterations and has proposed off-site wetland mitigation south of the site. Staff recommends a condition requiring approval from the Army Corps of Engineers and DSL prior to issuance of any development permits.

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

**Finding 76:** The applicant is proposing a renewable diesel production facility as permitted in the RIPD zone under prescribed conditions. The site contains mapped NWI wetlands; the applicant also identified delineated wetlands extending across most of the main facility site. All wetlands on the main facility site are proposed for removal. There are no other 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, Attachment 2m) 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 77:** 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.

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

**Finding 78:** Proposed lighting will be provided as illustrated in Attachment 2c, Sheets C1.50 and C1.51. Light fixtures are proposed to 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 79:** The proposed buildings will be oriented along axes corresponding to cardinal directions, allowing for solar effects to the east, south, and west faces. The site is relatively flat so slopes do not affect building orientation.

*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 80:** The TIA (Attachment 2n) 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 and improvements to Hermo Road as proposed by the Applicant. 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 Public Works requirements for necessary improvements to Hermo Road through a proposed condition of approval.

There is an existing paved roadway from Kallunki Road to the PGE Beaver Generation site and this road has an existing paved rail crossing. The applicant's proposed secondary driveway is the existing gravel driveway that connects to this existing paved roadway west of the rail line, so no rail improvements are required. No changes are proposed to this existing paved roadway or rail crossing. Attachment 2c, Sheet C1.11 specifies that the secondary driveway will be 20 feet wide and surfaced with gravel. Final design of signage and gates will be deferred to the building permit stage of the project, though conceptual wording of the "emergency access only" signage is shown on Sheet C1.40.

#### **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 81:** 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. 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 82:** As depicted on Attachment 2c, Sheets G0.01 and C1.13, the proposed development will utilize a driveway to Hermo Road as its primary access point, with secondary emergency egress to Kallunki Road. Each of these serves as a defined ingress and egress point. 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 83:** 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 84:** The applicant is not proposing any signage over 100 square feet. See Attachment 2c, Sheet C1.40. This standard does not apply.

*.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.*

**Finding 85:** As illustrated in Attachment 2c, Sheet C1.40, no signage is proposed in locations that affect vehicle sight lines or overhang or encroach upon Hermo Road or Kallunki Road. This standard is met.

*B. Unless otherwise specified, all signs in residential zoning districts shall observe the yard setback requirements of the zoning district in which they are located.*

**Finding 86:** The site is not in a residential zoning district. This standard does not apply.

*C. No setbacks from property lines shall be required for signs in non-residential zoning districts except that in all zoning districts, setbacks shall be required at corners as may be necessary to provide adequate corner vision or in cases where a sign is placed adjacent to a street, as provided is 1302.2(D), below.*

**Finding 87:** As illustrated in Attachment 2c, Sheet C1.40, no signage is proposed in locations that obstruct corner vision. This standard is met.

*D. Setbacks shall be required which comply with setback requirements of the abutting residential zoning district when a sign is placed on a parcel abutting a street (except Highway 30), which separates a non-residential parcel from a residential parcel or when a sign is placed on a property line separating a nonresidential parcel from a residential parcel.*

**Finding 88:** The site does not abut a residential zoning district and is not near a residential parcel. This standard does not apply.

*.3 Visual Obstructions: No sign shall be situated in a manner which results in the complete visual obstruction of an existing sign.*

**Finding 89:** There are no existing signs in the vicinity of the site. This standard does not apply.

*.4 Illuminated Signs: Artificially illuminated signs, or lights used to indirectly illuminate signs, shall be placed, shielded, or deflected so as not to shine into residential dwelling units or structures. The light intensity of an illuminated sign shall not exceed the following standards:*

- A. No exposed reflective type bulb, par spot or incandescent lamp, which exceeds twenty-five (25) Watts, shall be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.*

**Finding 90:** As depicted on Attachment 2c, Sheet C1.40, the proposed sign near Hermo Road will be externally illuminated. The proposed LED lamps will be shielded so as not to be directly visible from the street. This standard is met.

- B. When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing shall not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes rating for any colored tubing.*

**Finding 91:** No neon tubing is proposed. This standard does not apply.

- C. When fluorescent tubes are used for the interior illumination of a sign [...]*

**Finding 92:** No fluorescent tubes are proposed. This standard does not apply.

*.6 Sign Clearance: A minimum of 8 feet above sidewalks and 15 feet above driveways shall be provided under free-standing signs.*

**Finding 93:** As illustrated in Attachment 2c, Sheet C1.40, no signage is proposed over sidewalks or driveways. All signage will be monument signage. This standard does not apply.

### **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 94:** 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.

*.2 Limit on Sign Area: Except as otherwise permitted in Section 1302.5, no sign having a sign area greater than 200 square feet shall be permitted.*

**Finding 95:** As illustrated in Attachment 2c, Sheet C1.40, no sign over 200 square feet is proposed. This standard is met.

*.3 Aggregate Sign Area Per Parcel.*

- A. Except as otherwise provided herein, the maximum permitted area of all signs, including the total area of each face of a double-faced sign, or the sole face of a single faced sign for each parcel, is as follows: 40 square feet; plus*
- 1) For the first fifty (50) linear feet of building frontage on a public road, an additional square foot of sign area per linear foot of building frontage on such public road; plus*
  - 2) For the next two hundred and twenty (220) linear feet of building frontage on a public road, an additional one-half (½) square foot of sign area per linear foot of building frontage on such public road.*

- B. For the purpose of this section, "building frontage" means the linear length of a building facing a public right of way or the linear length of the public right of way facing a building, whichever is smaller.*

**Finding 96:** This standard allows the site to have 40 square feet of signage plus an additional 160 square feet for the 285 feet of buildings facing Hermo Road, for a total allowable sign area of 200 square feet. The proposed signage depicted on Attachment 2c, Sheet C1.40 will have a total area of approximately 65 square feet. This standard is met.

- C. The area of any legal non-conforming sign which is greater than 200 square feet in size shall not be included in the calculation of maximum sign area per parcel under this Section.*

**Finding 97:** The site has no existing signage. This standard does not apply.

- D. The area of any temporary sign permitted under 1313.7 shall not be included in the calculation of maximum sign area per parcel under this section.*

**Finding 98:** Any temporary signage will be permitted in accordance subsection 1313.7, irrespective of the area limits for permanent signage.

*.4 Free Standing Signs: Free standing signs, including ground mounted signs, must comply with the following additional standards:*

- A. Height: Free standing signs shall not exceed 20 feet in height above grade or above road grade, whichever is higher.*

**Finding 99:** The proposed signage depicted on Attachment 2c, Sheet C1.40 will have a height of approximately 4 feet. This standard is met.

- B. Total Area: The total sign area of all freestanding signs allowed by this section plus the area of all other allowed signs on the parcel shall not exceed the aggregate sign limits for the parcel as provided in Section 1313.3.*

**Finding 100:** Section 1313.3 allows up to 200 square feet of signage at this location. The proposed signage depicted on Attachment 2c, Sheet C1.40 will have a total area of approximately 65 square feet. This standard is met.

- C. Center/Complex Signs: Only one freestanding sign shall be allowed for a center/complex even when there is more than one parcel in or owner of the center/complex, unless one additional sign is needed to provide identification of the development at a major public access point on a different roads. No more than two freestanding signs will be allowed. For purposes of this Section, "Center/Complex" means any number of businesses greater than one which share the same site using common points of ingress and egress and/or common parking facilities. Legal non-conforming signs shall not be included in the calculation of the number of freestanding signs per parcel under this Section.*

**Finding 101:** No center/complex signage is proposed. This standard does not apply.

- D. Illumination: Free standing signs may be illuminated subject to subsection 1302.4.*

**Finding 102:** Compliance with the illumination standards is addressed in the response to subsection 1302.4. This standard is met.

*.5 Building Mounted Signs: Signs mounted or painted on buildings must comply with the following additional standards:*



- A. *Area. The total sign area of all building mounted signs allowed pursuant to this section in addition to the area of all other allowed signs per parcel shall not exceed the aggregate sign limits for the parcel as provided in section 1313.3.*
- B. *Height. Building mounted signs shall not extend more than four (4) feet above the roof of the building on which it is mounted.*
- C. *Illumination. Building mounted signs may be illuminated subject to the illumination standards set forth in subsection 1302.4.*

**Finding 103:** The applicant may later choose to paint a logo on one or more tanks. If the County classifies a logo on a tank as a building sign, the applicant will seek the appropriate permits prior to installation.

*.6 Traffic Control/Directional Signs: On-site traffic control and directional identification signs shall be required as may be necessary, commensurate with the size and use of the site, in conjunction with site design review, if such review is required. Centers/ complexes combining several uses shall provide tenant directories, or building identification and directional signing oriented toward on-site vehicle and pedestrian circulation.*

**Finding 104:** No directional signs are needed for the facility with the exception of the information proposed on the signage depicted on Attachment 2c, Sheet C1.40. The applicant proposes to defer internal site signage design to the permitting stage to provide the opportunity for coordination with the Fire Marshal. The anticipated protocol is that emergency responders would be escorted by facility staff from the security gate to any locations requiring assistance. This standard is met.

- .7 Temporary Signs. Signs of a temporary nature may be allowed provided they meet the following standards. For purposes of this section, "temporary" shall mean not to exceed one year.*
- A. *The temporary sign area shall not exceed 60 square feet.*
  - B. *The temporary sign shall observe the setback provisions under subsection 1302.2.*
  - C. *Only one temporary sign shall be permitted per parcel.*
  - D. *The temporary sign shall not be artificially illuminated.*
  - E. *The temporary sign shall be removed from the premises after the one year temporary sign period has expired.*

**Finding 105:** Any temporary signage will be permitted in accordance with this section.

- .8 Animated or Video Signs Prohibited: No sign shall contain, include, or be illuminated by any flashing, intermittent, revolving, rotating, or moving light or move or have any animated or moving parts except that this Section shall not apply to:*
- A. *Traffic control signs.*
  - B. *Signs, displays, devices, or portions thereof with lights that may be changed at intermittent intervals by electronic process or remote control. The maximum size of the display area for such changing numbers or letters is ten (10) square feet.*

**Finding 106:** No animated or video signs are proposed. This standard is met.

### **1314 Calculating Sign Area:**

*The structure supporting or appearing to support a freestanding sign shall not be included in the area of the sign, unless such structural element is typically used to carry signage. In calculating the square footage of a sign, the width shall be measured at the widest part of the sign, including any cut-outs, and the length shall be*

*measured at the longest part of the sign, including any cut-outs. The maximum square footage limitation of the sign shall be calculated such that no cutouts or other Copy shall be permitted outside of the size limitation.*

**Finding 107:** The proposed signage depicted in Attachment 2c, Sheet C1.40 has been measured in accordance with this provision.

### **1315 Copy Area:**

*Copy is allowed only on the face of the sign. Copy is prohibited in the ledger area of the sign, on the post of the sign, or other structure of the sign, except to the extent that the sign owner's logo or other disclosure is required by law to be placed on the ledger, post or other structure of the sign. For purposes of this Section, "copy" is defined as any text or image.*

**Finding 108:** The proposed signage depicted in Attachment 2c, Sheet C1.40 has been designed in accordance with this provision.

## **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.*

**Finding 109:** The applicant proposes to provide parking and loading for the new facility for the convenience of site users and employees. As detailed below, the proposed parking and loading conforms to applicable code standards. This standard is met.

### **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 110:** The applicant acknowledges the ongoing responsibility to maintain the parking and loading areas. This standard is met.

### **1403 Use of Space:**

*.1 Required parking spaces shall be available for parking of vehicles of customers, occupants, and employees.*

**Finding 111:** The applicant proposes to construct the parking areas illustrated in Attachment 2c, Sheets C1.11 and C1.12 for use by vehicles of site users as required. Most of the proposed parking is located on the southeast portion of the site, near the main office building, with the balance near the central control building. This standard is met.

*.2 No parking of trucks, equipment, or the conduct of any business activity shall be permitted on the required parking spaces.*

**Finding 112:** The applicant does not propose to park trucks or equipment in the required off-street parking spaces. This standard is met.

*.3 Required loading spaces shall be available for the loading and unloading of vehicles concerned with the transportation of goods and services.*

**Finding 113:** The applicant proposes to construct truck loading areas including docks on the warehouse building as illustrated in Attachment 2c, Sheets C1.11 and C1.12. This standard is met.

*.4 Excepting residential and local commercial districts only, loading areas shall not be used for any other purpose than for loading and unloading.*

**Finding 114:** The applicant does not propose to utilize loading areas for any use other than loading. This standard is met.

*.5 In any district it shall be unlawful to store or accumulate goods in a loading area in a manner which would render the area temporarily or permanently incapable of immediate use for loading operations.*

**Finding 115:** The applicant does not propose to serve store goods in a loading area in such a way that the loading spaces become unusable. As illustrated in Attachment 2c, Sheets C1.11 and C1.12, the applicant proposes outdoor storage areas which are separate from loading areas. This standard is met.

#### **1404 Joint Usage of Facilities:**

*Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Director in the form of deeds, leases, or contracts securing full access to such parking or loading areas for all the parties jointly using them.*

**Finding 116:** The applicant does not propose to share parking spaces with uses on other sites. This standard does not apply.

#### **1405 Plans Required:**

*A plot plan shall be submitted in duplicate to the Director with each application for a building permit or for a change of classification to OP. The plot plan shall include the following information:*

- .1 Dimensions of the parking lot.*
- .2 Access to streets and location of curb cuts.*
- .3 Location of individual parking spaces.*
- .4 Circulation pattern.*
- .5 Grade and drainage.*
- .6 Abutting property.*
- .7 A landscaping plan which shall include the location and names of all vegetation, and the location and size of fencing or other screening material. This plan shall be approved by the Director.*

**Finding 117:** The proposed site plan depicts the parking areas in Attachment 2c, Sheets C1.11 and C1.12, while Sheet C1.20 depicts proposed grading and Sheets L1.10-L1.11 depict proposed landscaping. This standard is met.

#### **1406 Location:**

- .1 Spaces required by this section shall be provided on the site of the primary uses, provided that, when practical difficulties prevent their establishment upon the same site, the Planning Director may permit the facility to be located within 300 feet therefrom, measured in a straight line (including streets and alleys) from the nearest property line to the nearest parking space; but in any case the location shall meet all provisions of this ordinance which apply.*
- .2 Loading spaces and maneuvering area shall be located only on or abutting the property served.*

**Finding 118:** As illustrated on Attachment 2c, Sheet C1.11 and C1.12, parking and loading spaces are proposed within the site boundaries. Truck turning diagrams are included where necessary to demonstrate that adequate clearance has been provided. This standard is met.

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

**1408 Design Standards:****.1 Scope:**

- A. *These design standards shall apply to all parking, loading, and maneuvering areas except those for single and two-family residential dwellings on individual lots.*
- B. *All parking and loading areas shall provide for the turning, maneuvering, and parking of all vehicles on the lots.*

**Finding 120:** As illustrated on Attachment 2c, Sheet C1.11, parking and loading areas are proposed with widths adequate to allow for efficient site circulation of vehicles. Truck turning diagrams are included where necessary to demonstrate that adequate clearance has been provided. This standard is met.

**1409 Loading Spaces:**

- .1 *Apartment: Each required space shall be at least 12 feet in width and 25 feet in length.*
- .2 *Commercial: Each required space shall be at least 12 feet in width and 35 feet in length.*
- .3 *Industrial: Each required space shall be at least 12 feet in width and 60 feet in length.*
- .4 *Clearance: The height of each required loading space shall provide a minimum vertical clearance of 13 feet.*

**Finding 121:** As illustrated on Attachment 2c, Sheet C1.12, in conformance with the Industrial standard noted above, three loading dock spaces are proposed on the warehouse, with widths exceeding 12 feet and lengths of 60 feet and no limitations on vertical clearance. This standard is met.

**1410 Size:**

- .1 *The standard size of a parking space shall be 9 feet by 18 feet.*
- .2 *Handicapped parking spaces shall be 12 feet by 18 feet.*
- .3 *Parallel parking, the length of the parking space shall be increased to 22 feet.*

**Finding 122:** As illustrated on Attachment 2c, Sheet C1.12, all standard parking spaces are proposed to be 9 feet wide and 18 feet long, while handicapped parking spaces are proposed to be 9 feet wide and 18 feet long with 9-foot access aisles. No parallel parking spaces are proposed. This standard is met.

**1411 Aisles:**

*Aisles shall not be less than:*

- .1 *25'0" in width for 90 degree parking;*
- .2 *20'0" in width for 60 degree parking;*
- .3 *20'0" in width for 45 degree parking; and*
- .4 *12'0" in width for parallel parking.*

**Finding 123:** As illustrated on Attachment 2c, Sheet C1.12, all parking areas are proposed to utilize 90-degree parking with aisles at least 25 feet wide. This standard is met.

**1412 Access:**

*There shall be no more than one 45-foot-wide curb cut driveway per 150 feet of street frontage, or fraction thereof, permitted per site.*

**Finding 124:** As illustrated on Attachment 2c, Sheet C1.13, the proposed driveway will utilize a 45-foot curb cut to Hermo Road. Mackenzie civil engineers have performed truck turning simulations to confirm that the driveway connection has adequate width for incoming and outbound vehicles. This standard is met.

**1413 Surfacing and Marking:**

- .1 The surfacing of each parking area shall meet minimum County standards to handle the weight of the vehicles which will use the parking area. All areas used for parking and maneuvering of vehicles shall be marked in accordance with the approved plan and such marking shall be continuously maintained. Handicapped parking spaces shall be marked with a wheelchair symbol.*
- .2 The parking and loading areas for commercial, industrial, or apartment uses shall be paved with concrete, asphaltic concrete, or another comparable surface.*

**Finding 125:** The proposed driveway and all parking areas will be hard-surface paved, with parking spaces marked with paint and handicapped spaces marked in accordance with the Oregon Structural Specialty Code. This standard is met.

**1414 Drainage and Lighting:**

*Adequate drainage shall be provided to dispose of the run-off generated by the impervious surface area to the parking area. The drainage system shall function so it will not adversely affect adjoining property.*

*Artificial lighting shall be provided in such a manner as to insure the safety of the parking area without interfering with adjoining properties or creating traffic hazards on adjoining streets.*

**Finding 126:** The proposed grading and drainage patterns are depicted in Attachment 2c, Sheets C1.20 and C1.30, respectively. Stormwater will flow into catch basins in the parking area before being conveyed to the wastewater treatment facility at the north end of the site, which will discharge to the existing Port Westward stormwater system. Further discussion of stormwater management is included in Attachment 2m.

Parking lot lighting will be provided as illustrated in Attachment 2c, Sheets C1.50 and C1.51; light fixtures are proposed to be placed far enough from property lines so they will not cast light on adjoining properties or public streets. This standard is met.

**1415 Parking Areas:**

*All parking areas, excluding one and two-family dwellings, shall meet the following requirements:*

- .1 All parking areas of less than 20 parking spaces shall have one handicapped parking space.*

*Parking areas with more than 20 spaces shall provide one handicapped parking space for every 50 standard parking spaces.*

**Finding 127:** The proposed handicapped spaces will be provided at the rate specified in the Oregon Structural Specialty Code, which is higher than that required by this code provision. This standard is met.

- .2 All parking areas shall be divided into bays of not more than 20 parking spaces. Between, and at the end of each parking bay, there shall be planters which have a minimum width of 5 feet and be at least 17 feet in length. Each planter shall contain one major structural tree and ground cover which has been deemed appropriate by the Director. Truck loading areas need not comply with the preceding requirements.*

**Finding 128:** As illustrated on Attachment 2c, Sheet C1.12, the proposed parking area utilizes landscape islands to separate the space into bays with 20 or fewer spaces. Landscaping is provided in each of the planter bays as illustrated on Attachment 2c, Sheet L1.11. This standard is met.

*.3 Parking areas shall be separated from the exterior wall of a structure, exclusive of paved pedestrian entranceways, by a 5 foot strip of landscaping.*

**Finding 129:** As illustrated on Attachment 2c, Sheet C1.12, all proposed parking areas are at least five feet from buildings, with sidewalks provided between the parking and buildings as illustrated on Attachment 2c, Sheets C1.11 and C1.12. Since these sidewalks are paved, landscaping is not required between the parking and the building. This standard is met.

*.4 Industrial or commercial parking areas, which abut a residential or apartment district, shall meet the building setback of the most restrictive adjoining residential or apartment district.*

**Finding 130:** The site does not abut a residential or apartment district. This standard does not apply.

*.5 When industrial or commercial parking areas adjoin a residential or apartment district, there shall be a sight obscuring planting, which is at least 80 percent opaque and when viewed horizontally from between 2 and 8 feet above ground level. This planting shall be composed of materials which are an adequate size so as to achieve the required degree of screening within 12 months after installation.*

**Finding 131:** The site does not adjoin a residential or apartment district. This standard does not apply.

*.6 Parking areas shall be set back from a lot or parcel line adjoining a street. The setback area shall be landscaped.*

**Finding 132:** As illustrated on Attachment 2c, Sheets G0.01 and C1.11, the parking area is proposed on TL 8422-00-00300, which does not have a lot line adjoining a street. This standard is met.

*.7 All parking area setbacks shall be landscaped with major trees, shrubs, and ground cover as approved by the Director.*

**Finding 133:** No parking area setback is required as noted above. This standard is met.

*.8 A minimum of 10 percent of the parking area shall be landscaped and maintenance of the landscaping shall be the owner's responsibility.*

**Finding 134:** Based on the parking area and landscape areas denoted on Attachment 2c, Sheet L1.10, the north parking lot will include 46% landscaping, the southern parking lot will include 20% landscaping, and the central control building parking lot will include 32% landscaping. The applicant acknowledges the continuing obligation to maintain landscaping. This standard is met.

*.9 Internal pedestrian connections shall be provided in parking lots with greater than ten (10) parking spaces. These connections shall be a minimum of five (5) feet wide and distinguished from vehicular areas through changes in elevation or contrasting paving materials (such as light-color concrete inlay between asphalt). Paint or thermo-plastic striping and similar types of non-permanent applications may be approved for crossings of parking lot areas that do not exceed 24 feet in crossing length.*

**Finding 135:** As illustrated on Attachment 2c, Sheet C1.12, parking lots have more than 10 parking spaces and thus provide the required pedestrian connections. The pedestrian connections are five feet wide. This standard is met.

*.10 In urban growth boundaries and urban unincorporated communities, parking lots for commercial, industrial, and public/quasi-public uses that have designated employee parking and more than 20 parking spaces shall provide at least 10% of the employee parking spaces (with a minimum of two spaces) as preferential long-term carpool and vanpool parking spaces. Preferential carpool and vanpool parking spaces shall be closer to the entrances of the building than other parking spaces, with the exception of ADA accessible parking spaces.*

**Finding 136:** The site is not within an urban growth boundary and is not within an urban unincorporated community. This standard does not apply.

*.11 A portion of existing parking areas may be redeveloped for transit-oriented improvements, such as a bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where identified in or consistent with an adopted County transit plan. Subject sites incorporating transit improvements as part of a development proposal are eligible for up to a 10% reduction in required vehicular parking spaces.*

**Finding 137:** The site does not have an existing parking area, and no transit improvements are proposed. This standard does not apply.

**1416 Minimum Required Off-Street Parking Space:**

*.5 Industry*

*Manufacturing: One space per employee on the largest shift.*

**Finding 138:** Estimated staffing levels by shift are denoted in the table below.

<b>ESTIMATED STAFFING LEVELS</b>				
<b>Weekdays</b>			<b>Weekends</b>	
<b>Office/Mgt.</b>	<b>Shift 1</b>	<b>Shift 2</b>	<b>Shift 1</b>	<b>Shift 2</b>
<b>8:00 AM – 5:00 PM</b>	<b>6:00 AM – 6:00 PM</b>	<b>6:00 PM – 6:00 AM</b>	<b>6:00 AM – 6:00 PM</b>	<b>6:00 PM – 6:00 AM</b>
<b>83</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>35</b>

Based on this information, the largest shift will occur weekdays between 8:00 AM and 5:00 PM, during which time there will be a total of 118 employees. As illustrated on Attachment 2c, Sheets C1.11 and C1.12, the applicant proposes 128 parking spaces which meets the standard of at least one space per employee of the largest shift. This standard is met.

**1417 Unspecified Uses:**

*Any use not specifically listed in the foregoing list shall have the requirements of the listed use or uses deemed equivalent by the Director.*

**Finding 139:** The proposed manufacturing use has a parking ratio specified in Section 1416. This standard does not apply.

**1418 Minimum Required Off-Street Loading Spaces:**

*.3*

MINIMUM REQUIRED OFF-STREET LOADING SPACES (EXCERPT)		
USE	SQUARE FEET OF FLOOR USE OR LAND AREA	MINIMUM LOADING SPACES REQUIRED
Manufacturing, Wholesale Storage or Hospital	under 5,000	0
	5,000 - 39,999	1
	40,000 - 99,999	2
	100,000 - 159,999	3
	160,000 - 239,999	4
	240,000 - 319,999	5
	320,000 - 399,999	6
	400,000 - 489,999	7
	490,000 - 579,999	8
	580,000 - 669,999	9
	670,000 - 759,999	10
	760,000 - 849,999	11
	850,000 - 939,999	12
	940,000 - 1,029,999	13
over 1,030,000	14	

**Finding 140:** As noted on Attachment 2c, Sheet C1.11, the combined floor area for the proposed buildings is approximately 78,330 square feet. Based on the table above, the facility therefore will need at least two loading spaces. The applicant proposes loading docks on the warehouse building to serve loading needs, together with multiple outdoor storage areas and rail loading/unloading areas. The proposed loading dock area shown on Attachment 2c, Sheet C1.12 can accommodate three trucks. This standard is met.

**1419 Minimum Required Bicycle Parking Spaces:**

- .1 All Public and Semi-Public buildings and uses, Retail uses, Apartment Dwelling uses and Commercial Recreation uses [...]
- .2 The following are the required number of bicycle parking spaces: [...]
- .3 Single-family dwellings, mobile homes, warehouse, storage and wholesale businesses, and manufacturing establishments shall be exempted from the requirements of Subsection 1419 Bicycle Parking.

**Finding 141:** The proposed manufacturing use is exempt from providing bicycle parking via criterion .3. This standard is met.

**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 142:** Mackenzie transportation engineers estimate 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. Accordingly, the applicant has provided a TIA as required (Attachment 2n). 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*
  - D. *Estimated trip generation and source of data*
  - E. *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 143:** 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 144:** The project TIA (Attachment 2n) 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 and improvements to Hermo Road. 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.

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 merited. 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 Public Works requirements for necessary improvements to Hermo Road through a proposed condition of approval.

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 145:** The Applicant proposes to satisfy Public Works requirements for necessary improvements to Hermo Road through a road improvement agreement. Staff recommends a condition of approval to ensure Public Works requirements are met.

## Section 1500 DISCRETIONARY PERMITS (Variances)

### **1504 Variances:**

*Except as provided in Section 1504.4 below, there are 2 classes of variances to the standards established in this ordinance. A Minor Variance is defined as a request for a variance of less than 25% from a dimensional requirement such as setbacks, height, lot or parcel coverage, lot or parcel width, or lot or parcel depth, or a request for a variance of less than 10% from a minimum lot or parcel size requirement.*

*All other variances are defined as Major Variances. Use variances are not permitted under this ordinance except as permitted under Section 1505.1 "Temporary Permits: Use Not Allowed in District".*

*Major Variances from the lot or parcel size requirements of the Primary Agriculture (PA-38), Forest Agriculture (FA-19), Primary Forest (PF-76) and Rural Residential (RR-5) zones are not permitted under this ordinance.*

**Finding 146:** To comply with PGE requirements and Department of Homeland Security regulations, the applicant is proposing a variance to screening and buffering standards by not planting trees under PGE powerlines, and proposing eight foot-fencing (seven feet of chain link topped by one foot of barbed wire per ASTM F2611-15) with no slats or associated plantings (see Attachment 2c, Sheet C1.11). As a result, the applicant is requesting a Major Variance from CCZO Section 1562.B and 1562.D, which includes requirements for buffering, and limits fences to four feet in height in front yards and six feet in height in rear and side yards and also specifies that chain link fences with slats may be used if combined with a continuous evergreen hedge. The applicant has provided evidence below responding to applicable approval criteria for the requested variance.

*.1 Major Variances: The Planning Commission may permit and authorize a variance from the requirements of this ordinance when unusual circumstances cause undue hardship in the application of it. The granting of such a variance shall be in the public interest.*

*A. A variance shall be made only when all the following conditions and facts exist:*

*1. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property;*

**Finding 147:** Granting the proposed variance will help improve public safety and maintain health and welfare by ensuring that the facility complies with Department of Homeland Security fencing and sight-line regulations (see Attachments 4 and 6b). Security around the facility requires that the surrounding area be visible in order to detect any unauthorized persons attempting to enter the site. A chain link fence provides security with good visibility. By contrast, utilizing fencing that complies with CCZO Section 1562.D would create a security risk that could result in serious harm due to inadequate height and impaired sightlines. The proposed fencing will be located within the site boundaries and thus will not be injurious to other properties.

*2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;*

**Finding 148:** The proposed variance is unique in that the Port Westward Industrial Park is one of the locations in the County where a facility such as this could be authorized under the zoning designation. Other nearby areas outside Port Westward are in agricultural or rural residential use and thus do not require the type of security fencing and sight-lines necessary for a fuel production facility. The need for the variance is related to the unique security requirements of the facility.

*3. Approval of the application will allow the property to be used only for purposes authorized by the Zoning Ordinance;*

**Finding 149:** Approval of the proposed variance will have no effect on the types of uses occurring at the site; the applicant proposes a renewable diesel fuel production facility which is consistent with *Uses under Prescribed Conditions* in the RIPD zone.

*4. Strict compliance with the Zoning Ordinance would create an unnecessary hardship;*

**Finding 150:** Compliance with the standards of CCZO Section 1562.B and D would result in buffering and screening that does not comply with Department of Homeland Security regulations and could impact the viability of the facility.

*5. The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor violate any other provision of the Zoning Ordinance.*

**Finding 151:** This narrative demonstrates how the proposed use is consistent with applicable portions of the Comprehensive Plan and how the proposal complies with the CCZO. The proposed variance for buffering and screening does not adversely affect this determination of consistency. Rather, the variance will allow productive use of the land for which this site has been planned for many years. The variance will provide the requisite level of security without adversely affecting the objectives of the Comprehensive Plan or violating the CCZO.

*B. A variance so authorized shall become void after the expiration of 1 year if the next step in the development process has not been applied for.*

**Finding 152:** The applicant intends to seek appropriate approvals and permits prior to the specified expiration period.

*C. The Planning Commission may impose whatever reasonable requirements it feels will fulfill the intent of this ordinance.*

**Finding 153:** Based on the evidence that the proposed variance does not cause negative impacts on area properties, no additional requirements are necessary in this instance.

## Criteria Specific to the Rail Branchline in the PA-80 Zone

### 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:*

<b>TABLE OF AUTHORIZED USES &amp; DEVELOPMENT</b>			
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 154:** The application narrative provides the following response to this criterion:

“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 has questioned whether the proposed rail development constitutes a “mainline” or “branchline” because it serves one property and appears to function more like an accessory access and rail yard. In response, the Applicant has provided a letter from Portland and Western Railroad stating that the Applicant’s tracks are “considered industry track, which is another term for branch line or spur.” The letter goes on to say that “[a]s a general matter, ‘branch line’ is a broad term that encompasses any track that branches off from mainline track.” As “branchline” and “mainline” are industry terms, and neither are defined in OAR 660-012, staff finds the applicant has provided evidence in Attachment 6h (Portland & Western Railroad Letter) that the proposed rail development can be classified as a rail branchline. 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 155:** 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.”

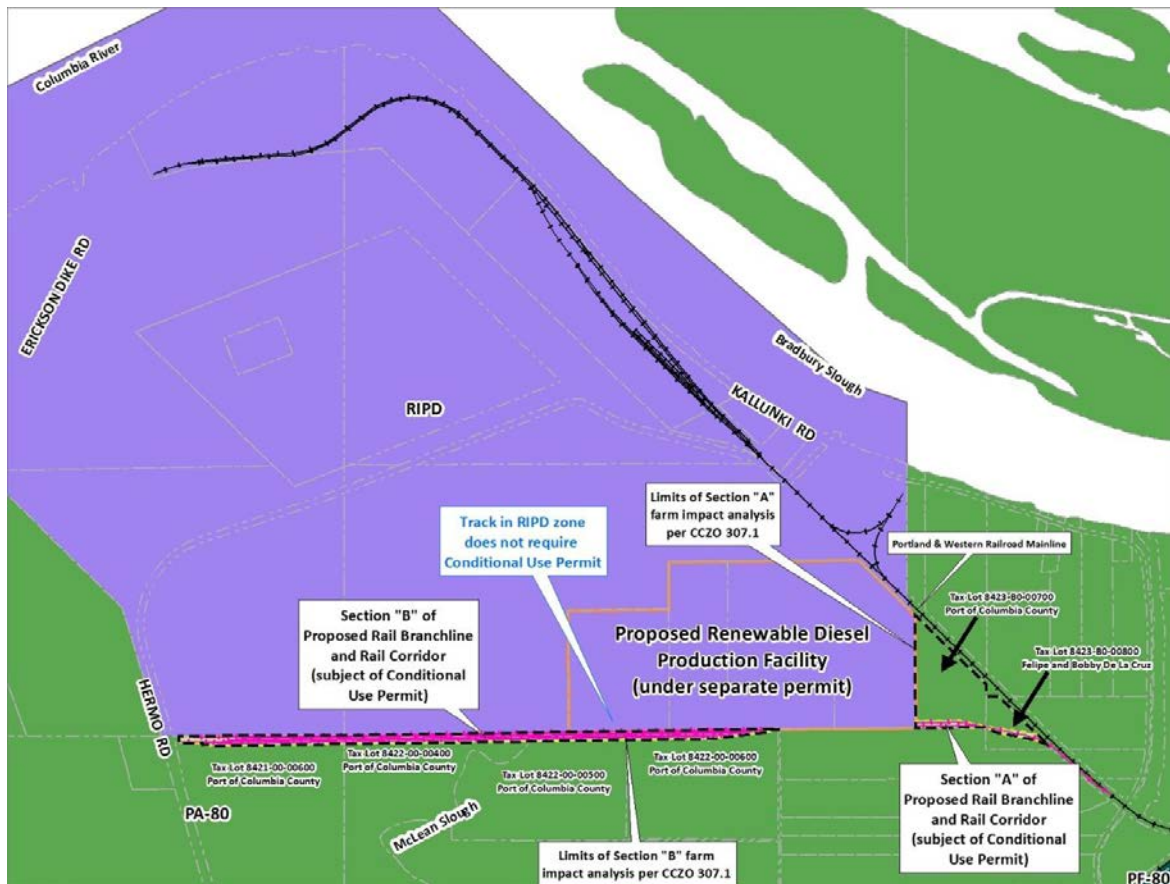
- A. *The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*

**Finding 156:** The application narrative provides the following rationale to address this criterion:

“As illustrated in Figure 3, Section A of the proposed rail branchline crosses two (2) parcels: one (1) owned by Felipe and Bobby De La Cruz (tax lot 8423-B0-00800) and one (1) owned by the Port of Columbia County (tax lot 8423-B0-00700). Section B of the proposed rail branchline crosses four (4) parcels owned by the Port of Columbia County (tax lots 8421-00-00600, 8422-00-00400, 8422-00-00500, and 8422-00-00600). As illustrated in Figure 3 and the zoning map in Exhibit 2, all six parcels are zoned PA-80. Adjacent resource lands include property zoned PA-80 in all directions.

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. Furthermore, since the proposed rail branchline will isolate a triangle bounded by the rail mainline to the northeast, the proposed rail branchline to the south, and the proposed renewable diesel production facility to the west and north (on land zoned RIPD), the impact area analyzed for this standard is limited to portions of the six parcels that will be crossed by the rail branchline. For ease of reference, the branchline site has been further broken down into two sections as depicted in Figure 1 and Figure 3 [*Figure 3 reproduced below*].

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



Turning first to the analysis area for branchline Section A, totaling 14.1 acres, aerial photography and the Cropland Data Layer8 indicates that the northern tip of the De La Cruz parcel is wetland. The wetland delineation report (Exhibit 11) depicts rail branchline Section A as a wetland, but the report did not analyze the remainder of the Section A impact area. The central portion of the De La Cruz parcel (within and north of the proposed rail branchline corridor), has been farmed in recent years with hay/grassland and row crops such as mint. Similarly, the single Port parcel west of the De La Cruz parcel contains wetlands, though it appears that in recent years portions have been vegetated with grassland and mint 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 branchline could cause minor changes in access routes to fields (for instance, the branchline will cross an existing access route) and changes in patterns of cultivation, seeding, fertilizing, and harvesting near the facility.

Train traffic could also lead to increased time to access farm fields north of the branchline and east of the proposed renewable diesel production facility, though these delays would be brief and infrequent on the proposed branchline. The farming activities north of the proposed rail line could continue even with the construction of the rail branchline since the applicant (as the owner of the rail branchline) proposes to provide a private rail crossing to allow passage of farm equipment (see Exhibit 3, Sheets C1.17 and C1.18). The risk of



conflict between farm equipment and trains on the branchline would be relatively low since the trains will be infrequent and moving slowly due to their proximity to their origin and destination.

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, in the aggregate, the cumulative effect of these changes does not require farm operators to significantly change their practices. Based on this information, the Commission can conclude that the proposed rail branchline will not force a significant change in farm or forest practices within the Section A impact area.

Turning next to the analysis area for branchline Section B, totaling 10.7 acres, the four Port parcels south of the renewable diesel production facility are largely in tree farm use. A nominal amount of grassland is present north of McLean Slough, but this grassland would be removed to accommodate the rail branchline. The wetland delineation report (Exhibit 11) depicts the Section B impact area is classified as a wetland.

Management practices for tree farms may include site preparation and planting, weed control, pruning, harvesting, loading, transport. Elimination of the existing tree farm and grassland acreage would not cause farm operators within the impact area to significantly change their farm practices, as the owner (the Port) is willingly taking the impact area out of agricultural production within those specific boundaries to accommodate the rail branchline. As the rail branchline is proposed to replace the northern portion of the existing tree farm on Port property, it will not affect the remaining acreage to the south, which can continue to be accessed from the west and south for all required tree farm management activities. The proposed rail corridor will not isolate or split tree farm areas into smaller areas.

Based on this information, the Commission can conclude that the proposed rail branchline will not individually or cumulatively force a significant change in farm or forest practices within the Section B impact area.”

Staff notes that applicant has not clearly defined the frequency of unit trains entering or leaving the site or if crossing access will be available to farming activities at times consistent with farming activity needs. Staff recommends a condition of approval for crossing access and management to address this issue. At the writing of this staff report, staff has seen no evidence the proposed rail development – the subject of the CU application – will force a significant change in farm or forest practices.

*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 157:** The application narrative provides the following rationale to address this criterion:

“As discussed in the response to criterion A, only six (6) parcels are within the impact area that have the potential to be affected by the proposed rail branchline. Again, as noted above, all parcels within the impact area contain wetlands, though portions have been used for grass/hay and mint and tree farms in recent years. The Section A 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

rail 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 rail 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 rail branchline will not cause farmers to incur significant costs to utilize additional water or pumping equipment to suppress dust or wash their products.

The rail 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 rail branchline (see Exhibit 3, Sheets C1.17 and C1.18).

Based on this information, the Commission can conclude that the proposed rail branchline will not individually or cumulatively significantly increase the cost of farm or forest practices within the Section A impact area.

The Section B impact area contains four (4) parcels owned by the Port of Columbia County, and the analysis area is largely in tree farm use. Management practices for tree farms may include site preparation and planting, weed control, pruning, harvesting, loading, transport. Construction and operation of the branchline does not interfere with these activities by increasing land values or by altering the landscape in a manner that would trigger the need for farm operators to incur significant additional expenses. As the rail branchline is proposed to replace the northern portion of the existing tree farm on Port property, it will not affect the remaining acreage to the south, which can continue to be accessed from the west and south for all required tree farm management activities.

Tree farms are not sensitive to dust from nearby rail lines. Consequently, construction of the rail branchline will not cause adjoining tree farm operators to incur costs to utilize additional water or pumping equipment to suppress dust. The rail branchline will not increase the cost of farming inputs (saplings, fertilizer, pesticides, etc.) and will not increase farmers' liability or financial exposure. The impact area is in tree farm use and not used for grazing so there would be no need to expend funds to install fencing to prevent livestock from crossing the tracks.

Based on this information, the Commission can conclude that the proposed rail branchline will not individually or cumulatively significantly increase the cost of farm or forest practices within the Section B impact area."

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 158:** Staff proposes a condition of approval to prepare a management plan for the rail crossing to ensure farm activities will not be significantly affected by unit train activities. Staff has not received evidence that the proposed rail branchline will cause significant impacts to farm activities at the time of writing this staff report.

**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 159:** 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 160:** 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 161:** The proposed rail development extends through the McLean Slough riparian area and traverses delineated wetlands for nearly the entire length of the proposal. 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 162:** 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 163:** 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 164:** Columbia County Comprehensive Plan, Part XVI, Article VIII(A), Big Game Wildlife Habitat, identifies three (3) types of big game habitat. As depicted in Attachment 2f, 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 provided comment on this application (Attachment 7b). 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 165:** Staff notes that Sections 300, 1170 and 1180 are directly relevant to Conditional Use applicability. If any of these Sections are not met, the Conditional Use cannot be permitted. These relationships are directly discussed below.

- .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 166:** This standard requires a determination of consistency with Section 300. As discussed in findings under Section 306, Staff has received a letter from Portland & Western Railroad (Attachment 6h) 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 167:** This standard requires a determination of consistency with Sections 300, 1170 and 1180. Staff finds the proposed rail development is consistent with standards in Section 300, the County has received evidence from DSL that the delineated wetlands should not be considered "significant" (Attachment 7a, also see Section 1180), and the Board

can find the proposed rail development is water-related (See Section 1170). Should the Board concur the delineated wetlands are not significant and the proposed rail development is water-related, this standard is met.

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

**Finding 168:** The land use application provides the following rationale:

“The most persuasive evidence of the site’s suitability for a rail branchline is that it will branch off the nearby 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 12.3 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 rail branchline site is nearly flat. The site is protected from flooding by the Beaver Drainage District’s dikes and associated stormwater conveyance and pumps, and is therefore adequately drained. Culverts are proposed where existing ditches will be crossed by the rail infrastructure. As detailed in the preliminary stormwater report (Exhibit 13), 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 and the Oregon Department of State Lands for wetland alterations and will perform over 480 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 natural features, such as the McLean Slough riparian area regulated by Section 1170 and wetlands potentially regulated by Section 1180. To the extent the application meets Section 1170 and 1180 requirements, as discussed below, 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 169:** The land use application provides the following rationale:

“The proposed rail branchline is intended to serve a renewable diesel production facility being proposed 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. 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.”

Staff finds there is no evidence that the proposed rail development will conflict with provision of transportation, public facilities, or services for the area. County engineering has reviewed the project and has not identified concerns relating to adequacy of service for the rail development.

- 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 170:** The land use application provides the following rationale:

“The new rail 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 and north, 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 rail branchline will complement the RIPD zone by serving a proposed renewable diesel production facility immediately to the west and north.

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 rail crossing will be installed to allow passage of farm equipment, see Exhibit 3, Sheets C1.17 and C1.18). The response to Section 307.1 provides further evidence that the proposed rail 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.

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 finds that while approximately 12.3 acres of farmland will no longer be farmable due to the proposed rail development, staff has seen no evidence 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 171:** 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 172:** The proposed area for rail development is relatively small in size, totaling approximately 12.3 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 173:** 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 174:** Due to its relatively small area (approximately 12.3 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 175:** 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 176:** 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 177:** The proposed rail development will improve the efficiency and augment an adjoining renewable diesel fuel production facility, proposed 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 178:** 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 179:** 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 180:** 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 181:** The applicant proposes to 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 rail development will support the production facility by providing additional efficient transportation options for materials and product.

*8. Reserve valuable industrial sites for industrial uses.*

**Finding 182:** The proposed renewable diesel production facility 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 183:** 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 rail development 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 184:** 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. Proposed conditions of approval related to transportation needs for the facility are sufficient to meet this goal.

*Objectives:*

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

**Finding 185:** 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 the proposed renewable diesel production facility. Proposed conditions of approval related to transportation needs for the facility are sufficient to meet this objective.



*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 186:** The proposed rail development is consistent with this policy because it will allow a proposed 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 187:** 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 188:** 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 189:** 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 190:** The proposed rail development contains no structures regulated by design review. Design review findings for the facility are found under Section 1550.

## Criteria Related to Facility and Rail

### Section 1100 FLOOD HAZARD OVERLAY (FH)

**Finding 191:** 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. See Attachments 2d & 3d. 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 and pipe rack 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 192:** 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 Attachments 2e & 3e, 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 habitat for band-tailed pigeons, none of which include Port Westward. As illustrated in Attachments 2f & 3f, 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 193:** 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-of-bank, 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 194:** Proposed facility development does not enter or abut any mapped lake, river or stream areas. However, the proposed rail branchline development intersects with McLean Slough.

The wetland delineation report (Attachments 2k & 3k), which has now been approved by the Oregon department of State Lands, 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.

Based on this information, construction of the proposed rail branchline is subject to the riparian overlay as a portion falls within McLean Slough’s 25-foot riparian buffer established by criterion (A)(4).

**B. Distance Measurement.**

1. *Except as provided in Subsection 1172(5) above, the measurement of distance to the riparian corridor boundary shall be from the top-of-bank. In areas where the top-of-bank is not clearly delineated, the riparian corridor boundary shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward.*
2. *The measurement shall be a slope distance. In areas where the predominant terrain consists of steep cliffs, the distances to the corridor boundary shall be measured as a horizontal distance until the top of the cliff is reached, and as a slope distance on from that point.*

**Finding 195:** The 25-foot buffer (per CCZO Section 1172(A)(4)) for McLean slough is illustrated on the plans in Attachment 3c.

**1173 Activities Prohibited within the Riparian Corridor Boundary:**

*In addition to the prohibitions in the underlying zone, the following activities are prohibited within a riparian corridor boundary, except as provided for in Sub-sections 1175 and 1176 of this Section:*

- A. *The alteration of a riparian corridor by grading, placement of fill material, and/or impervious surfaces, including paved or gravel parking areas, or paths, and/or the construction of buildings or other structures which require a building permit under the State of Oregon Uniform Building Code, as amended.*
- B. *The removal of riparian trees or vegetation.*

**Finding 196:** The proposed branchline will cross McLean Slough, the only identified riparian area. Riparian impacts are limited to the crossing and not a wholesale displacement of the riparian corridor. The applicant argues the proposal is water-related or water-dependent and therefore exempt from riparian protection per sub-sections 1175(A)(2) and 1175(B)(5). Should the Board find the use is water-related or water-dependent, the proposal is exempted from riparian protections and can be permitted. This is discussed under Section 1175 below.

**1175 Permitted Uses and Activities:**

*Notwithstanding the prohibitions set forth in Subsection 1173 above, the following activities are allowed within the riparian corridor boundary:*

- A. *The following riparian vegetation may be removed within the riparian corridor boundary: [...]*
  - 1. *Vegetation which is necessarily removed for the development of approved water-related or water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent and water-related use. [...]*
- B. *The following development is allowed within the riparian corridor boundary.*
  - 5. *Water-related and water-dependent uses. [...]*

**Finding 197:** Proposed construction of the rail branchline will result in temporary and permanent impacts to the McLean Slough riparian corridor. This is only allowable through exemptions for “water-related” or “water-dependent” uses. The applicant argues the project as a whole (the renewable diesel production facility and associated infrastructure including the proposed rail branchline) depends upon the dock and falls under the category of water-related and water-dependent uses. The applicant’s full argument from the rail application narrative submission is provided below:

“The renewable diesel production facility (under separate application) is proposed to be located at Port Westward because of the presence of the dock and proximity to the Columbia River. As noted above, Port Westward is one of only five public deepwater ports in the state of Oregon. This invaluable resource, which was largely the basis of the County’s 1986 and 2007 Goal Exceptions for Port Westward Industrial Park, is necessary for the efficient operation of the production facility.

The 1986 Exception statement codified in the Comprehensive Plan relied in part upon Port Westward’s “unique site-specific resource” in the deep draft river port and further noted the following:

*I. Proposal*

*The proposed use designation is Rural Industrial, and it is intended to take advantage of the location on the Columbia River, the existing dock facilities, railroad, and urban services, as well as potential linkages to the electric generating facilities.*

*V. Proposed Use Of The Property*

*Probable uses would likely be related to the existing services, including the railroad, the dock, and the tank farm.*

*[\*\*\*]*

*Uses likely to be located here are best illustrated by four proposals submitted to the current leaseholder since 1980. Proposals have included a 200-acre oil refinery, a 150-to-200-acre coal port, an 80-acre petrochemical tank farm, and a 230-acre coal gasification plant. [...].*

Similarly, the 2007 Exception statement codified in the Comprehensive Plan noted that:

*The property is located adjacent to the Port Westward rural industrial area and can take advantage of the location with access to the Columbia River, and the existing dock facilities, railroad and urban services, including PGE’s Beaver Power Plant. Allowing future rural industrial development on the*

*Property would benefit the County's economy by bringing jobs to the area for construction of a project and then a lesser level of employment for the operation and management of any facility*

Taken together, these Exception statements indicate that the intent of zoning land RIPD at Port Westward was to both accommodate and encourage industrial uses that take advantage of the dock, rail, and energy generating sources.

As explained below, the Renewable Diesel Production Facility, including its rail component, is a "water-dependent" and/or "water-related" use.

Columbia County Zoning Ordinance (CCZO) Sections 1170 and 1180 allow development within riparian areas and wetland riparian areas for projects that are either "water dependent" or "water related." The only identified riparian corridor within or near the site is McLean Slough, which will be crossed by the portion of the proposed rail branchline on PA-80 land.

Neither the CCZO nor the Columbia County Comprehensive Plan define the terms "water-related" or "water-dependent," except as relevant to the Willamette River Greenway, which is not applicable at this location. The County's riparian area and wetland regulations are a component of the County's Statewide Planning Goal 5 program, which purports to adopt a "safe harbor" approach as discussed in Article X of the Comprehensive Plan. However, the Comprehensive Plan's Goals and Policies do not categorically intend to prohibit uses conflicting with riparian areas or wetlands; rather, the Plan's stated intent is to protect such areas from "nonwater-dependent uses." See, e.g. Article X.E, Policy 9.

The Goal 5 safe harbor process essentially requires local governments to directly implement certain Goal 5 rules in Oregon Administrative Rules (OAR) 660 Division 23. Consequently, the County's riparian and wetland regulations roughly resemble the riparian rules in OAR 660-023-0090 and -0100, except that they notably do not include the variance provisions required under OAR 660-023-0100(4)(b)(B). These sections allow development of "water-dependent or water-related uses" within riparian areas and wetlands and allow removal of riparian vegetation "as necessary for development of water-related or water-dependent uses." The OARs require less strict riparian protections in farm and forest zones: OAR 660-023-0090(8)(c) provides that "(c) Notwithstanding subsection (b) [regulating removal of riparian vegetation] of this section, the ordinance need not regulate the removal of vegetation in areas zoned for farm or forest uses pursuant to statewide Goals 3 or 4."

The definition of "water-dependent" and "water-related" in the Statewide Planning Goals is helpful in interpreting those terms in the CCZO. In the current version of the Statewide Planning Goals, those terms are defined as follows:

*WATER-DEPENDENT. A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.*

*WATER-RELATED. Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.*

The County can find that the proposed renewable diesel production facility within the existing RIPD zone is “water-dependent” because the facility requires access to the water body (namely, the Columbia River) for riverine transportation. Renewable diesel product and renewable diesel feedstocks are proposed to be imported and exported by water-borne vessels on the Columbia River, including ships and barges. This connection is reflected in Exhibit 15, which shows the piping directly connecting the facility to the Port Westward docks. Also, the facility relies on Columbia River water as part of the renewable diesel production process – namely for steam production, cooling tower process water, and fire water reserve. This is also reflected on Exhibit 15.

In summary, the facility is proposed at Port Westward entirely due to its location at one of Oregon’s few deepwater ports capable of being served by cargo ships.<sup>5</sup> Therefore, the County can find that the renewable diesel facility within the existing RIPD zone “can be carried out only [...] adjacent to water areas because the use requires access to the water body for water-borne transportation” and as a “source of water.”

For the same reasons, the County can find that the proposed rail branchline located on PA-80 lands is also “water-dependent.” The purpose of the proposed rail branchline is to deliver renewable diesel feedstocks to the renewable diesel production plant for conversion into renewable diesel, to export such renewable diesel, and to remove waste products from the facility. As the branchline exists only to serve the renewable diesel production plant and is part of the overall project, it is just as river-dependent as the production plant itself. Put another way, the branchline is water-dependent because, like the renewable diesel production plant, it relies on river transportation as the other end of the renewable diesel supply/production chain. The export of waste products also makes the rail line a necessary component of the overall water-dependent use.

Although the PA-80 portion of the branchline is requested in a separate application from the renewable diesel production facility, it is exclusively associated with, part of, and entirely dependent on the renewable diesel plant. It was proposed in a separate application because a portion of the rail branchline is to be located just outside of the existing Port Westward Exception Area and within an exclusive farm use zone, and is therefore subject to the criteria of ORS 215.296; rail not located within that zone is not subject to those criteria.

If the County does not find that the renewable diesel production plant or rail branchline is “water-dependent,” the County can nonetheless find that they are “water-related.” This is because the facility as a whole is intended to provide “goods [...] that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.” There is no dispute that the Project is intended to import and export “goods” (in this case, feedstocks and renewable diesel) to and from the Port Westward Dock via pipeline, shown in Exhibit 15. As explained above, the renewable diesel facility must be located near the water because the use itself depends on river water and transportation, and would not be viable without a water-adjacent location. Put in terms of the above definition, without a water-adjacent location, the facility would “result in a public loss of quality in the goods or services offered” because it could not economically provide the proposed goods or services without a river-adjacent location. Likewise, if the PA-80 portion of the proposed branchline is not located adjacent to the renewable diesel production plant, the efficiency of the renewable diesel use would suffer substantially because a large portion of the necessary feedstocks could not be economically imported to the Project, which would make the Project itself infeasible.”

As the applicant states, “water-related” is not defined in the County’s zoning ordinance or Comprehensive Plan. The term is defined in the Statewide Planning Goals, and the Board can apply that definition here.

Staff notes that the “water-dependent” and “water-related” definitions from Statewide Planning Goals (cited by the applicant above) both indicate these uses are located “on or adjacent to” water. However, neither the fuel facility nor the rail branchline are “on or adjacent to” the Columbia River – the water body the applicant indicates the use is dependent on and related to. No portion of the project interacts with the mapped Columbia River riparian area. The County-regulated riparian area the project impacts is the McLean Slough – a water body located over ½ mile from the Columbia River that no use applied for in this application is dependent on or related to. Staff considers the applicant’s argument and use of terminology to be highly irregular.

Although staff questions whether the branchline is water-related under the State’s definition, staff concedes that an argument can be made, as the applicant has done, that it is. In light of the ambiguity, staff consulted with DLCDC regarding application of State definitions of water-related and water-dependent. DLCDC feedback indicated that “water-dependent” would not be a viable definition for this proposal from their perspective but “water-related” has enough uncertainty to defer to a local determination. Given the lack of a County definition and the ambiguity of the State definition, the Board can interpret water-related either way. In order to meet this standard, the Board must find the project and associated rail branchline are “water-related” uses.

*1177 Requirements for new activities and development identified in Sub-section 1175 and 1176, above, shall be allowed in the riparian corridor boundary subject to the following requirements:*

- A. *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 the use or activity.*
- B. *For activities and development for which land use permits, building permits, grading permits, variances or stormwater/erosion control permits are required, the County shall provide notification to ODFW of the proposed development activity. The County shall consider the recommendations of ODFW, including any mitigation recommendations, prior to issuance of permits and may condition permit approval on recommended measures to mitigate loss of fish and wildlife habitat pursuant to applicable provisions of OAR Chapter 635, Division 415.*

**Finding 198:** The applicant is seeking approval from the U.S. Army Corps of Engineers and the Oregon Department of State Lands for wetland and waterway alterations and will perform over 480 acres of off-site wetland mitigation south of the site in accordance with Federal and State law, as permitted by this subsection. The County has provided notice to ODFW and received comments (see Attachment 7b).

## 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 199:** Columbia County Comprehensive Plan, Part XVI, Article X(A), Wetlands, provides the following clarification on the County’s determination of wetland significance:

2. *INVENTORY AND SIGNIFICANCE: Columbia County will apply the “safe harbor” provisions of Goal 5 to significant wetlands. The adopted inventory of wetlands for Columbia County is the State Wetlands Inventory*

*(SWI), as amended. A current copy of the SWI is contained in the Technical Appendix Part XVI, Article X(A), for reference. All wetlands inventoried on the SWI or any more detailed inventories such as the Local Wetlands Inventories (LWI) produced by individual cities are considered significant for the purposes of Goal 5. The State Wetlands Inventory incorporates wetlands identified on the National Wetlands Inventory (NWI). The Wetland Overlay Zone shall be applied to locations of wetlands as shown on the SWI or LWIs. However, a wetland not listed in an inventory may still be protected by relevant Oregon Administrative Rules (OAR) and policies set forth by the Oregon Division of State Lands. It shall be the responsibility of individual landowners to verify the existence or nonexistence of wetlands on any property prior to any development activity or other impact.*

Essentially, the County's Goal 5 program begins with the assumption that all wetlands mapped on the SWI are significant. The definition for "significant wetland" provided in Section 1182 is verbatim the national (EPA, Corps) and state (DSL) definition of "wetland". However, the definition also provides a method for determining whether the wetland should be considered significant if there is a dispute over an area's biological value.

The applicant's conditional use (rail) narrative indicates the wetlands are not significant:

"Potential wetlands exist within the vicinity of the rail branchline site as illustrated in the Statewide Wetlands Inventory excerpt in Exhibit 10 and in the County's map in Exhibit 7. The applicant therefore engaged a wetlands consultant to perform a site-specific wetland delineation, with the resulting report attached as Exhibit 11. As discussed in 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. Exhibit 14 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 so there does not appear to be any dispute by subject matter experts on whether these wetlands have little biological value. The Applicant expects DSL to issue a written statement explaining the non-significance of affected wetlands in December, 2021. This further supports the contention that the wetlands do not meet the County's adopted definition of "significant" wetlands."

Because there is a reasonable dispute over the significance of the wetlands, consistent with Section 1182, the County requested and received recommendations of DSL, ODFW, and the Columbia SWCD related to significance of the delineated wetland areas proposed for development. These materials are provided in Attachment 7. While there was some variance in feedback between agencies, as one might expect given different mandates, DSL provided a definitive statement regarding significance of the wetlands impacted by the proposed facility and rail development:

"Based on the finding of the OFWAM Assessment tool, the wetlands located behind the levee (inside the levee within the Beaver Drainage District and associated with the propose NEXT Project) in the Resource Industrial Planned Development area at Port Westwards are NOT significant, nor are the wetlands that continue off the project site that were converted for farming and are zoned Primary Agriculture."



Staff finds the evidence presented is persuasive and recommends the Board find the impacted wetlands are not significant based on the recommendation of DSL.

### **1183 Permitted Uses:**

*Uses and development activities permitted outright or conditionally in the underlying zone shall be permitted in the Wetland Area Overlay Zone if they will not result in filling, drainage, removal of vegetation, or other alteration which would destroy or degrade a significant wetland as defined in Section 1182. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands under Oregon Department of Agriculture wetland rules shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands. Existing drainage ditches may be cleared to original specifications without County review.*

**Finding 200:** The applicant is proposing a renewable diesel production facility as permitted in the RIPD zone, and a rail branchline as permitted through the Conditional Use process in the PA-80 zone. No development is allowed that will impact significant wetlands. If the Commission finds the wetlands are not significant consistent with DSL's recommendation, the proposed facility and rail development are allowed. If the Commission finds the wetlands are significant, the proposed facility and rail development are not allowed. As noted under Section 1182 findings, Staff finds that based on DSL's recommendation, the wetlands lack the biological value to be considered significant.

While Section 1180 prohibits development that will destroy or degrade significant wetlands, it allows limited development within riparian corridors – essentially mirroring the riparian corridor development standards of Section 1170.

### **1184 Development Standards:**

- A. *Riparian Corridor Standards for Wetlands. For the purposes of this Section, "Fish-bearing streams" shall mean all streams identified as being fish-bearing, by the Oregon Department Forestry in the Stream Classification Maps, as amended, and "Fish-bearing lakes" shall mean those streams identified in "Lakes of Columbia County". The current Oregon Department of Forestry Stream Classification Map is attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X(B), for reference. The Map, "Lakes of Columbia County" is also attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X(B), and is incorporated therein. Significant Wetlands are identified on the State Wetlands Inventory (SWI), and Local Wetlands Inventories (LWI's).*

*The SWI is attached to the Comprehensive Plan, Part XVI, Article X(A), for reference.*

- 1. Fish-Bearing Lakes. Along all wetlands associated with fish-bearing lakes, the riparian corridor boundary shall be 50 feet from the upland edge of the wetland.*
- 2. Streams, Rivers, and Sloughs (Greater than 1,000 cfs). Along all wetlands associated with all fish-bearing rivers, streams 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 from the upland edge of the wetland. Average annual stream flow information shall be provided by the Oregon Water Resources Department.*
- 3. Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all wetlands associated with fish bearing streams, rivers, and sloughs, with an average annual stream flow less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50 feet from the upland edge of the wetland. Average annual stream flow information shall be provided by the Oregon Water Resources Department.*

4. *Other Rivers and Streams, or Sloughs. For all other wetlands associated with streams, rivers, or sloughs, the riparian corridor boundary shall be 25 feet from the upland edge of the wetland.*

**Finding 201:** As discussed under Section 1170, delineated wetlands are adjacent to McLean Slough. The application narrative indicates these wetlands are not associated with the slough. Staff finds the protections of Section 1170 apply to riparian areas, but non-significant wetlands are not regulated by Section 1180. Therefore, the riparian protections of 1170 are the extent of riparian protection on the development site. Please see findings under Section 1170.

5. *Wetlands not associated with Streams, Rivers, Sloughs, or Fish-Bearing Lakes. Along all wetlands not associated with a stream, river, slough, or non-fish-bearing lake, there shall not be a protective riparian corridor boundary. However, development is prohibited from encroaching within a delineated wetland boundary.*

**Finding 202:** As discussed above, the proposed facility and rail development impact delineated wetlands. However, if these wetlands are not considered to be significant, this standard does not apply.

- B. *Corridor Boundary Measurement: The riparian corridor boundary begins at the upland edge of the wetland and is measured outward, further upland, the required riparian corridor boundary distance.*

**Finding 203:** As noted above, Staff finds Section 1180 applies only to significant wetlands; should the Board concur with DSL's recommendation that the delineated wetlands are not significant, this standard does not apply. Riparian corridors not associated with significant wetlands are addressed in Section 1170.

- C. *Activities Prohibited within the Wetland Riparian Corridor Boundary. In addition to the prohibitions of the underlying zone, the following development activities are prohibited in wetland riparian corridor boundaries, except as provided for in Sub-sections 1184(E) and (F) of this Sub-section:*
  1. *The alteration of the wetland riparian corridor by grading, the placement of fill material, and/or impervious surfaces, including paved or gravel parking areas or paths, and/or the construction of buildings or other structures which require a building permit under the State of Oregon Uniform Building Code, as amended, or other land use permit.*
  2. *The removal of riparian trees or vegetation.*

**Finding 204:** Staff finds the riparian corridor regulation in Section 1180 applies only to significant wetlands; should the Board concur with DSL's recommendation that the delineated wetlands are not significant, this standard does not apply.

- D. *Exempted Activities. This Overlay Zone does not apply to land legally used for commercial forestry operations or standard farm practices, both of which are exempt from the riparian corridor protection standards of this Section. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices is regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed specifically by ORS 568.210 to ORS 568.805.*

**Finding 205:** The applicant is not proposing commercial forestry operations or standard farm practices. This standard does not apply.

- E. *Exceptions to prohibited activities. Notwithstanding the prohibitions set forth in sub-section (C), above, the following development activities are allowed within the wetland riparian corridor boundary:*
  1. *The following wetland riparian vegetation may be removed:*
    - a. *Non-native vegetation, invasive species, and noxious weeds, if replaced with native plant species. The replacement vegetation shall cover, at a minimum, the area from which*

- vegetation was removed, and shall provide for maximum soil retention and shade cover. Replacement vegetation shall, upon maturity, maintain 75%-100% canopy and ground cover.*
- b. Vegetation which is necessarily removed for the development of water related and water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water dependent and/or water related use.*
  - c. Trees and vegetation in danger of falling and/or posing a hazard to life or property. If no hazard will be created, the trees, once felled, shall be left in place in the riparian area.*
- 2. The following development is allowed within the riparian corridor boundary:*
- a. Streets, roads, and driveways, if:
 
    - i It is not possible to locate the street, road or driveway outside of the riparian corridor boundary; and*
    - ii The street, road or driveway is designed to minimize intrusion into the riparian corridor boundary;**
  - b. Pedestrian walkways, paths and trails;*
  - c. Fencing and signs, not including billboards;*
  - d. Drainage facilities, utilities and irrigation pumps;*
  - e. Water-related and water-dependent uses;*
  - f. New or expanded shoreline stabilization and flood control grading and structures;*
  - g. Portable furniture, and other portable outdoor equipment for the private use of the property owner/resident. For purposes of this subsection, "portable" shall mean that the item is not affixed to the ground, other than with a chain or other lock which is capable of being removed at any time.*

**Finding 206:** Staff finds the riparian protections relating to Section 1180 are only applicable to significant wetlands. If the Board finds the delineated wetlands are not significant, proposed development is not regulated by Section 1180.

- F. Legal non-conforming uses are allowed to continue within the wetland riparian corridor boundary subject to the requirements in Section 1506, ORS 215.130, applicable state laws, and the following additional requirements:*
- 1. For replacement of legal non-conforming structures with new structures, any new structure shall be located in the same location and in the same footprint as the existing structure, and shall not disturb additional riparian surface area within the wetland riparian corridor boundary.*
  - 2. For expansion or alteration of legal non-conforming structures existing fully or partially within the riparian corridor, the expansion or alteration shall not occur within the wetland riparian corridor boundary. If the pre-existing structure is completely within the riparian corridor, expansion is allowed only on the side opposite the water resource.*
  - 3. Legal non-conforming lawn within the riparian corridor boundary may be maintained. However, such lawn shall not be expanded within the riparian corridor boundary.*
  - 4. Legal non-conforming shoreline stabilization and flood control structures may be maintained.*

**Finding 207:** There are no existing non-conforming structures, lawns, or shoreline stabilization and flood control structures on site. This standard does not apply.

- G. New activities and development identified in Sub-section 1184(E) and 1184(F), above, shall be allowed in the wetland riparian corridor boundary subject to the following requirements:*

1. *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 the use or activity.*
2. *For activities and development for which land use permits, building permits, grading permits, variances or stormwater/erosion control permits are required, the County shall provide notification to ODFW of the proposed development activity. The County shall consider the recommendations of ODFW, including any mitigation recommendations, prior to issuance of permits and may condition permit approval on recommended measures to mitigate loss of fish and wildlife habitat pursuant to applicable provisions of OAR Chapter 635, Division 415.*

**Finding 208:** The applicant is pursuing DSL and Corps approval for removal of approximately 109 acres of delineated wetlands for facility, driveway, and rail development. The applicant shall obtain all applicable permits and approvals from the Oregon Department of Fish and Wildlife and the Department of State Lands regarding all new activities and development within all identified wetland areas. These approvals include, but are not limited to, mitigation recommendations to mitigate the loss of fish and wildlife habitat pursuant to applicable provisions of OAR Chapter 635, Division 415. A condition of approval is proposed requiring approval of all applicable state and federal permits.

#### *H. Variance Provisions*

1. *In cases where encroachment into the riparian corridor boundary by activities and development not otherwise allowed by Sub-section 1184(E), or 1184(F) cannot be avoided, a property owner may request a Variance to the riparian corridor boundary prohibition. In addition to the criteria found in Section 1504, and the requirements in Sub-section 1184(G), a variance to the riparian corridor boundary prohibitions shall not be granted unless all of the following criteria are met:*

**Finding 209:** The applicant is not requesting a variance to riparian corridor protections.

## Section 1185 NATURAL AREA OVERLAY (NA)

**Finding 210:** The Oregon State Register of Natural Heritage Resources (Attachments 2l & 3l), 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 211:** Columbia County Comprehensive Plan, Part XVI, Article VIII(A), Big Game Wildlife Habitat, identifies three types of big game habitat. As depicted in Attachments 2f & 3f, 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 212:** The review and process for DR 21-03, CU 21-04, and V 21-05 has been lengthy with several iterations of application materials. In order to meet process requirements and statutory review timeframes, the County Board of Commissioners took jurisdiction of the hearing consistent with Ordination 91-02. Process dates from pre-application conference to the first Board of Commissioners hearing are identified below:

- NEXT Pre-Application Conference: February 6, 2020
- NEXT Application Submissions: January 19, 2021
- County Incompleteness Letters: February 17, 2021
- NEXT Updated Application Submissions: July 13, 2021
  - Including significant changes to rail location and rail volume.
- NEXT ORS 215.427 Completeness: July 15, 2021
- NEXT Updated Application Submissions: August 12, 2021
- NEXT Memorandum on Interpretation of CCZO 1175.B, 1184.E and OAR 660-012-0065: September 30, 2021
- County Board of Commissioners took jurisdiction consistent with Ordinance 91-2: October 20, 2021
- County Memo Identifying Critical Issues: sent October 25, 2021
- County Board Hearing Scheduled: December 6, 2021
- NEXT Updated Application Submissions: December 14, 2021
- Notice provided to Clatskanie Chief newspaper for December 29, 2021 publication: December 22, 2021
- Notice sent to adjacent property owners: December 23, 2021
- County Staff Report published: January 12, 2022
- County Board Hearing Date: January 19, 2022

## Columbia County Stormwater and Erosion Control Ordinance

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### 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 213:** The proposal requested for DR 21-03 involves disturbing over 100 acres of land. Attachments 2m & 3m include the applicant's Preliminary Storm Report.

1. 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.
2. For the “Oily Water Sewer Basin and “Main Plant Stormwater Basin” (45.16 acres and 57.30 acres, respectively or 72% of the total existing site area) it appears that the applicant is meeting or exceeding the standards set forth in the Ordinance. Specific areas of stormwater are being intercepted and directed by pipeline to an onsite treatment plant to then be discharged into the Columbia River (a tidal waterbody) using the Port of Columbia County’s existing outfall. The intercepted and treated runoff is exempt from the peak runoff control measures by Ordinance because of its discharge into a tidal waterbody.

The overall result of this is the applicant is proposing to intercept stormwater that was infiltrating or otherwise making it to conveyances, thereby reducing the overall amount of runoff leaving the site once developed. It is assumed that the treated stormwater will meet or exceed water quality standards.

3. The “Pipeline Maintenance and Rail Spur Basins” are proposed to maintain “existing drainage paths” including sheet flow over land, therefore causing no difference between pre-development and post-development conditions and no need for specific conveyance system sizing. The applicant is however proposing water filter strips along the roadway and rail for water quality and sizing them to meet the 9-minute residence time.
4. The “Access Road Basin” (10.44 acres) is the only stormwater basin that will need to have peak runoff control measures. The applicant is proposing to use drainage swales with weirs and check dams to address both water quality and quantity requirements. The proposed design appears to meet or exceed the water quality and quantity requirements of the Ordinance. The Final Stormwater Plan should include specific swale design plan and profile details for review by the County.
5. Erosion Control Plan. Looking at the Site Design Review Plans (Attachment 2c), 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

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**County Building Official:** Obtain all permits for construction. Engineered plans with Code Summary is required.

**County Sanitarian:** No comments have been received.

**County Engineering Technician:** Has reviewed the proposal and has no objections to its approval.

**County Assessor:** No comments have been received.

**Clatskanie Rural Fire and Protection District:** No comments have been received as of the date of this report.

**Clatskanie-Quincy CPAC:** No comments have been received.

## CONCLUSION, RECOMMENDATION & CONDITIONS

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Based on the above findings, if the Board finds:

1. The delineated wetlands on the site are not “significant” consistent with DSL recommendation;
2. The proposed renewable fuel facility and associated development (including the rail branchline) are “water-related” uses consistent with the applicant’s definition; and
3. The proposed rail development meets the definition of a “rail branchline” consistent with Portland & Western Railroad’s definition.

Planning Staff recommends **APPROVAL** of this Type II Site Design Review and Variance (**DR 21-03**) and Type III Conditional Use (**CU 21-04**) to allow the development of the proposed renewable fuel facility and associated development (including the rail branchline) on properties within the RIPD Zone and PA-80 Zone associated with the Tax Lot numbers:

### Facility

- Port of Columbia County: 8422-00-00100, 8422-00-00200, 8422-00-01100, 8421-00-00700, 8416-00-00200, 8416-00-00300
- NEXT Renewable Fuels, Inc.: 8422-00-00300

### Branch Line

- Port of Columbia County: 8421-00-00600, 8422-00-00400, 8422-00-00500, 8422-00-00600, 8423-B0-00700
- De La Cruz: 8423-B0-00800

Subject to the following conditions:

## CONDITIONS OF APPROVAL

- 1) This Design Review, Variance 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**

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- 1) Site Design Review Application Form, Variance Application Form, Conditional Use Application Form, and Owner Authorization Letters
- 2) Applicant Prescribed Use, Site Design Review, and Variance Submission Package January 19, 2021
  - a. Prescribed Use, Site Design Review, and Variance Narrative
  - b. Exhibit 02 SDR Vicinity Map and Zoning Map
  - c. Exhibit 03 Site Design Review Plans
  - d. Exhibit 04 Flood Insurance Rate Map 41009C0050D, dated November 26, 2010 (annotated)
  - e. Exhibit 05 Clatskanie-Quincy CPAC Threatened, Endangered and Sensitive Wildlife and Plant and Natural Areas map, Beak Consultants Inc., June 1995 (annotated)
  - f. Exhibit 06 Clatskanie-Quincy CPAC Wildlife Game Habitat map, Beak Consultants Inc., June 1995 (annotated)



- g. Exhibit 07 Clatskanie-Quincy CPAC Wetland and Hydric Soils map, Beak Consultants Inc., June 1995 (annotated)
  - h. Exhibit 08 Stream Data Map
  - i. Exhibit 09 Excerpt from Lakes of Oregon, Volume 1, Clatsop, Columbia, and Tillamook Counties, U.S. Geological Survey, 1973
  - j. Exhibit 10 Statewide Wetland Inventory (annotated)
  - k. Exhibit 11 Anderson Perry Wetland Delineation Report
  - l. Exhibit 12 Oregon State Register of Natural Heritage Resources
  - m. Exhibit 13 Preliminary Stormwater Report
  - n. Exhibit 14 Transportation Impact Analysis
  - o. Exhibit 15 Architectural Rendering
- 3) Applicant Conditional Use Submission Package January 19, 2021
- a. Conditional Use Narrative
  - b. Exhibit 02 CUP Vicinity Map and Zoning Map
  - c. Exhibit 03 Conditional Use Permit Plans
  - d. Exhibit 04 Flood Insurance Rate Map 41009C0050D, dated November 26, 2010 (annotated)
  - e. Exhibit 05 Clatskanie-Quincy CPAC Threatened, Endangered and Sensitive Wildlife and Plant and Natural Areas map, Beak Consultants Inc., June 1995 (annotated)
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  - k. Exhibit 11 Anderson Perry Wetland Delineation Report
  - l. Exhibit 12 Oregon State Register of Natural Heritage Resources
  - m. Exhibit 13 Preliminary Stormwater Report
- 4) Applicant Prescribed Use, Site Design Review, and Variance Submission Package August 12, 2021
- a. Prescribed Use, Site Design Review, and Variance Narrative
  - b. Exhibit 02 SDR Vicinity Map and Zoning Map
  - c. Exhibit 03 Site Design Review Plans
  - d. Exhibit 04 Flood Insurance Rate Map 41009C0050D, dated November 26, 2010 (annotated)
  - e. Exhibit 05 Clatskanie-Quincy CPAC Threatened, Endangered and Sensitive Wildlife and Plant and Natural Areas map, Beak Consultants Inc., June 1995 (annotated)
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  - k. Exhibit 11 Anderson Perry Wetland Delineation Report

- l. Exhibit 12 Oregon State Register of Natural Heritage Resources
  - m. Exhibit 13 Preliminary Stormwater Report
  - n. Exhibit 14 Transportation Impact Analysis
  - o. Exhibit 15 Architectural Rendering
  - p. Exhibit 16 Port of Columbia County Utility Service Letter
  - q. Exhibit 17 Portland General Electric Correspondence Regarding Trees Near Transmission Lines
- 5) Applicant Conditional Use Submission Package August 12, 2021
- a. Conditional Use Narrative
  - b. Exhibit 02 CUP Vicinity Map and Zoning Map
  - c. Exhibit 03 Conditional Use Permit Plans
  - d. Exhibit 04 Flood Insurance Rate Map 41009C0050D, dated November 26, 2010 (annotated)
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  - j. Exhibit 10 Statewide Wetland Inventory (annotated)
  - k. Exhibit 11 Anderson Perry Wetland Delineation Report
  - l. Exhibit 12 Oregon State Register of Natural Heritage Resources
  - m. Exhibit 13 Preliminary Stormwater Report
- 6) NEXT Memorandum on Interpretation of CCZO 1175.B, 1184.E and OAR 660-012-0065 (September 30, 2021)
- 7) County Memo Identifying Critical Issues (sent October 25, 2021)
- 8) NEXT Supplemental Fence Height Evidence (November 2, 2021)
- 9) NEXT Supplemental Landscape Buffer and Screening Variance Evidence (November 2, 2021)
- 10) Applicant Submission Package December 14, 2021
- a. Prescribed Use, Site Design Review, and Variance Narrative (December 14, 2021)
  - b. Exhibit 18 PIP Chain Link Fence and Gates Installation Specification (December 2016)
  - c. Exhibit 19 Anderson Perry Wetland Memo (December 8, 2021)
  - d. Exhibit 20 Pipeline and Water Intake Map
  - e. CUP Narrative (December 14, 2021)
  - f. Exhibit 14 Anderson Perry Wetland Memo (December 8, 2021)
  - g. Exhibit 15 Pipeline and Water Intake Map
  - h. Exhibit 16 Portland and Western Railroad Letter (November 19, 2021)
- 11) Agency Comments
- a. Department of State Lands (December 15, 2021)
  - b. Oregon Department of Fish & Wildlife (December 21, 2021)
  - c. Columbia Soil & Water Conservation District (January 5, 2022)
- 12) Waiver of Remonstrance