

**EXHIBIT SCHEDULE**

**FILE NUMBER:**            **PUD-22-001**  
**APPLICANT:**            Mark French (agent for multiple property owners) and Kathleen Elliott  
**HEARING DATE:**        **October 25, 2022**

**EXHIBIT**                    **NATURE OF EXHIBIT**

\_\_\_\_\_ 1 \_\_\_\_\_      Twenty-one (21) Page Staff Report  
\_\_\_\_\_ 2 \_\_\_\_\_      Four (4) Page Planned Unit Development Application  
\_\_\_\_\_ 3 \_\_\_\_\_      Seven (7) Page Dissemination Record

Added to the Record October 25, 2022

\_\_\_\_\_ 4 \_\_\_\_\_      Six (6) Page Memo – Water Resources Program  
\_\_\_\_\_ 5 \_\_\_\_\_      Two (2) Page Comment Letter – Nelson  
\_\_\_\_\_ 6 \_\_\_\_\_      Two (2) Page Comment Letter - McElroy

**STAFF REPORT  
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION  
TRIBAL PLANNING OFFICE**

To: **Land Protection Planning Commission**  
File No. **PUD-22-001**  
Hearing Date: **October 25, 2022**

**SUBJECT:**

Planned Unit Development (PUD) Tentative Plan.

**APPLICANTS:**

Mark French (agent for multiple property owners) and Kathleen Elliott, Pendleton, OR, 97801.

**NATURE OF REQUEST:**

The applicants request that the Land Protection Planning Commission approve a Tentative Plan for a Planned Unit Development Subdivision to divide a Trust allotment, UM70, into 13 lots.

**BASIC FACTS:**

1. *Ownership:* According to the Bureau of Indian Affairs (BIA) records, there are eleven interest holders in the property. Ten are Indian allottees, and one is the estate of a non-Indian interest holder having three heirs. All interest holders have authorized Mark French to act as their agent in submittal of a Planned Unit Development Application for the allotment.
2. *Location and size:* The subject property, Allotment UM70, is located in the NE ¼ of Section 8, Township 2 North, Range 33 East, W.M. The property was originally 40 acres, but due to land occupied by Mission Road and the UPRR Railroad, the remaining land area is less. The Bureau of Indian Affairs (BIA) Title Status Report lists the property at 39.47 acres. The Union Pacific Railroad ROW is 100 feet wide and the Mission Road ROW is 70 feet. The usable portion is estimated at 34.75 acres by the Umatilla County Assessor Office, which identifies the parcel as Lot 1800 on Map 2N3308.
3. *Utilities:* The CTUIR community sewer trunk line crosses the northern portion of the property. Pacific Power has existing lines servicing the subject property and surrounding lands (see utility map below).

# SUBJECT PROPERTY



### Flood Hazards - Lines

#### Line Type

- Floodway Line
- FEMA 100 year
- FEMA 500 year
- 100 Year Flood Area
- 500 Year Flood Area

- ◆ Wells
- Annotation Mask
- PP Transmission Lines
- Poles
- 20' Contours

UM 70



0      250      500 Feet



4. *Zoning:* The subject property is within the R-2, General Rural Zone. The purpose of the zone is to serve as a transition zone from agricultural uses to rural residential uses or small farms. A Planned Unit Development (PUD) is a permitted use in R-2 zone, subject to Chapter 7 of the Land Development Code (LDC).

Section 7.100 of the LDC states the purpose of a PUD as follows:

*“The purpose of this section is to provide an opportunity for land owners to create lots for homesites on reservation lands with fractionated heirships. Through this process, Indian families are encouraged to promote family PUDs wherein family bonds and culture are strengthened. ...*

*It is not intended that the PUD be utilized as a tool for subdividing or partitioning lands for sale on the real estate market. While it is recognized that lands will, from time to time, be traded or sold, the primary function of the PUD on the Umatilla Indian Reservation shall be to facilitate the basis for which the Umatilla Indian Reservation was created: to provide a homeland and homes for members of the Confederated Tribes of the Umatilla Indian Reservation.”*

5. *Legal Access:* The portion of subject property located on the south side of Mission Road has direct access from Mission Road. Subject property is bounded on the west by Purchase Lane and on the east by Mustang Lane.

The portion of Purchase Lane adjacent to the subject property is identified as a private easement on the Umatilla County Assessor’s Map. Purchase Lane is also listed on the Tribal Road inventory and has been historically and is currently used for access to one otherwise landlocked Trust allotment to the south. Mustang Lane is wholly outside the boundaries of the subject property and no easement for it is listed on the BIA Title Status Report of the subject property.

The portion of the subject property north of Mission Road is bounded by Williams Lane on the west and Davis Lane on the east, each of which contain a railroad crossing. It appears that most of Williams Lane and a portion of Davis Lane are located on the subject property but the legal status of the roads to provide access to the subject property north of Mission Road is unknown.

6. *Topography:* The land has a slight slope from southeast to northwest; area drainage runs north toward the Umatilla River.
7. *Current Land Use:* The property has one existing homesite in the NE corner of the allotment, accessed from Mission Road. However, the homesite was a life estate and recently ended with the leasee’s passing. There is also a well and trees remaining on the westerly side of the property from a previous homesite in that location that was destroyed



by fire in the 1990s. The rest of the land is pasture-type grass. It was grazed for a time, but the applicants wanted to discontinue the grazing lease to allow development of the land as homesites. Adjacent Land Uses: Mustangers horse arena is located to the east; to the west are residences and to the south, residences and pasture/agricultural areas. North of mission road the land is bordered by residences and small farms, with a large wetland to the northeast on land reclaimed after years of gravel extraction. The Umatilla River lies to the north but the property is outside both the 100 and 500 year floodplain per the 1999 US Army Corps of Engineers Flood Study.

8. *Applicant's Purpose for the PUD:* The applicants wish to divide the property to be able to create homesites for themselves and/or their heirs. Kathleen Elliott has been trying to build on the property for some time. In 2005 she applied for and was approved for a Planned Unit Development to divide the property into 2 lots, one to rebuild near the homesite that was destroyed by fire, and one for the remainder of the property. However, despite submitting a complete application including a full survey, and being approved for the PUD, the final PUD subdivision could not be signed and recorded due to lack of ability to obtain signatures from all interest holders including estates in probate.

The current proposed PUD takes into consideration the interests of multiple owners and proposes 13 lots. The proposed Tentative Plan when drawn was designed to provide a lot for each of the allotted land owners and to have the lots be roughly comparable in size to the percent interest owned in the property. However, the number of indian land owners has recently been reduced by two and as of this writing the applicant has stated they will be submitting at the hearing a slightly revised plan to adjust the lots accordingly. The interest of the non-Indian land owners would be consolidated on one of the lots.

9. *Tentative Plan:* The sketch plan submitted by the applicants, located on following page, was drawn by Greg Flowers with PBS Surveying and submitted for the purpose of review and approval. Applicant has proposed that a Preliminary Plat Survey would be completed based on the Commission's approval of the Plan. The proposed Plan shows 8 smaller lots approximately 1.75 acres each on the westerly side of the proposed development, with 4 larger lots 2.78 to 5.5 acres each on the easterly side. The area on the north side of Mission Road, approximately 6 acres, would remain as one lot. The preferred plan shows an access road in the middle of the development between the westerly lots and the easterly lots. The 3 lots adjacent to Mustang Lane would be accessed via short east-west driveway easements from the central access road.
10. *Housing Lease Status:* Kathleen Elliott owns the largest undivided interest in the property and due to the time required to complete the PUD process relative to her desired timeline for building, Ms. Elliott obtained a housing lease through the BIA for the 5.5 acre area of land matching the lot in the proposed plat's southwest corner. This lease would end if and when the PUD is completed and she becomes the sole owner of the lot matching her current lease area.

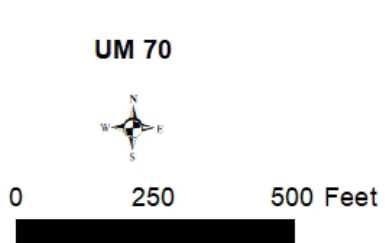
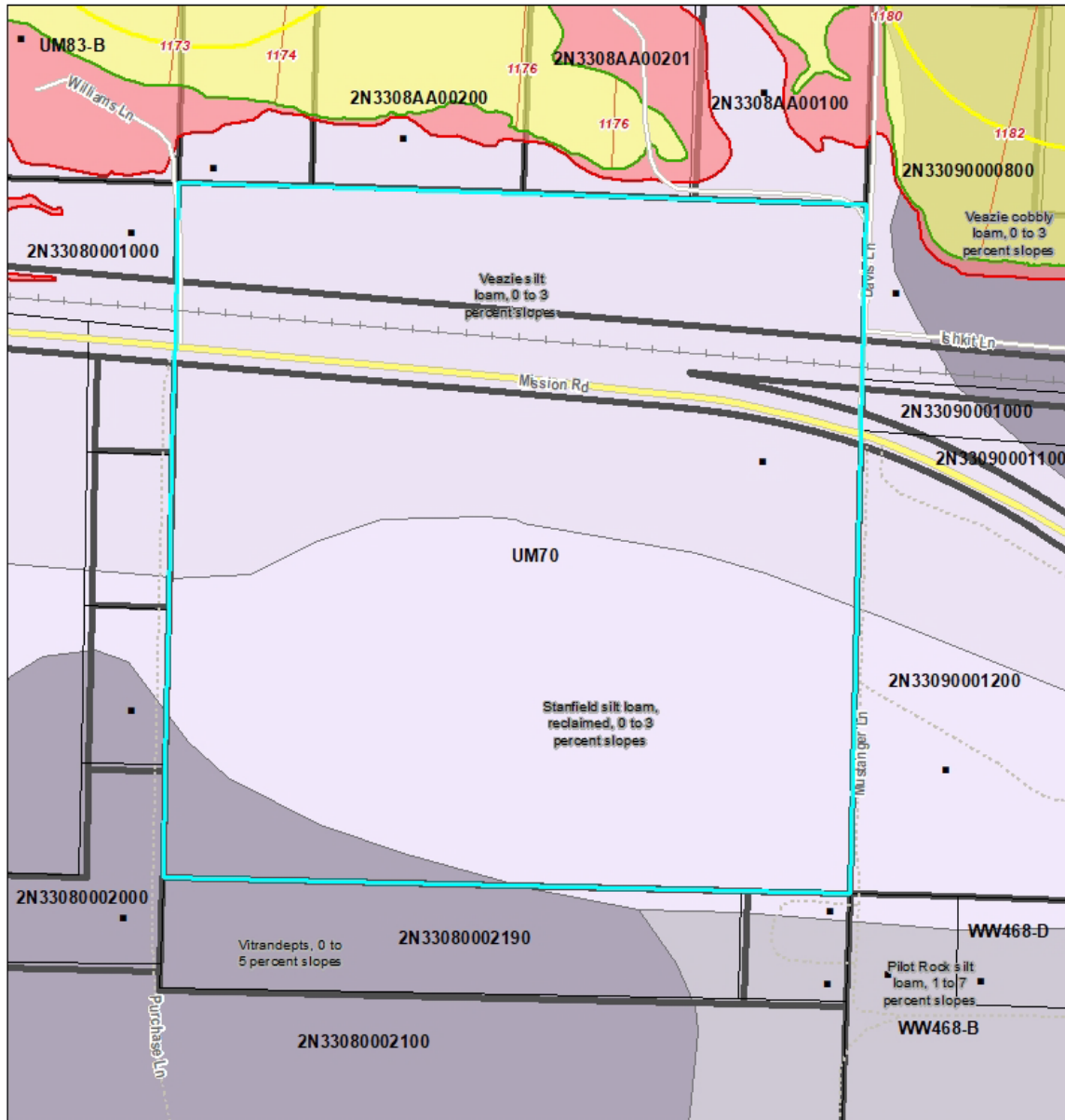
# APPROVED SKETCH PLAN



<b>PBS</b> <small>PBS Engineering and Environmental Inc.          5 N Coville St, Ste 200          Waukegan, WA 98092          509.856.3026          pbsusa.com</small>		CLIENT: MARK FRENCH	PROJECT NO.: 87344.006
		SURVEYOR: GREG E. FLOWERS	DATE: 11/02/2021
CALC BY: GEF	DRAWN BY: GEF	SCALE: "4" = 1"	
SECTION: 6	TOWNSHIP: 3 NORTH	RANGE: 33 EAST	
CITY:	COUNTY: LINCOLN	SHEET: 1 OF 1	

11. *Soils*: Overlays in the CTUIR GIS system (based on USDA Umatilla County Soil Survey) were used to determine the general soil types in the area. Soil surveys are meant to be used at a very generalized level, so the soils must be checked in the field. However, the GIS layers provide some idea of the types of soils likely to be encountered:
- **Stanfield Silt Loam** may occur on the southern portion of the property. The Stanfield Silt Loam is a course silty soil for the first couple feet and then tends to have a layer of hard pan 7 to 20 inches thick. The depth to hardpan varies from 20 to 40 inches. The slow permeability of the hard pan layer can be an impediment to septic percolation. This silty soil is characterized by alkali salts and can be subject to blowing if not planted.
  - **Veazie Silt Loam** may occur on the northern portion of the property. Veazie Silt Loam tends to form on flood plains and be subject to seasonal high water tables. The first couple feet tend to be moderately permeable, but below that the soil tends to be cobbly or gravelly and have rapid permeability. The rapid permeability of the substratum and seasonal high water table adversely affect the purification process of septic tank absorption fields.
  - **Vitrandepts** - There also may be a small area of Vitrandepts soil in the southwest area of the site. Vitrandepts is deep, well drained, ashy/volcanic soil that tends to accumulate in depressions or alluvial fans. (Information taken from the Soil Survey of Umatilla County Area, Oregon.)

# SUBJECT PROPERTY – SOILS



**Umatilla County Soils by Name**

**Map Unit Name**

	Pilot Rock silt loam, 1 to 7 percent slopes
	Stanfield silt loam, reclaimed, 0 to 3 percent slopes
	Veazie cobbly loam, 0 to 3 percent slopes
	Veazie silt loam, 0 to 3 percent slopes
	Vitrandepts, 0 to 5 percent slopes

**ULTIMATE FACTS:** (See Attachment for full listing)

## **I. Comprehensive Plan of the CTUIR**

Goals and Objectives

### 5.6 Natural Resources

#### **GOAL**

To protect, restore, and enhance the first foods – water, salmon, deer, cous, and huckleberry – for the perpetual cultural, economic, and sovereign benefit of the CTUIR.

### 5.9 Housing

#### **GOAL**

To provide a variety of housing opportunities for Tribal members

## **II. Land Development Code of the Umatilla Indian Reservation**

Section 1.020 - Purpose

Section 3.140 – R-2 Zone Description and Purpose

Section 3.155(8) – R-2 Zone Permitted Uses, Planned Unit Developments

Chapter 7 – Planned Unit Developments

Subdivision Manual

## **STAFF FINDINGS:**

1. Tribal Staff Review Committee (TSRC): A meeting of the TSRC was held on May 17, 2022. Input was obtained from staff representing several Departments including DNR Water Resources, Tribal Planning, DECD/Realty and the Tribal Fire Chief. Comments are attached as exhibit 1B.
2. PUD Allowance on Subject Property: According to Section 7.500 (2)(a) of the Land Development Code, if a parent parcel is more than 36 acres, the property is eligible for a PUD Subdivision. Section 7.500 (1)(c) states that, “Contiguous parcels which have been altered under circumstances beyond the control of the parcel owner(s), such as condemnation for a public use, remain eligible for a P.U.D.” The parcel was originally 40 acres but was altered due to condemnation for Mission Road and the Railroad. Therefore, the subject property qualifies for the PUD Subdivision.
3. Cultural Resources Survey: The application was reviewed by the Dept. of Natural Resources (DNR) Cultural Resources Program. The property was surveyed for Cultural Resources and the report, completed on August 18, 2022, determined that additional archaeological work may be required prior to construction in certain portions of UM70, particularly in the southeast corner, and on the two lots near the previous homesite.



4. Proposed access: The Tribal Planning Office has adopted a ROW policy that specifies the following widths of access easement based on the number of lots accessed:

<b>SIZE</b>	<b>INGRESS, EGRESS AND UTILITY EASEMENT MINIMUM WIDTHS</b>
< 3 Lots	Thirty (30) Feet
> 3 Lots, ≥ 1 Acre	Forty (40) Feet
> 3 Lots, < 1 Acre	Fifty (50) Feet

The proposed plan shows the primary access to be via a new 50' easement that would provide a road and space for utilities. The Umatilla Tribal Fire Department requires an approved cul-de-sac or hammerhead turn-around at the end of the road because the road length and number of lots served. The road width will need to be 26' wide based on these factors. The area outside the road will be needed for utilities.

The new access road location enables the proposed new lots to have independent access for the majority or all of the lots. The current plan shows 3 lots fronting on Mustang Lane but the applicant has indicated that a couple of these lots may be eliminated with an updated plan to be submitted at the hearing; also short east-west easements will be added from the central easement to any lots adjacent to Mustang Lane..

The application does not indicate when the proposed new subdivision road would be developed or to what standard of development (width, gravel or paved). If the preliminary plat is approved, details regarding construction of the road) will be required to be submitted as part of a Final Plat. The CTUIR Subdivision code does contain some minimum standards that are discussed under item 10 below.

5. Sewer/Septic System: Kathleen Elliott proposes to construct an individual septic system on her 5.5 acre lease area in the southwest corner of the property in conjunction with her Development Permit for a new single family dwelling. Soil test pits were dug and the soils in that location were found to be suitable. However, given the proposed lot sizes and possible soils, each of the lots may not be able to be developed with individual wells and on-site septic systems with drainfields. According to established standards, two acres is considered to be a minimum lot size for septic where soils are suitable. Septic drainfields are required to be 100' from any well, and septic tanks are required to be 50' from any well. In addition to a primary drainfield area, a replacement drainfield area needs to be designated on the site also meeting the separation requirements from wells. Therefore, it is recommended that future residential development of the lots, if the PUD subdivision is approved, connect to the community system as it becomes feasible to do so.

The sewer trunk line that connects the CTUIR community system to the City of Pendleton crosses the subject property on the north side of Mission Road. This portion of

the sewer line is managed by the City of Pendleton per agreement with CTUIR. The applicant discussed the feasibility of connection into the truck line with the manager at the City of Pendleton public works department and was informed that this would be allowable.

Indian Health Services (IHS) provides technical expertise and assists with funding under certain conditions for sanitation for new homes and like new homes for eligible Native Americans. The IHS engineer did a site visit and evaluated the property for feasibility of connection to the sewer line. He found the connection to be feasible and recommended a pressurized line due to the distance to the trunk line. An easement and permit is required to cross under the railroad tracks. The process requires submittal of engineering plans for the design. The CTUIR Public Works director commented that a manhole on the south side of Mission Road would allow other properties to tie in prior to crossing. It was suggested that crossing under the railroad at an existing easement such as a road may be a more streamlined application process with the Railroad, but details of the application process have not been confirmed.

5.6. Water Systems: The area is outside the boundary of the CTUIR Community Water system, which ends at the fire hydrant located on Timine Way near Mission Road. In response to their review of this proposed PUD application, the CTUIR Water Resources Program has expressed concerns regarding possible negative impacts of multiple new wells. CTUIR Water Resources has researched some of the wells in the area and notes that there may be interference between closely spaced wells which will likely require a minimum separation distance between new wells to mitigate any potential impacts. The minimum separation distance would likely require sharing of wells between the smaller lots. Under the CTUIR Water Resources permit requirements, up to 3 homes can be on a domestic well; four or more homes served by a well would be classified as a community system. A domestic well permit will be required for each well through the Water Resources Program. Water Resources estimates that new wells may need to be in the 400 foot deep range or deeper with ample casing to protect shallower wells. Well sharing could help to reduce costs by serving several homesites with one well. A mutual maintenance agreement would need to be developed to facilitate shared wells.

The area is currently outside the community water service area, but if the water line is extended down Mission Road in the future, connection might be possible for lots that develop later.

6.7. Surface Drainage: No new surface drainage system is proposed for the PUD; because the lots are large enough that drainage can be accommodated through natural drainage patterns.

7.8. Land Development Code section 7.350(3) encourages a buffer of open space along natural features such as streams for the recreational and cultural use of all residents of the PUD. The CTUIR Transportation Planner has discussed the concept of a future east-west

recreational trail through Mission somewhere between Mission Road and the River. Participation in such a trail would be completely voluntary on the part of property owners, but could be kept in mind as future plans develop.

8.9. Overhead power lines and phone lines are in place to the existing homesite on Mission road and also along Purchase Lane near Kathleen Elliott's lease area. Pacific Power will need to be consulted about requirements for extension of power to the proposed new lots.

9.10. The subject property does not occur within any known natural, forest, range, or mineral lands on the Reservation. As discussed earlier, the property is also outside the floodplain.

10.11. Subdivision Standards. In addition to meeting the criteria and requirements of the PUD process, a PUD subdivision must also meet the standards in the CTUIR Subdivision Manual. Relevant standards include:

- Section 4.30 (6) states that access roads must be constructed 20' wide with a base that is 4" minus, and sub-base 4 inches thick of 1 1/2" or 3/4" minus.
- Section 2.25 discusses that there should be (M) Adequate financial arrangements for required improvements and (O) Agreements or by-laws to provide for management, construction, maintenance or other services for common facilities in the development. Generally a developer constructs a subdivision and sells the lots. In this case, the owners themselves will be constructing the improvements. Given the importance of timely recording of the PUD, the improvements could be made conditions of approval providing the applicants submit a plan with the final plat regarding how they will finance the improvements including any needed agreements or by-laws for construction and maintenance.

Section 3.0 of the Subdivision Manual contains a list of required Findings for Approval. A response is given for each:

a) *The subdivision contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources....*

The subdivision is well thought out and provides for orderly access and consistent land use patterns in the area.

b) *The subdivision will be compatible with the uses surrounding the project site, and will not create an excessive demand on public facilities and services required to serve the development.*

The subdivision will be compatible with the surrounding uses, which are similar to what is proposed. The proposal will not create an excessive demand on public facilities and services since they will be organizing and financing the development themselves over time.

- c) *Financing will be available to the applicant to assure completion of the subdivision as proposed and required....*

The applicants will need to submit a financing plan for the road and sewer improvements. Indian Health Services funding may be available for sewer, but application will have to be made.

- d) *That there will be no undue adverse impacts on neighboring properties, natural resource quality, area livability, and public services and facilities.*

The proposal will not cause undue adverse impacts since the permitting processes will be followed which ensure adequate sanitation facilities and safe building construction.

## CONCLUSION

1. This proposal complies with the purpose and intent of the Chapter 7 of the LDC concerning PUDs and the Subdivision Manual, because this proposal will provide an opportunity for landowners to create new home sites for Tribal members on Reservation Trust land with fractionated heirships. The proposed development will be used for Indian housing that will encourage family bonds and culture to be strengthened. The density of development, ranging from 1.75 to 5.5 acres is not out of character with other lot sizes in the area and is feasible if the majority of the lots connect to sewer. The area north of the railroad would not be divided and is about 6 acres. The larger lots will provide open space within the development. Certain facilities such as roads, wells and sewer lines will be shared and will require construction and maintenance agreements between the owners. This proposal is not utilizing the PUD process for the purpose of subdividing or partitioning land for sale on the real estate market but rather so several Tribal members of the Umatilla Indian Reservation can utilize the Reservation to live, work, and sustain their culture.
2. This proposal complies with the approval criteria for Planned Unit Developments in LDC 7.350 because:
  - a) the applicant is proposing the PUD to be clustered as much as possible given the development limitations;
  - b) the PUD will not result in construction of dwellings within a flood hazard subdistrict or other areas subject to flooding;
  - c) the PUD does not occur along a known perennial, intermittent, or ephemeral stream.
  - d) creation of shared wells and connection to the community sewer system for most of the lots is advisable given the soils and number of lots proposed.

- e) the applicant will need to establish a residents association, covenants and/or mutual maintenance agreements to share the cost of maintaining shared services such as the access roads, wells and sewer line.
3. The Planned Unit Development complies with the development standards specified because: (1) the applicant has met the contiguous land standards and the minimum area requirements for the PUD; (2) the applicant has had the property surveyed for cultural resources by the Tribal Cultural Resources Protection Program; (3) the standards of the Tribal Subdivision Manual will be followed.
4. The proposed PUD complies with the Goals of the Tribal Comprehensive Plan because:
- a) the Board of Trustees has been able to protect and exercise the sovereign, Tribal, and individual rights to maintain the cultural integrity of the CTUIR by establishing the specific purpose, intent, approval, and development standards for the PUD in order for the Land Protection Planning Commission to be able to evaluate where and how this process is to be developed and utilized on the Reservation. The applicant has complied with the standards;
  - b) the applicant has utilized the land use planning process to express the owner's use needs and management desires; and those desires have been reviewed considering utmost in this decision that the Umatilla Indian Reservation has been retained as a place for members of the CTUIR to live, develop an economy, and sustain their Tribal culture;
  - c) the Tribes have been able to manage the growth on the subject property utilizing the Tribes regulatory authority and PUD standards on the Reservation; and
  - d) since a cultural resources survey and report has been completed for the subject property, and the requirements will be followed, the LPPC is assured that the Tribes' Cultural Resources will be preserved and protected for future generations.
5. The proposed Planned Unit Development complies with the purpose of the Land Development Code because the proposal meets the applicable purpose, intent, and development standards of the PUD process; and the use will be consistent with the purpose of the zone.

DECISION OPTIONS:

In acting on this request, the Land Protection Planning Commission must choose one of the following decision options:

- 1. Approve the PUD request with the conditions as recommended;
- 2. Approve the PUD request with changes to the recommended conditions;
- 3. Deny the PUD request;
- 4. Recess the hearing until a specified time, date, and place; pending further testimony or information;



5. Table the decision until a subsequent Land Protection Planning Commission meeting.

STAFF RECOMMENDATION:

Considering the preceding facts, findings and conclusions, staff recommends that the Planned Unit Development Application, #PUD-22-001, could be **APPROVED** subject to the following conditions:

Prior to submittal of the final PUD Tentative Plan and Subdivision Plat:

1. An approved fire department turnaround shall be shown on the primary access road.
2. For any lots fronting on Mustang Lane, east-west easements from the main access easement shall be shown on the plat.
3. The applicants shall develop and provide to the Tribal Planning Office a finalized mutual agreement of owners addressing financing, construction and maintenance of shared improvements.
4. A building setback of 40' shall be required adjacent to Mustang and Purchase Lanes.

**ATTACHMENT: ULTIMATE FACTS**

**I. Comprehensive Plan of the Confederated Tribes of the Umatilla Indian Reservation  
(2010, Updated 2018)**

**5.6. NATURAL RESOURCES**

**GOAL**

To protect, restore, and enhance the first foods – water, salmon, deer, cous, and huckleberry – for the perpetual cultural, economic, and sovereign benefit of the CTUIR.

**OBJECTIVES**

1. To ensure that quality ground and surface waters are available to satisfy CTUIR treaty rights, the needs of CTUIR members, and the citizens of the Umatilla Indian Reservation;
6. To protect, preserve, and perpetuate the CTUIR’s culturally significant places and resources for the benefit of current and future generations.

**5.9 HOUSING**

**GOAL**

To provide a variety of housing opportunities for Tribal members

**OBJECTIVES**

1. Expand the number of all types of housing units on the Reservation for Tribal members at all income levels.
2. Increase the number of buildable residential lots on the Reservation.
5. Support Tribal members seeking to build a home on their allotment through integrated advocacy and assistance in navigating the multiple permits and approvals needed.

**II. Land Development Code of the Umatilla Indian Reservation,  
As Amended through Resolution No. 21-013 (February 8, 2021)**

**SECTION 1.020 Purpose:**

The general purpose of this code is to protect the physical character of the reservation and CTUIR Off-Reservation Trust Lands; to insure, conserve and enhance vegetation, soils, air, water, fish and wildlife and other natural and cultural resources of the Reservation. Further, it is the intent of this code to regulate building and construction activities to insure that standards are met to protect above enumerated resources, as well as the public

health, safety and welfare of the residents of the Umatilla Indian Reservation, and to promote orderly development of the Umatilla Indian Reservation, and to implement the provisions of the Comprehensive Plan.

SECTION 3.140      Description and Purpose

The R-2, General Rural Zone is intended as a transition zone from agricultural uses to rural residential uses or small farms. These lands contain many developed and undeveloped lots of record of varying acreages and uses with inadequate flood plain management and lack of planned efficient utility systems.

SECTION 3.155      Uses Permitted:

(8)      Planned Unit Developments, subject to Chapter 7 of this code.

SECTION 7.100      Description and Purpose:

The purpose of this section is to provide an opportunity for land owners to create lots for homesites on reservation lands with fractionated heirships. Through this process, Indian families are encouraged to promote family P.U.D.s, wherein family bonds and culture are strengthened.

The P.U.D. is intended to encourage clustered housing development on allotments and trust properties that are sufficiently large enough to allow comprehensive site planning for individual allottees, their extended families, the tribal housing authority and for individuals wishing to plan estates; and make possible greater variety and diversification in the relationship between buildings and open spaces. Because of land ownership and management problems associated with Federal Government management and control of trust lands and fractionated heirships, flexibility is needed to plan for many trust allotments or otherwise attain the purpose, policy, goals and objectives of the Umatilla Tribal Comprehensive Plan.

It is not intended that the P.U.D. be utilized as a tool for subdividing or partitioning lands for sale on the real estate market. While it is recognized that lands will, from time to time, be traded or sold, the primary function of the P.U.D. on the Umatilla Indian Reservation shall be to facilitate the basis for which the Umatilla Indian Reservation was created: to provide a homeland and homes for members of the Confederated Tribes of the Umatilla Indian Reservation.

SECTION 7.200      Types of Planned Unit Developments:

- 1) P.U.D. partition - Creates three (3) or less housing development lots. Sketch plan review and approval is administrative. Final Plat approval is administrative in accordance with the Tentative Plan Order of the Land Protection Planning Commission.
- 2) P.U.D. subdivision - Creates four (4) or more housing development lots. Sketch plan review and approval is administrative. Tentative Plan Hearing and Final Plat are both subject to scrutiny and approval of the Natural Resources Commission.

SECTION 7.300      Approvals Required:

- 1) Sketch Plan - The Tribal Planning Office shall review the Sketch Plan and identify required changes in the plan. Approval of a P.U.D. Sketch Plan request allows the applicant to submit a P.U.D. Tentative Plan.
- 2) Tentative Plan - The Tentative Plan for P.U.D. partitions and subdivisions shall be reviewed by the Land Protection Planning Commission at a public hearing and a decision made in the form of an Order from the Commission. Approval of a P.U.D. Tentative Plan request allows the applicant to submit a P.U.D. Final Plat.
- 3) Final Plat -
  - a. The Final Plat for a P.U.D. partition requires final review and approval by the Tribal Planning Office. Approval will be granted after the Planning Manager is satisfied that all conditions and requirements, as set forth in the Land Protection Planning Commission Order, have been met.
  - b. The Final Plat for a P.U.D. subdivision requires final review and approval of the Land Protection Planning Commission. Approval will be granted after the Commission is satisfied that all conditions and requirements, as set forth in the Land Protection Planning Commission Order, have been met, and that no new revisions are necessary.

SECTION 7.350      Approval Criteria:

- 1) P.U.D.s are encouraged to provide clustered housing and shared services to the maximum degree possible. They shall provide common open spaces, common areas, and shared facilities. Particular attention must be given to the arrangement, location and width of streets, density, open space, landscaping, relation to topography, water supply, sewage disposal, drainage, lot sizes and relationship to adjoining lands and requirements of the Comprehensive Plan.

- 2) P.U.D. lots intended for building purposes will not result in construction within a flood hazard subdistrict or other area subject to flooding. All P.U.D. lots shall have adequate building space.
- 3) P.U.D. lots along perennial, intermittent and ephemeral streams are encouraged to provide a suitable buffer of open space, along each side of the stream, which is available for the recreational and cultural use of all residents of the P.U.D.
- 4) When access to the Mission Community Water and Sewer system is not available, community water and/or sewer systems shall be established unless it can be demonstrated that such a system would not be in the interest of public health or is otherwise not practical. For the purpose of this section, community water or sewer systems are those systems serving more than one household. Operation and maintenance of said systems may be contracted to the CTUIR, at its discretion, or otherwise provided for by covenants approved by the P.U.D.
- 5) The P.U.D. should establish a residents association, agreements, or covenants to share the cost of management for maintaining open areas, common areas, and shared services when needed.

SECTION 7.400      Permitted Uses:

The principle use in a P.U.D. shall be residential although other uses permitted in the zone may also be included.

SECTION 7.500      Development Standards:

- 1) Because of the unique nature of the need and purpose of Planned Unit Developments on the Umatilla Indian Reservation, the following standards shall be met to be eligible to apply for a P.U.D:
  - (a) All contiguous lands under the same ownership shall constitute a single parcel for the purposes of creating a P.U.D.
  - (b) Contiguous land ownerships, as of the date of adoption of this amendment, (June 5, 1996), are considered a single lot for P.U.D. purposes. Lands which remain under contiguous ownership, regardless of current owner(s), are eligible for a P.U.D. if P.U.D.s are permitted for the zone.
  - (c) Contiguous parcels which have been altered under circumstances beyond the control of the parcel owner(s), such as condemnation for a public use, remain eligible for a P.U.D.
- 2) The minimum area requirements for developing a P.U.D. are as follows:



(a) Eighteen (18) acres in the AG-1, Exclusive Farm Use Zone, AG-2, Farm Pasture Zone, and R-2, General Rural Zone, for the parent parcel (lot of record) in order to create a P.U.D. partition.

(b) Thirty six (36) acres in the AG-1, Exclusive Farm Use Zone, AG-2, Farm Pasture Zone, and R-2, General Rural Zone for the parent parcel (lot of record) in order to create a P.U.D. subdivision.

(c) In other zones wherein the P.U.D. is a permitted or a conditional use, the minimum lot size for the parent parcel shall be the minimum lot size for the zone. Non-conforming lots of record are not eligible for a P.U.D. except as otherwise stated for a zone; such as the AG-3 zone.

3) The P.U.D. application and Final Plat shall be signed by all owners of the subject property, or their lawful representative..

4) The P.U.D. shall comply with standards of the Subdivision Manual or other conditions and standards attached to the approval.

5) A cultural resources survey and report shall be completed prior to approval of the Final Plat. Cultural resources surveys and reports shall be conducted by the C.T.U.I.R. Cultural Resources Program of the Department of Natural Resources, or an authorized contractor, at the expense of the applicant. The location of significant cultural/archaeological resources shall be cause for Land Protection Planning Commission review and reconsideration of a Tentative Plan approval.

6) The P.U.D. Final Plat shall, at a minimum, comply with the standards for recording at the appropriate recording office.

SECTION 7.600      Application Procedures:

The following procedures shall be followed when a P.U.D. proposal is submitted:

1) Application for a P.U.D. shall be made upon forms provided by the Tribal Planning Office. Missing information constitutes an incomplete application and the request will not be processed until all necessary information is received.

2) The applicant shall be informed of the Land Development Code sections regarding P.U.D.s and of the applicable portions of the Subdivision Manual of the Confederated Tribes of the Umatilla Indian Reservation.

3) Be accompanied by the appropriate fee, based on the fee schedule adopted by the Board of Trustees.

4) The applicant shall include a list of all lands which the applicant proposes to develop. Trust owners, for the purposes of estate planning, are encouraged to review all of the properties they own and may also request technical assistance from the Tribal Planning Office, Housing Authority, and the Bureau of Indian Affairs, for land use and development strategies.

SECTION 7.620      Sketch Plan:

- 1) The applicant shall submit a sketch plan of the proposed development to the Tribal Planning Office.
  - a. On Trust or Indian owned lands, one copy shall be referred to Indian Health Services or tribal environmental health office (as current protocol dictates), by the Tribal Planning Office, to ascertain the appropriate type of water and septic sanitation system necessary for development of the site and whether the proposed development can be accommodated.
  - b. On fee lands, the applicant shall obtain the services of a licensed septic system installer, inspector, or engineer, to assess the appropriate type of septic sanitation system necessary to meet the Sanitation Code as provided by the State of Oregon Department of Environmental Quality. The assessment shall be submitted in writing to the Tribal Planning Office. The Planning Manager shall have the discretionary authority to determine if the party performing the assessment is qualified.
- 2) After the Tribal Planning Office reviews the Sketch Plan, it shall advise the applicant of specific changes or additions, if any, it has determined to be necessary. Prior to the Tribal Planning Office final review and decision, the tribal environmental health office, licensed septic system installer, inspector, or engineer, shall submit findings and recommendations to the Tribal Planning Office concerning the septic system location and design for the proposed development. This approval process authorizes the applicant to submit a tentative plan.

SECTION 7.640      Tentative Plan:

- 1) Upon approval of the Sketch Plan, the applicant may file an application for approval of a Tentative Plan. The application shall:
  - a. Be accompanied by a minimum of 3 copies of the tentative plan.
  - b. Be on forms available from the Tribal Planning Office.

2) The Planning Manager shall schedule a public hearing before the appropriate hearings body. Notices shall be done in accordance with Administrative Provisions, Chapter 13 of the Land Development Code.

3) Approval of a Tentative Plan shall be effective for one year, during which time the Final Plat shall be submitted for approval.

SECTION 7.650      Final Plat:

Upon approval of the Tentative Plan, and any conditions thereto specified for change, inclusion, or omission from the P.U.D. request, the applicant may file a Final Plat with the Tribal Planning Office. Filing shall include:

- a. Three (3) copies of the Final Plat with the signatures of all landowners, witnessed or notarized as required by the appropriate recording office.
- b. Three (3) copies of all supporting legal documents required for P.U.D. approval. These may include development bonds, homeowner association agreements, etc.

SECTION 7.700      Recording the Final Plat:

- 1) The applicant shall provide evidence, to the Tribal Planning Office, that the Final Plat has been recorded at the appropriate recording office, within one year of the date of approval of the Final Plat. No P.U.D. Final Plat is complete until it has been recorded.
- 2) Trust lands shall be recorded, by the applicant, with Real Property Management of the Bureau of Indian Affairs and shall comply with provisions of Title 25, Indian Code of Federal Regulations.
- 3) Fee Simple or deeded lands shall be recorded, by the applicant, at the Umatilla County Recorder's Office.

SECTION 7.800      Appeals:

- 1) Appeal of an administrative decision, regarding P.U.D.s, shall be to the Land Protection Planning Commission.
- 2) Appeal of a decision by the hearings body, regarding P.U.D.s, shall be to Tribal Court.

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION  
Tribal Planning Office  
46411 Timine Way, Pendleton, OR, 97801

PLANNED UNIT DEVELOPMENT APPLICATION

FEE: \$150.00 Tentative Plan PLEASE PRINT OR TYPE

APPLICANT'S NAME: Kathleen Elliott  
ADDRESS 1317 SW 12th Court, Pendleton, OR 97801 PHONE: 541.31C - 7647  
LOT OWNER'S NAME: Kathleen Elliott  
ADDRESS 1317 SW 12th Court, Pendleton, OR 97801 PHONE: 541.31C - 7647

PROPERTY DESCRIPTION: Attached TSR Section 8 Township 002.0 Range 033.0  
Tax Lot  Allotment  Present Zone: \_\_\_\_\_ Total Acreage: 39.47

LEGAL ACCESS: \_\_\_\_\_

DESCRIPTION DATA:  
NAME OF PUD: Maudie Lane  
GROSS AREA OF PUD IN ACRES: 39.47  
NUMBER OF LOTS: 11 **Note - 13 lots total are shown on sketch plan**  
MINIMUM & MAXIMUM LOT SIZE: 1.73 to 6 + acres  
EXISTING LAND USE: Residential and Grazing (?)

NAME, ADDRESS AND TELEPHONE NUMBER OF EACH PERSON OR FIRM PROVIDING PROFESSIONAL SERVICES AND INFORMATION TO THE APPLICANT:

LAND SURVEYOR: PBS Survey Engineering & Environmental (Greg Flowers)  
5 Colville St, Ste 200, Walla Walla, WA 99362, 509.956.3026  
AGENT, ETC.: \_\_\_\_\_  
ATTORNEY: \_\_\_\_\_

I understand that any false statements made on this application may cause subsequent approval by the Natural resources Commission to be null and void. I hereby certify that I understand that by signing this permit application, I am giving the CTUIR Tribal Planning Office the authorization to conduct any site inspections necessary in reviewing this application.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED!

DATE: March 4, 2022 APPLICANT: Kathleen Elliott  
AGENT: Shane French

I AM THE (CIRCLE ONE): OWNER OWNER'S AUTHORIZED REPRESENTATIVE. [IF AUTHORIZED REPRESENTATIVE, ATTACH LETTER(S) SIGNED BY ALL OWNER(S)]

Documentation of signatures of all undivided interest holders is on file in the Tribal Planning Office.





Road not to go through to adjacent property; Fire Dept. turnaround required.

*[Handwritten signature]* 9/1/2022

		CLIENT: MARK FRENCH	PROJECT NO.: 67344.000
5 N Colville St, Ste 200 Walla Walla, WA 99362 509.956.3026 pbsusa.com		SURVEYOR: GREG E. FLOWERS	DATE: 11/02/2021
CALC BY: GEF	DRAWN BY: GEF	SCALE: " = "	
SECTION: 8	TOWNSHIP: 2 NORTH	RANGE: 33 EAST	
CITY:	COUNTY: UMATILLA	SHEET 1 OF 1	

**CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION**  
*Tribal Planning Office*

**TENTATIVE PLAN – PLANNED UNIT DEVELOPMENT  
APPLICATION SUPPLEMENTAL SHEET**

The following information is required to be filed with the Confederated Tribes of the Umatilla Indian Reservation Department of Natural Resources. This form must be certified for completeness and submitted together with the fee and prints.

INCOMPLETE FILINGS WILL NOT BE ACCEPTED.

Filing Fee:       \$150.00

I.       Minimum Lot Size Requirements:

- PUD Partition- Minimum lot size of eighteen (18) acres. Creates three (3) or less housing development lots.
- PUD Subdivision- Minimum lot size of thirty six (36) acres. Creates four (4) or more housing development lots.

II.       Sketch Plan: A sketch plan of a proposed PUD shall be drawn on a sheet of paper and approved by the Comprehensive Planning Manager before the application is filed.

II.       General Information Required

- Proposed name of the Planned Unit Development.
- Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant which will be used in connection with the PUD.
- Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.

III.       Tentative Plat: A tentative plat must be drawn by a surveyor and include the following information.

- Date of preparation, north point, scale and gross area of the proposed PUD.
- Appropriate identification of the drawing as a tentative plan for a PUD.
- Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
- Location, names and widths of existing and proposed, improved and unimproved streets and roads within and adjacent to the proposed PUD.
- Location of existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.
- Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads and any natural features such as rock outcroppings, marshes, wooded areas and natural hazards.
- Location and direction of water courses, and the location of areas subject to flooding and high water tables.

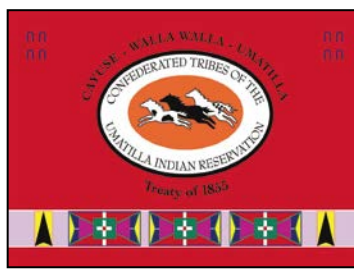
Exhibit 2  
Page 3 of 4

File #: PUD -22-001

**TRIBAL PLANNING OFFICE USE ONLY**

DATE FILED: March 4, 2022; Updated July 5 RECEIVED BY: Holly Anderson  
FEE PAID: \$150.00 RECEIPT NO.: 285681  
HEARING DATE: October 25, 2022

NOTES: The application was originally filed on March 4, 2022. It was determined  
that additional interest holder signatures were needed. In May it was  
determined that the application was complete enough to begin discussions of  
feasibility and process but that two additional fee interest holder signatures  
were needed. The additional signatures were received July 5, 2022.



## **PUBLIC HEARING NOTICE DISSEMINATION RECORD**

File #: PUD-22-001; Planned Unit Development request filed by Mark French (agent for multiple property owners) and Kathleen Elliott to divide Trust Allotment UM 70 into 13 housing lots.

Land Protection Planning Commission Public Hearing Date: October 25, 2022

Newspaper and Date Published; East Oregonian:      October 6, 2022  
CUJ:      October 15, 2022

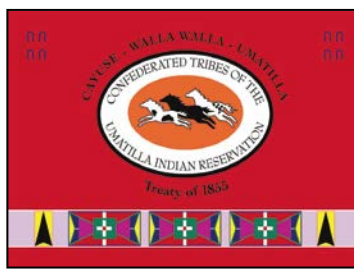
Posted in six public Places;

1. Mission Market:      October 14, 2022
2. Yellowhawk Tribal Health Clinic:      October 14, 2022
3. BIA Umatilla Agency:      October 14, 2022
4. CTUIR Housing Department:      October 14, 2022
5. Nixyáawii Governance Center      October 14, 2022
6. CTUIR web site: <https://ctuir.org/events/lppc-public-hearing-pud-22-001/>

Attached are copies of the public hearing notices that were posted, published and mailed to all interested parties, subject property owners and adjacent property owners, as required by Land Development Code Section 13.020.

Exhibit 3  
Page 1 of 9  
PUD-22-001





## **PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN that the Land Protection Planning Commission (LPPC) of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) will hold the following public hearing.

**Planned Unit Development File #PUD-22-001** – Applicants Mark French (appointed agent for multiple property owners) and Kathleen Elliott seek approval from the LPPC for a Planned Unit Development of Trust Allotment UM 70 to divide the property into 13 housing lots. The subject property is 34.75 acres, located in the NE quarter of Section 8 Township 2N Range 33 E, shown as lot 2N3308-01800 on the County Assessor's Map. The property is zoned R-2, General Rural. Planned Unit Developments are subject to the CTUIR Land Development Code Chapters 7 and 13.

A hearing will be held on **Tuesday, October 25, 2022 at 9:00 a.m.** Individuals may attend the meeting in the Walúula and Wanaqit conference rooms at the Nixyáawii Governance Center, virtually, or by phone. Information on joining the meeting online is available at <https://ctuir.org/events/lppc-public-hearing-pud-22-001/>. To participate in the hearing by phone call 321-754-9526; the conference ID will be 609 750 398#.

Staff reports and other materials pertaining to the hearing are available for review at the link above, or can be requested from the Tribal Planning Office by calling 541-276-3099.

The public is entitled and encouraged to participate in the hearing and to submit oral or written testimony regarding the request. Written comments must be received at the Tribal Planning Office or via email to [hollyanderson@ctuir.org](mailto:hollyanderson@ctuir.org) by October 24 at 1 pm or may be submitted in person at the hearing. To obtain further information, contact the Tribal Planning Office at, 46411 Timine Way, Pendleton, Oregon, 97801 or call (541) 429-7517.

## PUBLIC HEARING NOTICE

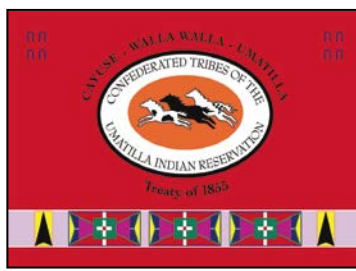
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October 14, 2022

## PUBLIC HEARING NOTICE

Dear Property Owner:

On October 25, 2022 the Land Protection Planning Commission of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) will hold a public hearing concerning a Planned Unit Development request as described below. You are receiving this notice because you are an owner of property located within 250 feet of the subject property (see map enclosed). According to Section 13.020 of the CTUIR Land Development Code, all owners of property located within 250 feet of the property which is the subject of a public hearing shall be given written notice by mail at least ten days prior to a public hearing.

**Planned Unit Development File #PUD-22-001** – Applicants Mark French (appointed agent for multiple property owners) and Kathleen Elliott seek approval from the LPPC for a Planned Unit Development of Trust Allotment UM 70 to divide the property into 13 housing lots. The subject property is 34.75 acres, located in the NE quarter of Section 8 Township 2N Range 33 E, shown as lot 2N3308-01800 on the County Assessor's Map. The property is zoned R-2, General Rural. Planned Unit Developments are subject to the CTUIR Land Development Code Chapters 7 and 13.

A hearing will be held on **Tuesday, October 25, 2022 at 9:00 a.m.** Individuals may attend the meeting in the Walúula and Wanaqit conference rooms at the Nixyáawii Governance Center, virtually, or by phone. Information on joining the meeting online is available at <https://ctuir.org/events/lppc-public-hearing-pud-22-001/>. To participate in the hearing by phone call 321-754-9526; the conference ID will be 609 750 398#. Staff reports and other materials pertaining to the hearing are available for review at the link above, or can be requested from the Tribal Planning Office by calling 541-276-3099.

Additionally, the public is entitled and encouraged to participate in the hearing and to submit testimony regarding the request. Please submit comments to the Tribal Planning Office by 1:00 p.m. October 24, 2022 either as a hard copy or by e-mailing them to [tpo@ctuir.org](mailto:tpo@ctuir.org). You may also submit testimony in person at the meeting.

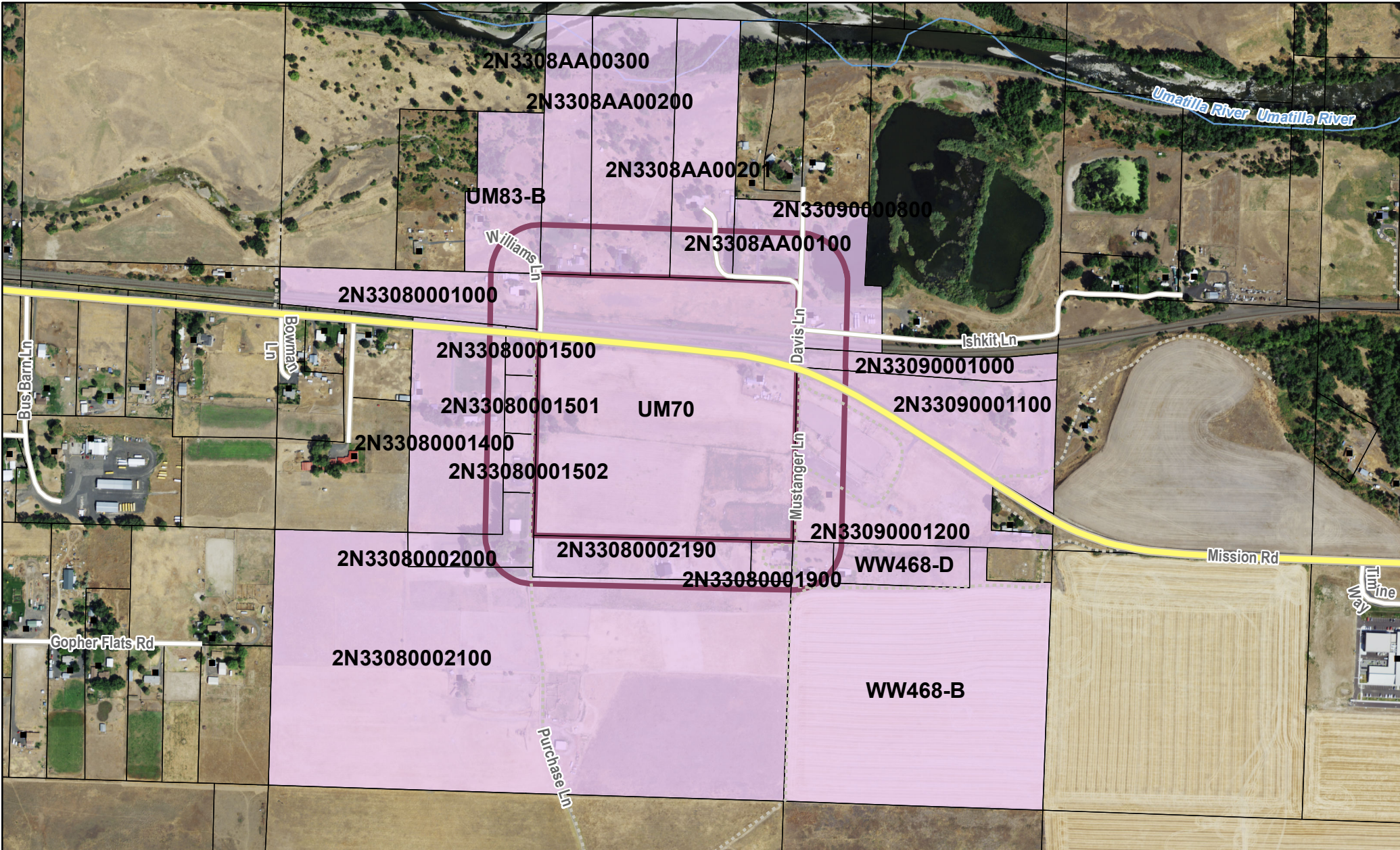
To obtain further information or if you have questions regarding the hearing process or the proposed conditional use, please contact the Tribal Planning Office at 46411 Timíne Way, Pendleton, OR 97801 or call (541) 276-3099.

Sincerely,

Holly Anderson  
Associate Planner

Exhibit 3  
Page 4 of 9  
PUD-22-001





**Public Hearing Notice Mailing**



**Legend**

- 250' buffer around subject property
- Parcels within 250' of subject property

# PUD-22-001 Public Notice Recipients

## Trust & Allotment Recipients

Ownership	Trust/Allotment
A	UM70
A	WW468-D
A	WW468-B
A	UM83-B

## Taxlot Recipients

Ownership	Taxlot	Owner
F	2N33080002190	James & Gita Webster
F	2N33080002100	Multiple, incl. Shannon Van Dorn
F	2N33080002000	Kevin Michel & Tracy Bosen
F	2N33080001900	Kevin Michel & Tracy Bosen
F	2N33080001502	John McElroy (est.) & Kathi McElroy
F	2N33080001501	John McElroy (est.) & Kathi McElroy
F	2N33080001500	John McElroy (est.) & Kathi McElroy
F	2N33080001400	Tracy Bosen, et. al
F	2N33080001000	Jack and Serita Humbert
F	2N3308AA00300	Nick & Christina Nelson
F	2N3308AA00201	Sara & Cyrus Haskett
F	2N3308AA00200	John & Sharon Simons
F	2N3308AA00100	Sally & Jim Christensen
F	2N33090000800	PAI Enterprises
F	2N33090001000	Jared & Trish McMichael
F	2N33090001200	Mustangers
TF	2N33090001100	CTUIR

## Agency Recipients

Contact	Agency	Address
Director	Umatilla County Public Works Department	3920 Westgate Pendleton, OR 97801
Operations Manager	Pacific Power	P.O. Box 220 Pendleton, OR 97801
Superintendent	BIA	via e-mail



**From:** [Holly Anderson](#)  
**To:** [Kelly Warren](#); [Robin Harris](#); [James Hall](#); [Carey Miller](#); [Justin Northern](#); [Kris Powaukee](#); [Alaina Mildenberger \(AlainaMildenberger@ctuir.org\)](#); [Sandra Alexander](#); [Patty Perry](#); [JD Tovey](#); [Dani Schulte](#); [Michael Jackson](#); [Leslie LeCornu \(BIA\)](#); [Stephanie Quaempts \(BIA\)](#); [Koko Hufford](#); [Lora Elliott](#)  
**Subject:** Pre-application Meeting - PUD of UM70  
**Date:** Monday, May 9, 2022 11:55:00 AM  
**Attachments:** [PUD APPLICATION Updated.pdf](#)  
[Sketch Plan.pdf](#)  
[Aerial UM70.pdf](#)  
[PUD PROCESS.PDF](#)

---

The owners of Allotment UM70 have submitted a PUD sketch plan for the creation of 12 to 15 lots on UM70. The property is approximately 35 acres in size; the majority of the land is located on the south side of Mission Road between Mustanger Lane and Purchase Lane; a smaller portion of the land is located on the north side of Mission Road.

I will be sending out an invite for a pre-application meeting for Tribal Staff Review Committee input into the feasibility of the design including:

- Road Access
- Wells
- Sewer/Septic
- Fire Dept requirements
- PUD Process

I will be scheduling the meeting for sometime next week, 5/17 – 5/19. Please update your calendars.

The attached materials include:

- PUD Application
- Sketch plan (2 pages -- Surveyed sketch plan and updated hand-drawn sketch plan)
- GIS Aerial with overlays
- Summary of PUD Process

Thanks!

***Holly Anderson, Associate Planner***  
*Tribal Planning Office*  
*Confederated Tribes of the Umatilla Indian Reservation*  
*46411 Timine Way; Pendleton, OR 97801*  
*541.429.7517 Direct Line*  
*541.276.3099 Department Line*

## Holly Anderson

---

**From:** Dani Schulte  
**Sent:** Monday, May 9, 2022 1:27 PM  
**To:** Holly Anderson; Lora Elliott  
**Subject:** RE: Pre-application Meeting - PUD of UM70

Here's my initial notes:

1. They will need to collect the road access on the north side of the railroad to either Williams Ln or Davis Ln for rail crossing. In a preliminary look at our and Umatilla County's roads layers, I don't see any details on the ownership of either Williams or Davis, so I assume they're private lanes. The UM70 owners will need to negotiate easements with the fee property owners for either access.
  - a. Just a note on that, the GIS map shows that Williams Lane might encroach on UM70 a little bit, including where it crosses the railroad tracks. They'd need to have that included in the survey to be sure, but it might mean that if they access via Williams they wouldn't need an easement agreement over the adjacent fee property.
2. Mustang Lane is private, so will also need an access agreement for the eastern lots on the south side of Mission Road if they intend to take their access from Mustang.
3. Purchase Lane is public so the west side lots have access.
4. They could resolve the Mustang access issue by moving the new private lane from between the center lots and the western lots to between the center lots and the eastern lots, so that it would approach Mission Road adjacent to the existing home.
5. Mission Road will not need a road approach permit, since it's owned by CTUIR at this point. That said, although we don't have any enforceable road standards to govern where they can put their new lane, we can give them best practices advice. I would recommend that if they take the suggestion in my bullet point #4 above, that the existing home also use the new lane to access Mission Road to minimize chance of crashes from turning onto Mission right next to each other.
6. When drafting the easement agreement for Williams, Davis, and the new lane, they should consider documenting how maintenance responsibility will be shared among the users.
7. They're outside the Water-Sewer Service Area, so they will probably need to have a minimum lot size of 2 acres each in order to have room for a well, septic tank, drain field, and a back-up drain field for **when** (not if) the first one fails. Seems like they could get there fairly easily by moving the interior property lines west and taking some acreage from the larger lots, but if they're not willing to do that they'd need to reduce the number of lots.
8. This is absolutely not a "condition of approval" or anything regulatory, but it's just worth informing them that CTUIR is interested in constructing a trail from Mission to Pendleton, and if they'd like to participate in that process, or just plan the Mission Road frontage around it, they can contact me. There will be no Eminent Domain takings for that trail, and participation is completely voluntary. If they're not interested, we'd simply find another place to put the trail.

I'll be pretty busy next week so I figured I'd send my comments ahead in case I can't make it to the TSRC.

### Dani Schulte, AICP Transportation Planner

Tribal Planning Office  
Confederated Tribes of the Umatilla Indian Reservation  
46411 Timine Way; Pendleton, OR 97801  
541.429.7525 Direct Line  
541.276.3099 Department Line

Exhibit 3  
Page 8 of 9  
PUD-22-001

from your system. If you are not an authorized recipient for this information, then you are prohibited from any review, dissemination, forwarding or copying of this e-mail and its attachments. Thank you.

---

**From:** Holly Anderson

**Sent:** Monday, May 9, 2022 11:55 AM

**To:** Kelly Warren <KellyWarren@ctuir.org>; Robin Harris <RobinHarris@ctuir.org>; James Hall <JamesHall@ctuir.org>; Carey Miller <CareyMiller@ctuir.org>; Justin Northern <JustinNorthern@ctuir.org>; Kris Powaukee <KrisPowaukee@ctuir.org>; Alaina Mildenberger <AlainaMildenberger@ctuir.org>; Sandra Alexander <SandraAlexander@ctuir.org>; Patty Perry <PattyPerry@ctuir.org>; JD Tovey <JDTovey@ctuir.org>; Dani Schulte <DaniSchulte@ctuir.org>; Michael Jackson <Michael.Jackson@bia.gov>; Leslie LeCornu (BIA) <Leslie.LeCornu@bia.gov>; Stephanie Quaempts (BIA) <Stephanie.Quaempts@bia.gov>; Koko Hufford <KokoHufford@ctuir.org>; Lora Elliott <LoraElliott@ctuir.org>

**Subject:** Pre-application Meeting - PUD of UM70

The owners of Allotment UM70 have submitted a PUD sketch plan for the creation of 12 to 15 lots on UM70. The property is approximately 35 acres in size; the majority of the land is located on the south side of Mission Road between Mustang Lane and Purchase Lane; a smaller portion of the land is located on the north side of Mission Road.

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The attached materials include:

- PUD Application
- Sketch plan (2 pages -- Surveyed sketch plan and updated hand-drawn sketch plan)
- GIS Aerial with overlays
- Summary of PUD Process

Thanks!

**Holly Anderson, Associate Planner**

*Tribal Planning Office*

*Confederated Tribes of the Umatilla Indian Reservation*

*46411 Timine Way; Pendleton, OR 97801*

*541.429.7517 Direct Line*

*541.276.3099 Department Line*

---

**From:** Kathleen Elliott [<mailto:kopeterson00@gmail.com>]

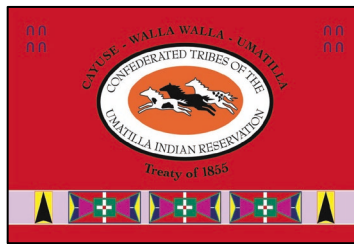
**Sent:** Thursday, March 3, 2022 7:58 AM

**To:** Holly Anderson <HollyAnderson@ctuir.org>; Mark French <mrayfrench@outlook.com>; Iosefa Taula <IosefaTaula@ctuir.org>

**Subject:** Authority of Appointment

Exhibit 3  
Page 9 of 9  
PUD-22-001





TO: Holly Anderson, Associate Planner-Tribal Planning Office  
FROM: Kelly Warren, Water Code Administrator-Water Resources Program  
RE: Application PUD-22-001 KKW  
DATE: October 24, 2022

The DNR-Water Resources Program (WRP) has reviewed the application submitted for PUD-22-001 with regards to permitting water use for the proposed development of UM-70. The application was reviewed for:

1. water availability; and
2. pumping rate at full development.

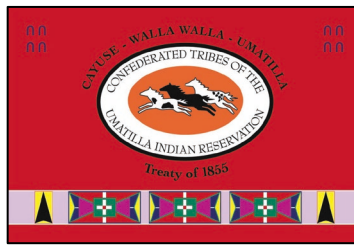
Additional analysis was conducted to determine a recommended allowable pumping rate which would minimize interference (defined as aquifer drawdown, measured in feet). The WRP recommended drawdown limit for interference created by the impact of additional pumping well rate on existing wells is Ten (10) foot.

The project is located in the Mission Basin Water Management Region (MB-WMR). The applicants seek to develop 13 residential lots on UM-70. The Tribal Water Code allows up to Two (2) acre-feet and Ten (10) gallons per minute, per household for domestic use. Or a community well up to 200 gallons per minute (gpm).

There are two existing groundwater wells on the property. The two existing wells were constructed in the 1970's and did not require a Tribal permit due to their pre-Water Code construction. WP-595 a domestic well development permit, was issued to service a new single family home on UM-70 in September 2022. WP-595 authorizes the development of a domestic well to use Two (2) acre-feet of groundwater at Ten (10) gpm.



Fig. 1 UM-70 showing proposed location of WP-595 development well, eleven additional wells (red circles), modeled community well (green circle), Mustang well (blue circle) and existing wells (blue triangles).



The MB-WMR is an area of known well-to-well groundwater-level interference. Well interference is defined as “the additive drawdown effect from two or more wells pumping from the same aquifer in the same vicinity” (Figure 2).

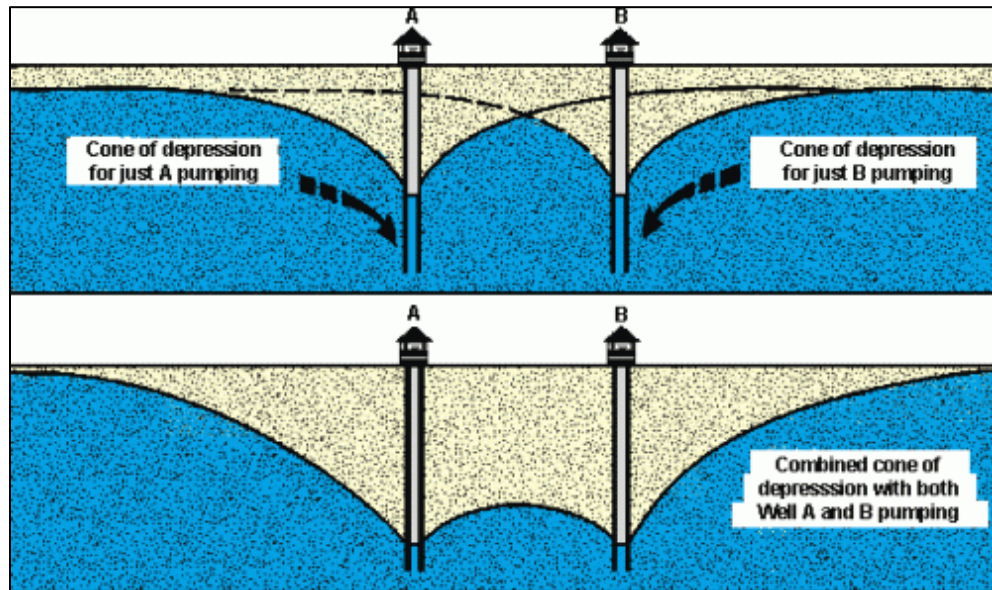


Figure 2 Example of mutual interference between two wells. The “cone of depression” is where the groundwater level is lowered, centered by a well or wells. Source: Oregon State University

In the 1990’s the Tribal Water Commission acted to mitigate this interference by amending the Tribal Water Code to limit rates of groundwater withdrawal for specific beneficial water uses in the MB-WMR. Additional limits were placed on the annual quantity and rate of withdrawal for permitted beneficial uses of basalt groundwater for irrigation, stock watering, general farm use, public, commercial and industrial uses within the Mission Basin Water Management Region. Community and domestic quantity and rate limits remained consistent with all other management regions.

The WRP conducted mathematical groundwater modeling and analysis using a Theis Formula spreadsheet to analyze potential well-to-well interference attributable to development of UM-70. The development was first schematically analyzed as nine individual domestic wells equally spaced on nine equal lots dividing an idealized square 40-acre parcel representing UM-70. In our analysis we sought to determine how the new wells would impact each other. The result of the analysis was that eight of the wells, along with the subject well, would cumulatively create a 60-foot drawdown on the ninth, or subject well.

Additional analysis was conducted by modeling a community well located near the center of that portion of UM-70 south of Mission Road. The community well was assumed to be drilled into the Wanapum formation, the groundwater source of the neighboring wells. The analysis sought to answer the question: “What is the impact of full development of UM-70 on the nearest existing neighboring wells?”

By utilizing information obtained from past well pumping tests and a rate of 120 gallons-per-minute for the community well, the results were that the community well would draw down water levels in the closest neighboring wells by an additional 60 feet. The sum of the drawdown of the neighboring well itself, a seasonal drawdown of 50-feet, plus the calculated drawdown impact from the community well exceeded the depth of



the neighboring wells in five of the six cases. Neighboring well depths are shown in Figure 3 on the following page.

Our analysis demonstrates that full development of UM-70 would cause interference to neighboring wells due to excessive drawdown of water levels.

The community well analysis was adjusted to determine the level of UM-70 development that could occur without impairing existing wells. A 50 gpm community well was modeled that resulted in cumulative drawdowns greater than well depth in one nearby well and to depths narrowly above the level of the assumed installed pump depth in the remaining five wells. A 10-gpm community well was modeled resulting in an acceptable 10-ft water level drawdown in all six of the nearby wells attributable to the new well.

Water is determined to be available if groundwater levels are not declining on an annual basis. Figure 4 shows a graphical representation of monthly water level measurements in Mission Basin Monitoring Wells. The graphs show that water levels recover annually in the monitoring wells following seasonal drawdown.

### Recommendations

DNR Water Resources Program recommends:

- 1) Additional groundwater analysis should be conducted in a step-wise fashion as the UM-70 community is developed. The area of analysis should be increased at a minimum to include all wells within a one quarter mile radius of UM-70. Then increased to include wells in the east half of Section 8 and the west half of Section 9, Township 2 North, Range 33 East (see Figure 5 map, last page). The impact of developing one or more wells into the Grande Ronde basalt formation that underlies the area on neighboring wells sharing that water source should also be analyzed. We propose to conduct this additional analysis on an ongoing basis with expectation of completion in 2025.
- 2) Utilizing Ten (10) foot of allowable well interference (aquifer drawdown) as a protective measure that should prevent the need for future restrictive actions; and that;
- 3) A cumulative pumping rate not to exceed 10-gpm should be the development limit pending the outcome of this additional research and analysis of the local groundwater resources.



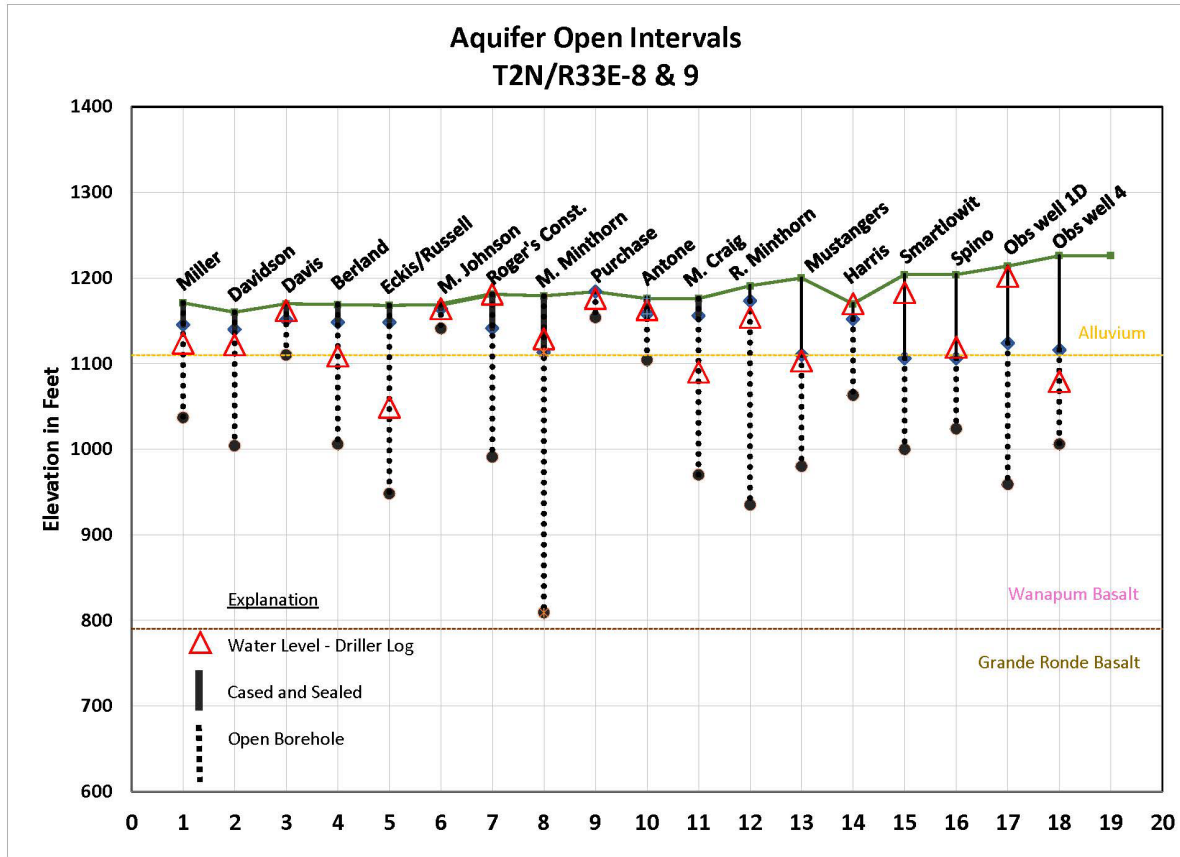
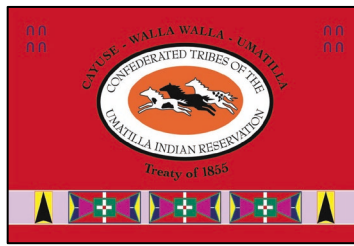
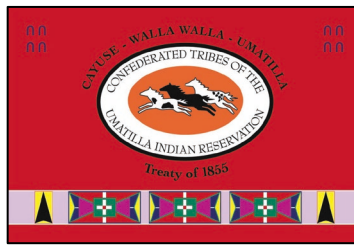


Figure 3 Transects of wells within one-quarter mile radius of UM-70. Image shows depth of well boring and casing and the groundwater level at the time the well was drilled. Wells were constructed between 1952 and 2002. Included in the image are Observation Wells 1D and 4 located one-half to one mile east of UM-70.



Monthly Groundwater Levels in Wells - Mission Water Management Region

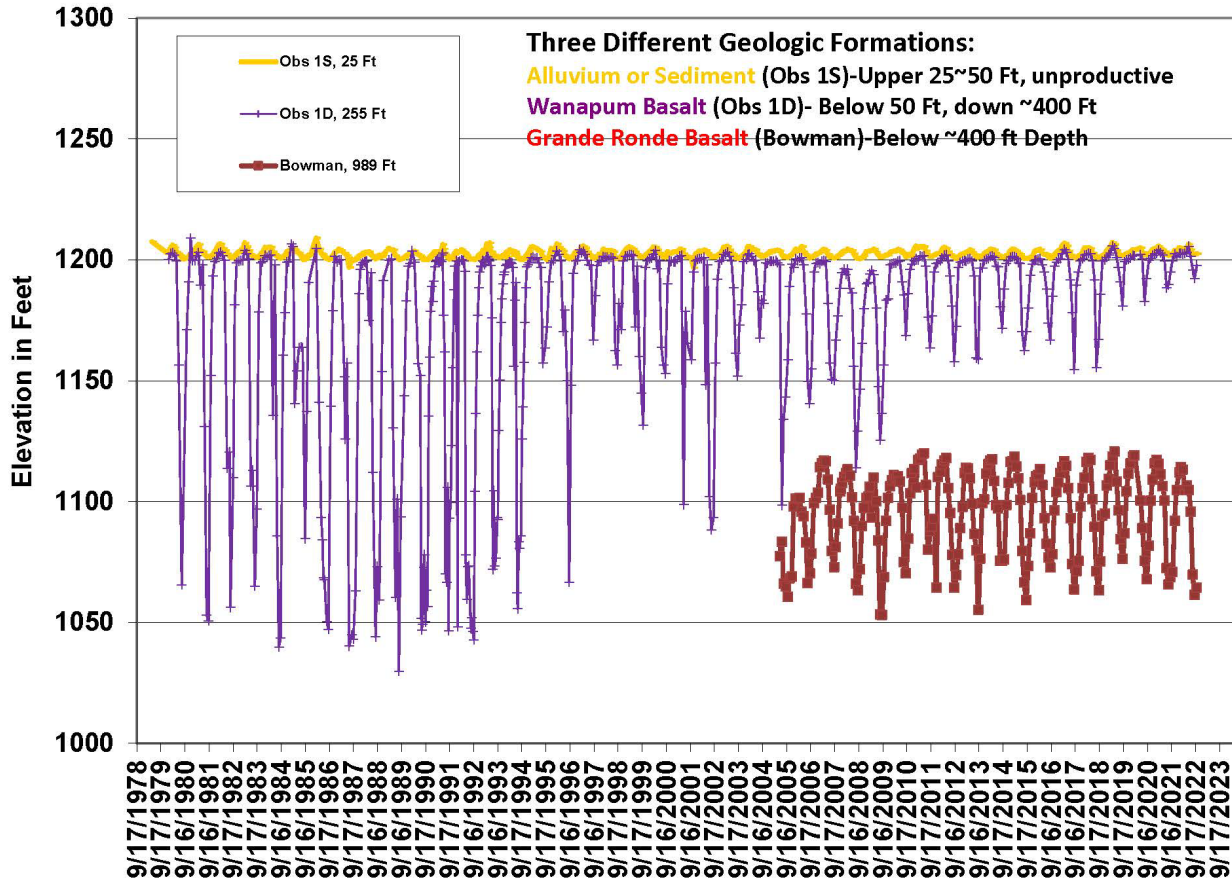


Figure 4. Monthly groundwater level measurements in Mission Basin Observation Wells. The graphed water levels indicate water is available because groundwater levels recover on a seasonal basis (seasonal drawdown).

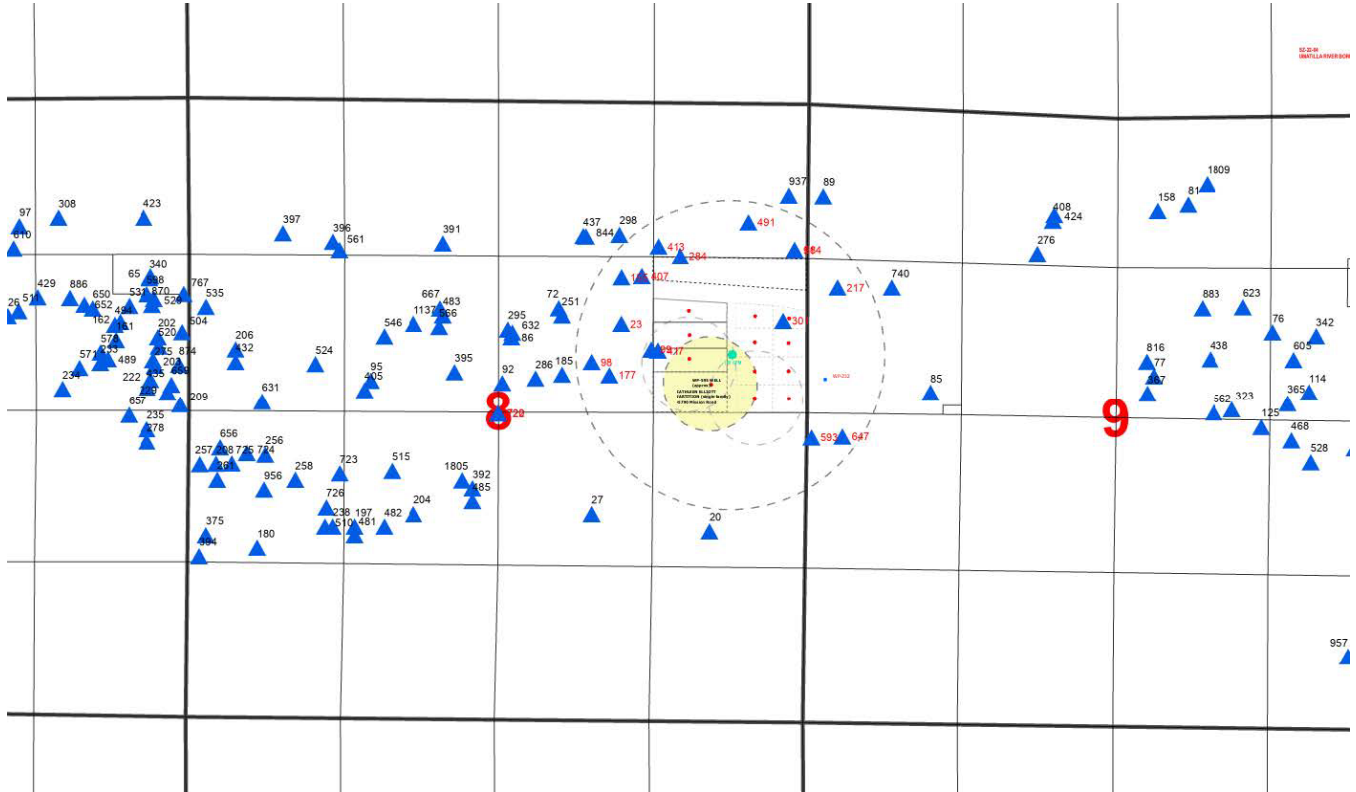
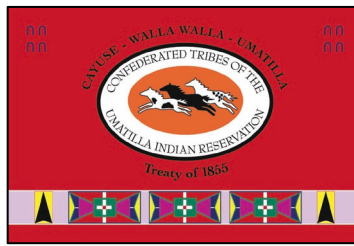


Figure 5: Proposed expanded study areas. (1) All wells within ¼ mile radius from center of UM-70 outlined by large dashed-line circle, well numbers in red. (2) East half of Section 8 and West half of Section 9. Wells are blue triangles labeled with well numbers. The yellow circle is a 440-foot radius circle centered on the proposed location of Water System Development Permit WP-595.

October 24, 2022

Confederated Tribes of the Umatilla Indian Reservation  
Tribal Planning Office  
46411 Timine Way  
Pendleton, OR 97801

**Re: Public Hearing Notice, Lot 2N3308-01800 on Mission Road ("Planned Unit Development")**

To Whom It May Concern:

We are the owners of the property located at 73561 Williams Lane (Lot 2N3308AA00300), which is our residence.

The Applicant seeks permission for the Planned Unit Development on property that abuts our residence and acreage. The Applicant's property is zoned R-2, General Rural, which to our knowledge requires 19 acres for each single-family residence. R-2 Zoning is subject to Section 7.200 of the CTUIR Land Development Code, which permits:

1. P.U.D. partition - Creates three (3) or less housing development lots. Sketch plan review and approval is administrative. Final Plat approval is administrative in accordance with the Tentative Plan Order of the Land Protection Planning Commission. (Requires 18 acres);
2. P.U.D. subdivision - Creates four (4) or more housing development lots. Sketch plan review and approval is administrative. Tentative Plan Hearing and Final Plat are both subject to scrutiny and approval of the Land Protection Planning Commission. (Requires 36 Acres).

Chapter 7.500 requires certain acreage (18 for partition and 36 for subdivision). Applicant's property, at 34.75 acres would qualify for a partition as it is over 18 acres, but not a subdivision which requires 36 acres. A partition creates three (3) or less housing development lots.

The proposed use by Applicant seeks approval for thirteen (13) separate housing lots, which is far outside the scope of R-2 zoning, even under Chapter 7 provisions for a P.U.D. partition or subdivision. The value of retaining R-2 zoning in the area provides opportunities for small agricultural uses such as grass hay, horses, feeder calves, etc. Things that most residents in our neighborhood enjoy and they reason they live on rural property. These areas also provide habitat for wildlife. There are many deer, foxes, coyotes and birds with whom we share the land. Any planned development of property should consider the continuing impact to local wildlife habitat. Such high-density housing will negatively impact the neighboring properties and as a whole, de-value the properties of the surrounding area.

Our concerns for the Planned Unit Development are as follows:

1. Infrastructure. There is no existing infrastructure for a housing development. No community water or sewer lines. Where will 13 separate housing lots seek water, sewer, power, and access? How will this effect our water table, and the quality of our water through existing wells on our property that provide our drinking water as well as water for our livestock?

2. Traffic. Traffic and safety problems are a real concern. For some reason, many accidents happen on Mission Highway right at Purchase and Williams Lane. We can think of many major accidents and even one driver who recently drove off Mission Highway hit a cable box (or phone box), then telephone pole before being diverted across Mission Highway and right through a pasture fence, putting livestock at risk, not to mention causing damage that the landowner had to pay for. The damaged cable box remains unrepaired. In general, the area traffic is continuing to increase, which should be a concern of any rezoning approval.
3. Access to Property. Where will the residents access the Planned Unit Development? Already, Williams Lane is rutted with many potholes and not maintained on a regular basis, unless by residents who backfill the holes at their own expense. I propose that access be well defined and regular road maintenance be determined.
4. Construction Time. What is the proposed time-frame for the implementation of infrastructure and then the construction of residences? Will it be all at once or will 13 properties build at their leisure? Will the neighborhood be subject to years upon years of construction? Will there be paved roads within the Planned Unit Development or will the neighborhood be subject to copious amounts of dust? It is a well-accepted fact that theft and burglaries increase when construction work is in progress. We, as well as our neighbors will have an increased security risk to our families, pets, properties and possessions.
5. Noise. Thirteen (13) separate housing lots on the property will mean a severe increase in noise pollution to the direct neighbors and add to the devaluation of the neighbors' properties. The development can also have a negative visual impact to surrounding properties.
6. Property Value. The value of our property as well as others in the neighborhood will diminish significantly if it is situated next to a housing development instead of a general rural property, which it is now.

We urge you to disapprove thirteen (13) housing lots in this proposed Planned Unit Development and adhere to the allowed three (3) housing lots as permitted by a Chapter 7 partition. From recent meetings and discussions with our neighbors, we know our opinions are shared by many who have not managed to attend meetings or write letters and emails.

Thank you for your continued service and support of our communities.

Best regards,

Nick and Christina Nelson  
73561 Williams Lane  
Pendleton, Oregon 97801



October 24, 2022

Confederated Tribes of the Umatilla Indian Reservation  
Tribal Planning Office  
46411 Timine Way  
Pendleton, OR 97801

**Re: Public Hearing Notice, Lot 2N3308-01800 on Mission Road (“Planned Unit Development”)**

To Whom It May Concern:

I am the owner of the property located at 73472 Purchase Lane (Lots 2N3308000-1500, 1501 and 1502), which is my residence, as well as one of several owners of the farm/ranch property (Lots 2N-33080002100) located south of my residence on Purchase Lane.

The Applicant seeks permission for the Planned Unit Development on property that abuts my residence and is in close proximity to my farm/ranch land. The Applicant’s property is zoned R-2, General Rural, which to my knowledge requires 19 acres for each single-family residence. R-2 is Zoning is subject to Section 7.200 of the CTUIR Land Development Code, which permits:

1. P.U.D. partition - Creates three (3) or less housing development lots. Sketch plan review and approval is administrative. Final Plat approval is administrative in accordance with the Tentative Plan Order of the Land Protection Planning Commission. (Requires 18 acres);
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The proposed use by Applicant seeks approval for thirteen (13) separate housing lots, which is far outside the scope of R-2 zoning, even under Chapter 7 provisions for a P.U.D. partition or subdivision. The value of retaining R-2 zoning in the area provides opportunities for small agricultural uses such as grass hay, horses, feeder calves, etc. Things that most residents in our neighborhood enjoy and the reason they live on rural property. These areas also provide habitat for wildlife. There are many deer, foxes, coyotes and birds with whom we share the land. Any planned development of property should consider the continuing impact to local wildlife habitat. Such high-density housing will negatively impact the neighboring properties and as a whole, de-value the properties of the surrounding area.

My concerns for the Planned Unit Development are as follows:

1. Infrastructure. There is no existing infrastructure for a housing development. No community water or sewer lines. Where will 13 separate housing lots seek water, sewer,

power, and access? How will this effect my water table, and the quality of my water through existing wells on my property that provide our drinking water as well as water for our livestock?

2. Traffic. Traffic and safety problems are a real concern. My residential property runs to the edge of Mission Road and Purchase Lane runs along the east side of my property (i.e, I own Purchase Lane, it is not a public road). For some reason, many accidents happen on Mission Highway right at Purchase Lane. I can think of many major accidents and even one driver who recently drove off Mission Highway and right through our pasture fence, putting our livestock at risk, not to mention causing damage that I had to pay for. In general, the area traffic is continuing to increase, which should be a concern of any rezoning approval.
3. Access to Property. Where will the residents access the Planned Unit Development? Already, Applicant has been cutting across the corner of my property on Purchase Lane to access the property of the Planned Unit Development. I propose that access be well defined as to not infringe upon my property, i.e., Purchase Lane.
4. Construction Time. What is the proposed time-frame for the implementation of infrastructure and then the construction of residences? Will it be all at once or will 13 properties build at their leisure? Will the neighborhood be subject to years upon years of construction? Will there be paved roads within the Planned Unit Development or will the neighborhood be subject to copious amounts of dust? It is a well-accepted fact that theft and burglaries increase when construction work is in progress. I, a senior citizen that lives alone, as well as the neighbors will have an increased security risk to our families, pets, properties and possessions.
5. Noise. Thirteen (13) separate housing lots on the property will mean a severe increase in noise pollution to the direct neighbors and add to the devaluation of the neighbors' properties. The development can also have a negative visual impact to surrounding properties.
6. Property Value. The value of my residential property as well as others in the neighborhood will diminish significantly if it is situated next to a housing development instead of a general rural property, which it is now.

I urge you to disapprove thirteen (13) housing lots in this proposed Planned Unit Development and adhere to the allowed three (3) housing lots as permitted by a Chapter 7 partition. From recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails.

Thank you for your continued service and support of our communities.

Best regards,

Kathi Purchase McElroy  
73472 Purchase Lane  
Pendleton, Oregon 97801