

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing
Thursday, March 22, 2018, 6:30 p.m.
Albee Room, City of Milton-Freewater Public Library,
8 SW 8th Avenue. Milton-Freewater. OR

Planning Commission

Suni Danforth, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
Cecil Thorne
Tami Green
Clive Kaiser
Hoot Royer
Molly Tucker Hasenbank

Planning Staff

Bob Waldher, Planning Director
Carol Johnson, Senior Planner
Jacob Potterf, Planner/ GIS
Gina Miller, Code Enforcement Coordinator
Tierney Dutcher, Administrative Assistant

1. **Call to Order**
2. **Recognition** (Outgoing Members)
3. **Adopt Minutes** (Thursday, November 16, 2017)
4. **New Hearing:**

REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE PERMIT REQUEST
#C-1293-17: Blue Mountain Hay, LLC, Applicant/Owner

A "Request for a Public Hearing" was filed on February 20, 2018 to appeal the County's tentative approval granted to Blue Mountain Hay, LLC for a Conditional Use Permit for "Commercial Activity in Conjunction with Farm Use." The request is to develop the subject property with a variety of farm-related operations including a hay press, hay storage buildings, and an area for farm chemicals/fertilizer storage and sales. The 18.43-acre subject property is zoned Exclusive Farm Use and is located at the northwest corner of Appleton Road and Highway 11, described as Tax Lot #2800, in Township 6N, Range 35E, Section 25B. Criteria of approval for Conditional Uses are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.061, 152.615, and, 152.617 (I)(B), and Resource Use Protections in UCDC Sections 150.01-150.08.

5. **New Hearing:**

SUBDIVISION REQUEST #S-055-18: Dusty Pace, Applicant, South County Construction Inc. & Eat Two, LLC, Property Owners

The applicant requests approval to subdivide 17 acres of Rural Residential (RR-2) Zoned land into a 4-lot subdivision consisting of a minimum lot size of 2-acres per lot. The property is located along the west side of State Highway 395 and south of Colonial Lane, approximately 2-miles south of Pendleton. The property is identified as Tax Lot 202, Assessor Map 2N 32 34. Criteria include policies in the Comprehensive Plan listed in the public facilities, services, and transportation elements and approval criteria in Umatilla County Development Code (UCDC) Section 152.666 (6).

6. **Adjournment**

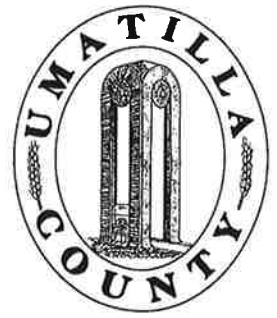
NEW HEARING

**REQUEST FOR A PUBLIC HEARING FOR
CONDITIONAL USE PERMIT REQUEST
#C-1293-17, BLUE MOUNTAIN HAY, LLC,
Applicant/Owner**

A "Request for a Public Hearing" was filed on February 20, 2018 to appeal the County's tentative approval granted to Blue Mountain Hay, LLC for a Conditional Use Permit for "Commercial Activity in Conjunction with Farm Use." The request is to develop the subject property with a variety of farm-related operations including a hay press, hay storage buildings, and an area for farm chemicals/fertilizer storage and sales. The 18.43-acre subject property is zoned Exclusive Farm Use and is located at the northwest corner of Appleton Road and Highway 11, described as Tax Lot #2800, in Township 6N, Range 35E, Section 25B. Criteria of approval for Conditional Uses are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.061, 152.615, and, 152.617 (I)(B), and Resource Use Protections in UCDC Sections 150.01-150.08.

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commissioners
FROM: Bob Waldher, Director
DATE: March 22, 2018

CODE
ENFORCEMENT

RE: March 22, 2018 Planning Commission Hearing
Blue Mountain Hay, LLC (Applicant/Owner)
Conditional Use Permit #C-1293-17

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Request

GIS AND
MAPPING

On November 21, 2017, Blue Mountain Hay, LLC submitted an application to the Planning Department for a Conditional Use Permit (CUP) to develop their property with a facility to support their agriculture operations. The proposed development would include a hay press, storage buildings, a dry fertilizer/chemical sales area, equipment sheds, and other accessory farm buildings. Typically, a majority of the applicant's proposed activities are outright permitted uses for the Exclusive Farm Use zone and would not require a CUP. Given that the applicant intends to develop a chemical storage and dry fertilizer storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, the Umatilla County Planning Department has determined that the proposed project requires a Conditional Use Permit for a Commercial Activity in Conjunction with Farm Use.

RURAL
ADDRESSING

Background Information

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Affected agencies and nearby property owners were notified of the CUP and were sent a copy of the Preliminary Findings and Conclusions on January 9, 2018. The Planning Department received three letters, one email and one phone call from the notified public and agencies during the 21-day comment period. Copies of the letters and email communication are attached. Tentative Approval of the CUP (see attached approval letter and Final Findings and Conclusions) was issued on February 6, 2018 and a request for a public hearing was received on February 20, 2018, within the 15-day appeal period.

The request for public hearing was made by Mr. Tim Werhan (owner of Smiley RV). A copy of hearing request is attached. The Planning Department also received a comment via email (see attached) from Don Ehrhardt, a nearby resident.

Criteria of Approval

Criteria of approval for Conditional Uses are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.061, 152.615, and, 152.617 (I)(B), and Resource Use Protections in UCDC Sections 150.01-150.08.

Memo

Planning Commission Public Hearing – March 22, 2018

Blue Mountain Hay, LLC

Conditional Use Permit #C-1293-17

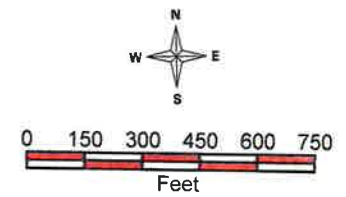
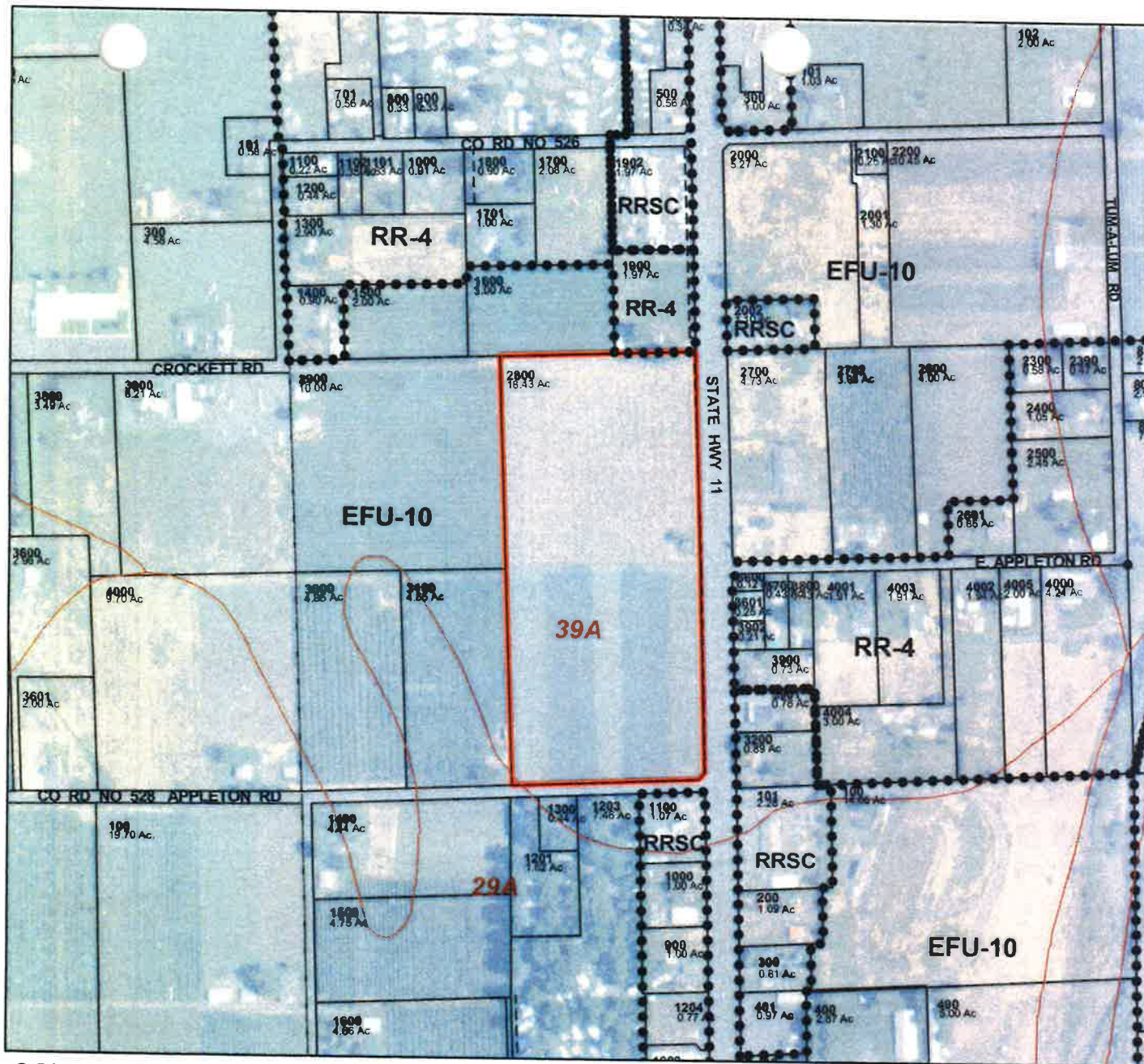
Conclusion

The Planning Commission is asked to refer to the Findings and Conclusions and supporting information provided by the applicant to determine if the request meets or does not meet the applicable criteria. The Planning Commission will approve or deny the pending Land Use Request. Approval or Denial must be based on substantive, factual evidence in the record, not conclusory statements.

Attachments

- Vicinity Map of Proposed Facility
- Findings and Conclusions
- Tentative Approval Letter
- Copy of Comments Received During 21-Day Comment Period
- Hearing Request from Mr. Werhan
- Comment Received from Mr. Ehrhardt

SEE ATTACHED LIST FOR PROPERTY OWNERS WITHIN NOTICE AREA



CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY, LLC / JEREMY CHRISTIAN, APPLICANT & OWNER
 MAP 6N3525B, TAX LOT 2800

2016 AERIAL PHOTO

DATE: 12/5/17

Subject Property
 Zone Boundary
 Soil Type Boundary

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by Umatilla County Planning Department, 12/5/17

**UMATILLA COUNTY PLANNING COMMISSION
FINAL FINDINGS AND CONCLUSIONS
CONDITIONAL USE PERMIT REQUEST, #C-1293-17
MAP #6N 35 25B, TAX LOT #2800, ACCOUNT #111847**

1. APPLICANT: **Blue Mountain Hay, LLC** (Jeremy Christman, agent), 31125 Cartney Drive, Harrisburg, OR 97446

2. OWNERS: **Blue Mountain Hay, LLC** (Trevor Derstine, Chadwin Derstine, Nevin Derstine, Davia Derstine, Matt Derstine), 31125 Cartney Drive, Harrisburg, OR 97446

3. REQUEST: The applicant, Blue Mountain Hay, LLC, seeks a conditional use permit for a proposed facility in support of their agriculture operations. Blue Mountain Hay, LLC started in 2008. It is an expansion of the Derstine family’s operation owned and operated by 5 brothers and their father. The family has been in the overseas pressed forage products from the Willamette Valley for several years through their company Valley Hay. Blue Mountain became an expansion company to take advantage of wheat and alfalfa products on the east side of the Cascade Range, since the Willamette Valley is predominately a fescue/perennial grass product. Blue Mountain Hay has decided to move its operations from Walla Walla, WA to the Milton-Freewater, OR area.

In the application materials, the applicant states that the project will “add to the local economy and farming community by moving from Walla Walla, with the majority of our farming activities captured in Oregon, as opposed to continuing our base operations in Washington.”

Proposed uses for the subject property include a variety of farm-related operations and the applicant proposes to develop the project in three phases:

Phase 1	Phase 2	Phase 3
<ul style="list-style-type: none"> • Remove Abandoned Dwelling • Office Building • Perimeter Fence w/ Gates • Chemical Storage Area • Truck Repair Shop • Fuel Island • Equipment Shed 	<ul style="list-style-type: none"> • Dry Fertilizer Storage • Truck Scale • Equipment Shed 	<ul style="list-style-type: none"> • Hay Storage • Hay Press Facility • Seed Processing Facility

Typically, a majority of the proposed activities listed above are outright permitted uses for the Exclusive Farm Use (EFU) zone and would not require a Conditional Use Permit. Given that the applicant intends to develop a chemical storage and dry fertilizer storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, the proposed project is being processed as a *Conditional Use Permit (CUP) for a Commercial Activity in Conjunction with Farm Use*.

The main business operation for Blue Mountain hay is to cut and bale the wheat fields after the farmers have harvested the seed. The farmer is then left with a clean field, ready to plow and plant, is paid for the baled product in tonnage procured from the field and then it is stored and shipped throughout

the year. Dairies tend to be primary customer, but mushroom farms buy the product for composting. Annually, Blue Mountain Hay operates 20 tractors with balers, stackers and rakes to bale 38,000 tons off farmer's fields throughout Umatilla County and up through Columbia County, Washington.

As would be expected with this type of operation, the activity at the facility as well as the number of employees associated with the operation would be highest over a three month period surrounding harvest. That surge in employee total is not only for the baling equipment, but also the trucking and support for this 3 month period. Throughout the rest of the year, there would be 8-10 trucks daily coming in and out of the facility picking up and delivering wheat straw. Hours of operation would be during daylight hours.

As part of the proposed operation the applicant hopes to expand the business model to include pressing of alfalfa, timothy and specialty products for overseas forage use (Phase III above). Currently Blue Mountain Hay sends the raw materials to the Willamette Hay/Valley Hay press for pressing, packaging and loading to ports. In addition, the ability to have a chemical and dry fertilizer supply is not only helpful for the custom farming that Blue Mountain Hay can do for its customers, but also for the local farming contingent. There is not a single point of distribution in the project vicinity, and Blue Mountain Hay can offer that with this operation in Milton-Freewater.

3. LOCATION: The subject property is located on the west side of Highway 11, approximately 2 miles north of Milton, Freewater, OR.
4. ACREAGE: The subject property is 18.43 acres.
5. COMP PLAN: The subject property has a Comprehensive Plan designation of Orchards District.
6. ZONING: The subject property is zoned Exclusive Farm Use (EFU)
7. ACCESS: Access to the subject property is via Highway 11. Oregon Department of Transportation (ODOT) is the permitting authority for access to/from Highway 11.
8. ROAD TYPE: Highway 11 is a 5-lane, state-maintained public roadway.
9. EASEMENTS: Easements for access and utilities are present on the subject property.
10. LAND USE: The subject property is currently farmed for crops (currently a corn field).
11. ADJACENT USE: Adjacent uses to the west and north include orchards and farm crops. Uses to the east and south include farming, rural residential, and some commercial.
12. IRRIGATION: Easements for access and utilities are present on the subject property.
13. SOILS: The subject property is comprised entirely of high-value soils. High value soils are defined in UCDC 152.003 as Land Capability Class I and II.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
39A-Hermiston silt loam, 0 to 3 percent slopes.	IIC	I
<i>Soil Survey of Umatilla County Area, 1989, NRCS.</i> The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (<i>Survey</i> , page. 172).		

- 14. BUILDINGS: The subject property contains an abandoned, dilapidated dwelling.
- 15. UTILITIES: Electrical Power is provided by City of Milton-Freewater. Humbert Refuse and Recycling provides trash service.
- 16. WATER/
WASTEWATER: Domestic water to the subject property is provided by an exempt well. There is also an irrigation well located on the subject property. The applicant intends to use the well for their spray and equipment needs.

An existing septic system is present near the abandoned dwelling.
- 17. FIRE SERVICE: The subject property is within the Milton-Freewater subscriber service area.
- 18. FLOODPLAIN: The subject property is not within a floodplain.
- 19. IRRIGATION: The subject property is within the Hudson Bay Irrigation District. The subject property has irrigation water rights through Oregon Water Resources Department.
- 20. PLANNING COMMISSION HEARING: March 22, 2018
- 21. NOTIFIED AGENCIES: Department of Environmental Quality, Oregon Water Resources Department, Umatilla County Assessor, Umatilla County Environmental Health, Umatilla County Public Works, Oregon Department of Transportation, Walla Walla River Irrigation District, Milton-Freewater Rural Fire Department, Milton-Freewater Power, City of Milton-Freewater, Confederated Tribes of the Umatilla Indian Reservation – Natural and Cultural Resources, Humbert Refuse and Recycling
- 22. COMMENTS: The Umatilla County Planning Department received three letters, one email and one phone call from the notified public and agencies during the 21-day comment period. A copy of the comments have been included in the project record and general comments with staff responses are summarized in the tentative approval letter. In general the letters cited concerns about environmental impacts from the storage of fertilizer and chemicals on the subject property, aesthetics, nuisance noise and dust, and traffic.

Tentative approval from the Planning Department was issued on February 6, 2018. During the 15-day appeal period, a request for a public hearing before the Umatilla County Planning Commission was received on February 20, 2018 from Mr. Tim Werhan (owner of Smiley’s RV).

23. THE UMATILLA COUNTY DEVELOPMENT CODE Section 152.060 (A) allows establishment of A COMMERCIAL ACTIVITY IN CONJUNCTION with FARM USE as a CONDITIONAL USE in an Exclusive Farm Use Zone subject to the standards of the Umatilla County Development Code Section 152.061, Section 152.615 and Section 152.617 (I) (B). In an EFU zone the following use may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in §§ 152.610 through 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed Oregon Administrative Rules, Chapter 660, Division 033.

§ 152.060 CONDITIONAL USES PERMITTED.

(A) Commercial activities in conjunction with farm uses but not including the processing of farm crops pursuant to ORS 215.283(1)(u) and provided in §152.617(I)(B).

Typically, a majority of the applicant's proposed activities are outright permitted uses for the EFU zone and would not require a Conditional Use Permit. Given that the applicant intends to develop a chemical storage and dry fertilizer storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, the Umatilla County Planning Department has determined that the proposed project requires a Conditional Use Permit for a Commercial Activity in Conjunction with Farm Use.

§152.061: STANDARDS FOR ALL CONDITIONAL USES. The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and The Umatilla County Planning Department finds that the applicant's proposed facility will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. In fact, the proposed operation will likely add value to existing farm practices by purchasing and processing straw from regional farming operations, as well as making fertilizer available commercially to area farmers. This criterion is met.

(B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. The Umatilla County Planning Department finds that the applicant's proposed facility will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. Blue Mountain Hay, LLC provides a value-added component to regional dryland farm operations (allowing farmers to reduce excess residue to meet current farming practices) and should actually improve the bottom line of dryland farming in the area, not negatively impact its operations. This criterion is met.

§ 152.617 STANDARDS FOR REVIEW: CONDITIONAL USES AND LAND USE DECISIONS ON EFU ZONED LANDS.

(I) EFU CONDITIONAL USES

(B) Commercial Activities in Conjunction with Farm Use. Commercial activities that are in conjunction with farm use, including but not limited to, processing of farm crops into biofuel, public grain elevators, commercial use feedlots, livestock sale yards, commercial agricultural chemical storage tanks and agricultural products for sale commercially, provided that:

(1) The activity is compatible with adjacent farm, forest, rural residential or multiple use uses; Farming has occurred on the subject property for many years without conflicting with adjacent

farm, rural residential, and commercial uses. Uses proposed as part of this project will continue to be related to farm use. Therefore, the Umatilla County Planning Department finds that the proposed activities are compatible with adjacent uses. This criterion is met.

(2) The activity is situated upon generally unsuitable land for production of farm crops considering, but not limited to, vegetation, location, terrain, adverse soil or land conditions, drainage and flooding, and size of the tract:

The subject property has historically been cultivated for the production of crops. Should the applicant erect all of the proposed buildings, there would be very little usable land left for cultivation. However, all of the uses, except for the commercial sales aspect of the proposed operation, are considered farm uses¹. The Umatilla County Planning Department finds that the applicant's operation can be allowed on the subject property because the operation includes the harvesting, selling, producing, and marketing of farm crops (hay and straw). This criterion is met.

(3) Does not materially alter the stability of the overall land use pattern of the area:

The existing land use pattern of the area is comprised of a variety of land use zones including, EFU, Rural Residential, and Rural Retail Service Commercial. Farming has occurred on the subject property for many years. The Umatilla County Planning Department finds that since farm uses will continue to occur on the subject property as they have for many years, the project will not materially alter the stability of the overall land use pattern of the area. This criterion is met.

(4) The activity has access to a major state, county or public road which is improved to an acceptable county standard or has access to a rail line:

Access to the subject property is via Highway 11, which is a major state roadway. The Umatilla County Planning Department finds that as a condition of approval, the applicant is required to obtain approval from ODOT for the use of the Highway 11 access points, and make any access improvements required by ODOT. This criterion is pending.

(5) Be located and of a size and design to help reduce noise, odor, or other detrimental effects when located adjacent to farm dwellings or rural [residential] or multiple use zones. A buffer or setback area from adjacent properties may be required to reduce possible detrimental effects. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factors that may affect the livability of such proposed use of the agriculture of the area:

The applicant has designed the proposed use to include a minimum building setback of 50 feet from property lines. This well exceeds the minimum setbacks required for accessory buildings in the EFU zone. In addition, the applicant proposes to strategically locate the larger equipment sheds so as to shield the neighboring properties from excess noise or visual activity. The commercial aspects of the operation, for which a Conditional Use Permit is required, are proposed to be located near the interior of the 18-acre parcel, away from any rural residential or commercial zones. As a condition of approval, all buildings shall include a minimum 50-foot setback from property lines and commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings. This criterion is pending.

¹ Farm use as defined in ORS 215.203 includes... The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use...

(6) Ingress and egress are provided and designed not to create traffic hazards;

The applicant is proposing to use the existing access approaches along Highway 11 and has configured the placement of buildings and infrastructure to allow for vehicle and equipment overflow, keeping the corridor safe and uncluttered. In addition, buildings will be adequately set back from the roadway to maintain vision clearance for ingress/egress to and from Highway 11. As a condition of approval to ensure ingress/egress does not create traffic hazards, the applicant shall coordinate with ODOT to obtain necessary access permits along Highway 11. This criterion is pending.

(7) Takes the least possible amount of agricultural land out of production;

The proposed use will take the entire subject property out of crop production once ultimate build-out is complete. However, all aspects of the proposed business, including but not limited to the hay and straw processing, seed processing and fertilizer sales, all support the production of crops and agriculture on a regional scale. By concentrating these services at one location, less land will be taken out of production at other locations across the agricultural region. Therefore, the Umatilla County Planning Department finds that the proposed operation will take the least possible amount of agricultural land out of production. This criterion is met.

(8) The operation complies with all applicable air, noise and water quality and other applicable regulations of all county, state or federal jurisdictions and all applicable permits are obtained;

The applicant proposes a commercial chemical and fertilizer storage and sales facility. Proper storage of the fertilizer and containment would be regulated by the Department of Environmental Quality (DEQ). DEQ has oversight for storage, handling, and permitting for small and large hazardous waste generators, and would not be under the authority of the County. Umatilla County finds that as a condition of approval, the applicant shall coordinate with DEQ for "best practices" and to verify whether additional permits will be required from this state agency.

In addition, a condition of approval is imposed requiring the applicant to obtain a County Zoning Permit pursuant to §152.025, and other applicable state or federal permits. This criterion is pending.

(9) Complies with other conditions as deemed necessary.

Additional Conditional Use Permit restrictions are addressed in §152.615, below.

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such an environmental effects as noise, vibration, air pollution, glare or odor;

The applicant states that similar to farming, the Blue Mountain Hay operation will typically be most active during a 3-month period around harvest time. Throughout a majority of the year, the applicant expects 8-10 trucks carrying wheat straw, making trips in and out of the facility on a daily basis. The applicant states that the proposed hours of operation are during daylight hours. Therefore, to ensure that the proposed hours of operation are met, the Umatilla County Planning Department imposes a condition limiting the hour of operation to daylight hours. This criterion is pending.

(B) Establishing a special yard, other open space or lot area or dimension;

The applicant's site plan appears to show adequate space for the movement of trucks, trailers, and vehicles required for the proposed operation. The Planning Umatilla County Planning Department finds that circumstances do not warrant imposing additional condition to establish another special yard, open

space or lot area or dimension area for the applicant's proposed use.

(C) Limiting the height, size or location of a building or other structure;

The Umatilla County Planning Department finds that there are no known circumstances that warrant imposing additional limitations on height, size or location of the applicant's future buildings.

(D) Designating the size, number, location and nature of vehicle access points;

The applicant is proposing to use the existing access approaches along Highway 11 and has configured the site plan around these approaches, which will be permitted through ODOT. The Umatilla County Planning Department concludes there are no other known circumstances that warrant imposing additional vehicle access points.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

The Umatilla County Planning Department finds there are no other known circumstances that warrant imposing additional street dedication, roadway width or improvements within the street right of way due to the applicant's proposed use.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

The applicant's site plan shows parking around the proposed office building as well as an identified parking area for trucks/trailers. The parking areas would be paved. All other drive lanes and open space around the subject property would likely be graveled surface. Concrete aprons may be located around portions of the proposed buildings. The Umatilla County Planning Department finds there are no other known circumstances that warrant imposing additional requirements such as designating a different size, location, additional screening, drainage, surfacing or other improvement of the parking or loading area for the applicant's proposed use.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

The Umatilla County Planning Department finds that the applicant is required to meet the sign regulations found in UCDC Section 152.545 for any proposed signage. The applicant will likely propose building and entrance signage. However the signage is expected to be modest and not introduce any new light pollution. As a precedent condition of approval, the applicant shall provide a site plan designating the number, size, location, height and lighting of any proposed signs. This criterion is pending.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

At this time, the applicant only proposes lighting for safety and security. Since there are residential properties in the vicinity, the Umatilla County Planning Department imposes a condition requiring any proposed lighting to be downward facing with shielding to avoid light pollution to surrounding areas. This criterion is pending.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

The applicant has designed the proposed use to include a minimum building setback of 50 feet from property lines. This well exceeds the minimum setbacks required for accessory buildings in the EFU zone. In addition, the applicant proposes to strategically locate the larger equipment sheds so as to shield the neighboring properties from excess noise or visual activity. The commercial aspects of the operation, for which a Conditional Use Permit is required, are proposed to be located near the interior of the 18-acre parcel, away from any rural residential or commercial zones. As a condition of approval, all buildings shall include a minimum 50-foot setback from property lines and commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby

dwellings.

During the public comment period, the City of Milton-Freewater provided comments noting that while the project is not within the jurisdiction of the City of Milton-Freewater, the City does recognize the Highway 11 corridor as a gateway to the city. The City requested that some landscaping be provided along the Highway 11 frontage, and/or possibly adjacent to the proposed office area.

To cooperate with the City's request, the applicants have agreed to provide some landscaping along the Highway 11 corridor. Therefore, the Umatilla County Planning Department finds that as a condition of approval, the applicant shall provide a site plan showing proposed fencing, and landscaping along the Highway 11 frontage and/or possibly adjacent to the proposed office area. This criterion is pending.

(J) Designating the size, height, location and materials for a fence;

During the public comment period, some comments were received regarding security fencing on the subject property. To provide an additional level of security and prevent theft of chemicals and fertilizer the applicant has agreed to provide a 6-foot chain-link fence around the perimeter of the subject property, cameras, and locked/secured storages for the fertilizer and chemicals. The Umatilla County Planning Department finds that as a condition of approval the applicant shall install security fencing, cameras, and locked/secured storages to detour theft and other criminal activity at the subject property. This criterion is pending.

(K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

The Umatilla County Planning Department finds that the subject property is currently cultivated and there are no natural resources such as trees, vegetation and wildlife habitat existing on the property deserving protection. The applicants do propose to use groundwater for their operation. The owners of the subject property have water rights for an exempt well located on the subject property. Groundwater use is regulated by Oregon Water Resources Department (OWRD). Therefore, the Umatilla County Planning Department finds that as a condition of approval, the applicant shall coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property. This criterion is pending

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

The applicant's site plan appears to show adequate space for the movement of trucks, trailers, and vehicles required for the proposed operation. However, the plan does not identify individual parking spaces. The Umatilla County Planning Department finds as a condition of approval, the applicant shall provide a site plan showing the location and number of proposed off-street parking spaces that meets the parking area requirements of the Umatilla County Development Code prior to final approval. This criterion is pending.

FINAL DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY PLANNING COMMISSION APPROVES THE BLUE MOUNTAIN HAY, LLC CONDITONAL USE PERMIT REQUEST FOR A COMMERCIAL ACTIVITY IN CONJUNCTION WITH FARM USE, UPON COMPLETION OF THE CONDITIONS LISTED BELOW.

Precedent Conditions: The following precedent conditions must be fulfilled to finalize approval of this request.

1. Obtain approval from ODOT for the use of the Highway 11 access points, and make any access improvements required by ODOT.

2. Provide a site plan designating the number, size, location, height and lighting of any proposed signs.
3. Submit a site plan showing the location of and number of proposed off-street parking spaces that meets the parking area requirements of the Umatilla County Development Code.
4. Provide a site plan showing all buildings with a minimum 50-foot setback from property lines. Commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings.
5. Coordinate with DEQ for “best practices” and to verify whether additional permits are required.
6. Coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property.
7. Provide a site plan showing proposed fencing, and landscaping along the Highway 11 frontage and/or possibly adjacent to the proposed office area.
8. Obtain a Zoning Permit from the County Planning Department and, if applicable, appropriate State permits from Department of Environmental Quality and State Building Codes.

Subsequent Conditions: The following subsequent condition would continue to be applicable to the applicant’s conditional use permit.

1. The hours of operation are limited to daylight hours only.
2. Any lighting shall be downward facing with shielding to avoid light pollution to surrounding areas.
3. Install security fencing, cameras, and locked/secured storages to detour theft and other criminal activity at the subject property.

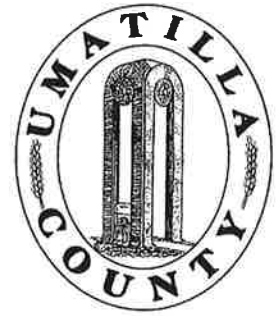
UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 20____

Suni Danforth, *Chair*

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

February 6, 2018

LAND USE
PLANNING,
ZONING AND
PERMITTING

Blue Mountain Hay, LLC
Attn: Jeremy Christman
31125 Cartney Drive
Harrisburg, OR 97446

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

**Re: Tentative Approval Letter
Conditional Use Permit, #C-1293-17
Map 6N3525B, Tax Lot #2800, Account #111847**

SMOKE
MANAGEMENT

Dear Mr. Christman:

GIS AND
MAPPING

The 21-day comment period for Conditional Use Permit, # C-1293-17 has elapsed. The Umatilla County Planning Department received three letters, one email and one phone call from the notified public and agencies during the 21-day comment period. Copies of the letters and email communication are enclosed. There was no request for a hearing. A summary of each of the comments followed by staff observations and remarks follows:

RURAL
ADDRESSING

Public Comment – 01/17/18 Letter from Mitzi Gustin and Michelle LeFore

Ms. Gustin and Ms. LeFore reside in the area of the proposed project, and while they acknowledged they were not against new business opening in this area, they did have concerns about the potential of the project devaluing their way of life, property, and threats to their groundwater. The letter cited concerns about the levee and floodplain, storage of chemicals on the subject property, noise from the operation, building heights affecting views, impacts related to vehicles and traffic, and other environmental impacts.

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Concerns related to flooding from a levee failure:

The commenters state that the area has a reduced risk for flooding because of the levee. They state that there are several sections of the levee in need of repair and if the levee were to fail, the area would flood, possibly leading to water pollution issues from the fertilizer and chemicals stored on the subject property.

Staff Response:

The subject property is not located within a Federal Emergency Management Administration (FEMA) mapped floodplain. While it may be true that the area would flood with a levee breach, the same could be said for many other properties near the

subject property. Because of the levee system, FEMA has determined that the area is not at an increased risk of flooding. Therefore restrictions on development related to flood prevention are not warranted.

Concerns related to chemical storage:

Ms. Gustin and Ms. LeFore raised the question as to what types and what quantity of chemicals and dry fertilizer would be stored on the property. They cited concerns about explosions, groundwater contamination, etc. They also had concerns about the materials leading to criminal drug activity related to meth.

Staff Response:

The Planning Department asked the applicant for more information related to the fertilizer and chemicals that are proposed to be stored and sold on the subject property. The applicant noted that the chemicals would be herbicides used for weed control. The chemicals would be stored inside a building constructed to contain any potential spills. The liquid chemical are common to agriculture and would be stored only in approved containers. The applicant proposes to store and sell dry fertilizer (primarily those components found in lawn fertilizer). The applicant proposes to store the fertilizer in bins and provide mixtures for different uses. Proper storage of the fertilizer and containment would be regulated by the Department of Environmental Quality (DEQ). DEQ has oversight for storage, handling, and permitting for small and large hazardous waste generators, and would not be under the authority of the County. The applicant notes that none of the proposed chemicals or fertilizer are known to be used for the creation of meth. For additional security, the applicant proposes a security fence, cameras, as well as locked and secured storages.

Umatilla County has determined that the following additional conditions shall be imposed:

- Coordinate with DEQ for “best practices” and to verify whether additional permits will be required from this state agency.
- Install security fencing, cameras, and locked/secured storages to detour theft and other criminal activity at the subject property.

Concerns related to noise generated from the operation:

The commenters noted their concerns regarding noise from the proposed hay press as well as operations occurring on the subject property during the night and at harvest time. Ms. Gustin and Ms. LeFore were concerned about what the operations may do to property values and were worried about noise pollution from trucks and other equipment.

Staff Response:

Umatilla County acknowledges that industrial uses such as agriculture can certainly have some noise associated with them. Although noise can be subjective, the County has researched similar operations and the noise associated with a typical hay press is

minimal. The proposed hay press will be located within a building. According to the applicant, they currently operate two hay presses in the Willamette Valley and the noise is at such a level low that hearing protection is not even required by the employees under OSHA requirements. The applicant notes that trucks on the subject property would be mostly idle and would be no more disruptive than a farm tractor running full RPM on the property, and would likely be less noisy than the commercial fueling station located across Appleton Road to the south.

As noted in the Final Findings and Conclusions, the property is zoned for farm use and a majority of the activities proposed for the property are outright-permitted farm uses. The activities related to farming are protected by Oregon's Right to Farm laws. Therefore, Umatilla County has limited authority to restrict hours of operation related to the farm uses. However, Umatilla County has imposed a condition limiting the hours of operation for commercial activities to daylight hours.

Concerns related to views and building heights:

Ms. Gustin and Ms. LeFore cited concerns for the "Cherry Property" and loss of views related to the height of buildings.

Staff Response:

It is unclear to the Planning Department which property the commenters are referring to when they discuss the "Cherry Property." No comments were received from landowners immediately abutting or adjacent to the subject property. While loss of views is certainly possible for some adjacent landowners, there are no standards in the Exclusive Farm Use Zone that limit building or structure height.

As noted in the Final Findings and Conclusions, the applicant has self-imposed a 50-foot setback from property lines for all buildings. This exceeds the minimum 5-foot setback for accessory farm structures that is required by the Development Code. Umatilla County has determined that no additional restrictions for building setbacks are practical or necessary.

Concerns related to traffic and highway congestion:

The commenters provided concerns related to access for large trucks and congestion.

Staff Response:

The applicants have chosen to access the property from Highway 11, which is a designated freight corridor managed by the Oregon Department of Transportation (ODOT). The applicant has worked closely with ODOT to ensure their proposal meets requirements of the state. ODOT has noted that the property has seven reservations for legal access along the highway frontage. The applicant plans to ask to only use three of the reservations which will greatly limit access to/from the subject property.

Since the subject property will be accessed from an ODOT facility, Umatilla County

has limited authority to restrict access to/from the subject property. However, to ensure ingress/egress does not create traffic hazards, Umatilla County has imposed a condition of approval that requires the applicant to coordinate with ODOT to obtain necessary permits along Highway 11.

Additional Environmental Concerns:

The commenters cited concerns about contamination of underlying groundwater related to trucks and tractors having oil or gas leaks. Ms. Gustin and Ms. LeFore also appear to be concerned about the amount of water being used for the operation and how it may impact the declining aquifer.

Staff Response:

Umatilla County asked the applicant to provide more clarification related to the surfacing of parking lots and how potential leaks may cause groundwater contamination. The applicants responded that the area for truck parking will be paved. The applicants propose to have a shop building on the property for maintenance of trucks. They note that commercial vehicles have far higher standards for maintenance and “leaks” than ordinary automobiles. Similar to the fertilizer storage area, runoff from the parking lot will be under the purview of DEQ and is not subject to additional County standards.

The owners of the subject property have water rights for an exempt well located on the subject property. Groundwater use is regulated by Oregon Water Resources Department (OWRD).

Umatilla County has determined that the following additional conditions shall be imposed:

- Coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property.

Public Comment – 01/29/18 Letter from Tim Werhan (Smiley RV Sales)

Tim Werhan owns and operates Smiley RV Sales located at 53816 Crockett Road, north of subject property. Mr. Werhan is worried that an “agricultural retail processing” operation would be very detrimental to his business and products. The letter cited concerns about impacts to groundwater from contamination, dirt, noise, and dust created from the proposed activities, and increases in traffic.

Concerns related to soil and water contamination:

The commenter is concerned about the possibility of soil and groundwater contamination related to the fuel and chemical storage associated with the operation.

Staff Response:

The applicants have stated that the chemicals and fertilizer associated with the commercial aspect of the operation would be self-contained to capture any possible

spills, thereby reducing the risk for soil and groundwater contamination. They note that these are the same chemicals used for the control of weeds and used on edible crops intended for consumption, so they would pose no more threat than every other farming operation using these materials on their crops. As noted previously, the Proper storage of the fertilizer and containment would be regulated by the Department of Environmental Quality (DEQ). DEQ has oversight for storage, handling, and permitting for small and large hazardous waste generators, and permitting would not be under the authority of the County.

Concerns related to dust and nuisance odor:

The commenter is concerned about the dust, dirt and hay that may be caused by the proposed operation and how this may hinder his ability to keep their inventory clean and sell-able. Mr. Werhan also cites concerns regarding nuisance odor.

Staff Response:

As noted previously, the property is zoned for farm use and a majority of the activities proposed for the property are outright-permitted farm uses. The applicants note that the farm uses are actually the cleanest and quietest of the entire proposed project, and dirt and dust resulting from cultivation of the land are already occurring on the subject property from time-to-time. No nuisance odors are expected from the proposed operation.

Umatilla County has determined that there are many locations along Highway 11 where there are residential, commercial and farm uses located adjacent to one another. In fact, properties immediately to the south and west of the Smiley RV site are zoned residential. Directly across from the commenter's property is zoned Exclusive Farm Use (EFU).

Per Umatilla County Development Code Section 150.01 resource uses are protected by ordinance. The code states *"It is the purpose of this chapter to protect resource-based economically productive activities of the county in order to assure the continued health, safety and prosperity of its residents. Resource uses sometimes offend, annoy, interfere with or otherwise affect others located on or near resource lands. The county has concluded that persons located on or near resource lands must accept the conditions commonly associated with accepted resource uses."*

In summary, locating a commercial RV sales lot in close proximity to EFU-zoned property is a personal choice. The County cannot restrict outright permitted farm uses allowed by the EFU zoning, even though they are in close proximity to non-resource zoned land or businesses. In addition, the activities related to farming are protected by Oregon's Right to Farm laws and the County cannot impose additional restrictions limiting dust and nuisance odor related to these farm uses. Therefore, no additional conditions are imposed.

Concerns related to noise

The commenter is concerned about noise associated with the proposed operation. He notes that “the highway noise is bad enough without adding more”, and that it would be difficult for customers to be outside.

Staff Response:

As noted previously, the proposed operation is not expected to significantly increase noise in the area. The commenter implies that “the highway noise is bad enough without adding more.” Again, locating their business along Highway 11 is a personal choice. Therefore, additional conditions limiting noise are not practical or necessary.

Concerns related traffic and congestion

Mr. Werhan addresses concerns regarding congestion and conflict with motor homes accessing his property and truck traffic accessing the subject property.

Staff Response:

As noted previously, since the subject property will be accessed from an ODOT facility, Umatilla County has limited authority to restrict access to/from the subject property. However, to ensure ingress/egress does not create traffic hazards, Umatilla County has imposed a condition of approval that requires the applicant to coordinate with ODOT to obtain necessary permits along Highway 11.

Public Comment – 01/18/18 Received by Phone from Clayton Stewart

Mr. Stewart lives at 53597 Crockett Road. In the phone conversation with Planning Director Waldher, Mr. Stewart raised concerns about noise from the operation, building heights affecting views.

Staff Response:

As noted previously, the proposed operation is not expected to significantly increase noise in the area. Also, since the property is zoned EFU there are no building height limitations. Therefore, Umatilla County cannot impose additional conditions to minimize obstruction of views for neighboring property owners.

Agency Comment – 01/18/18 Received by Email from Greg Silbernagel (OWRD)

Mr. Silbernagel (District 5 Watermaster) provided comments on the application on behalf of OWRD. In summary, Mr. Silbernagel provided information related to the applicant’s proposed use of the water rights for the property and encouraged them to contact OWRD to obtain necessary permits, and discuss their proposal in more detail. Mr. Silbernagel also pointed out that the project is located within the Walla Walla River Irrigation District, not Hudson Bay, who was mistakenly provided with the notice.

Staff Response:

As noted previously, groundwater use is regulated by OWRD. Umatilla County

forwarded the OWRD email to the applicant to encourage collaboration on issues related to water rights for the proposed operation. To ensure the proposed project meets OWRD requirements, Umatilla County imposed an additional condition requiring the applicant to coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property. In addition, Walla Walla River Irrigation District has been notified of the proposed project.

Agency Comment – 01/30/18 Letter from Laurel Sweeney (City of Milton-Freewater)

Ms. Sweeney (City Planner) provided comments noting that while the project is not within the jurisdiction of the City of Milton-Freewater, the City does recognize the Highway 11 corridor as a gateway to the city. The City requested that some landscaping be provided along the Highway 11 frontage, and/or possibly adjacent to the proposed office area. They also requested that razor wire not be provided along the top of the chain-link fence.

Staff Response:

Umatilla County provided the comments to the applicants to see if they would be willing to cooperate with some of the City’s requests. With a desire to be “good neighbors” and members of the community, the applicants have agreed to the city’s request.

Umatilla County has determined that the following additional condition shall be imposed:

- Provide a site plan showing proposed fencing, and landscaping along the Highway 11 frontage and/or possibly adjacent to the proposed office area.

TENTATIVE APPROVAL

On February 6, 2018 the Findings and Conclusions document was signed; signifying tentative approval of your land use request, a copy of this document is enclosed. A statutory 15-day appeal period commenced the date the Findings were signed; this time period will be over on February 20, 2018. You, or persons or agencies who commented during the comment period, may appeal the County’s decision. An appeal request must be made in writing on a form available in the Planning Department. The cost of the appeal (first hearing) is \$250 and should be based on alleged staff error in interpreting the approval standards (criteria). If no appeal is made within the 15-day time period you then may precede in satisfying the conditions of approval. The conditions placed on your approval are as follows:

Precedent Conditions: The following precedent conditions must be fulfilled to finalize approval of this request.

1. Obtain approval from ODOT for the use of the Highway 11 access points, and make any access improvements required by ODOT.

2. Provide a site plan designating the number, size, location, height and lighting of any proposed signs.
3. Submit a site plan showing the location of and number of proposed off-street parking spaces that meets the parking area requirements of the Umatilla County Development Code.
4. Provide a site plan showing all buildings with a minimum 50-foot setback from property lines. Commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings.
5. Coordinate with DEQ for “best practices” and to verify whether additional permits are required.
6. Coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property.
7. Provide a site plan showing proposed fencing, and landscaping along the Highway 11 frontage and/or possibly adjacent to the proposed office area.
8. Obtain a Zoning Permit from the County Planning Department and, if applicable, appropriate State permits from Department of Environmental Quality and State Building Codes.

Subsequent Conditions: The following subsequent condition would continue to be applicable to the applicant’s conditional use permit.

1. The hours of operation are limited to daylight hours only.
2. Any lighting shall be downward facing with shielding to avoid light pollution to surrounding areas.
3. Install security fencing, cameras, and locked/secured storages to detour theft and other criminal activity at the subject property.

The County Planning Department’s approval will expire on the following date, one year from issuance of the tentative approval of your land use request. By that time, at the latest, you must have obtained a county zoning permit, as listed in the Conditions above.

* February 6, 2020 *

Note: If the above deadline is missed, you would have to reapply for your conditional use request through our office, and be subject to all review procedures and standards in effect at that time.

In conclusion, if you have questions please feel free to contact me at (541) 278-6251, or if it is more convenient you may e-mail me at robert.waldher@umatillacounty.net

Respectfully,

Robert T Waldher

Robert Waldher,
Director

Enclosures: Signed Final Findings,
Public/Agency Comments Received During 21-day Comment Period
Zoning Permit Application

cc: Umatilla County Assessor
ODOT
OWRD
City of Milton-Freewater
Mitzi Gustin and Michelle LeFore
Tim Werhan
Clayton Stewart

RECEIVED

JAN 17 2018

UMATILLA COUNTY
PLANNING DEPARTMENT

Mitzi Gustin
Map and tax lot 6N3525B001102
and

Michelle LeFore
541-861-3033

Map and tax lot 6N3525B000701
(not on the nearby property owners list but across the street
from Mitzi Gustin and next door to Gerry and Vicki Kessler)

Umatilla County
Department of Land Use Planning
Public Notice January 9, 2018; Blue Mountain Hay, LLC; Conditional Use Permit #C-1293-17; Assessors
Map #6N 35 25B: Tax Lot #2800; Account #111847

The following statements are in concern of Blue Mountain Hay, LLC building and operating their
business.

18. This area is a reduced risk of flooding because of the levee. If the levee were to fail we would flood. So the statement that we are not in a flood plain is incorrect. There are several sections of the levee that need repair. If you contact the Corps of Engineers in Walla Walla they could provide details of the levee condition. If the levee were to breach, would the chemicals and dry fertilizers be at risk due to the flooding?

152.060

Chemical Storage – What kind of chemicals and dry fertilizer? How much chemicals and dry fertilizer? How will they be stored? Is there any chance of a chemical or fertilizer explosion that can contaminate our groundwater? If the quantity is large the explosion could cause widespread evacuations. Can anybody come into their store and buy chemicals. I do not know what kind of chemicals they will have but this area is known for its meth users. They need chemicals when they cook the meth.

152.617

(1) Trucks coming and going, a hay press facility, and seed processing is not the same as growing corn on the property. Trucks are noisy and what about the noise pollution from the press machines? This is a fairly quiet area. Would you like this type of operation in the area where you live?

(2) The statement is in error. The soil is Hermiston silt loam, excellent for growing crops. Contact the University of Oregon, Environmental Studies and listen to what they can tell you about Hermiston silt loam.

(3) How many building will be erected? How tall will they be? There is a dwelling directly to the north and to the west. Will this operation devalue the price of these two homes. Will this operation lower all our property values if the noise level destroys the peace and quiet of the surrounding neighborhoods?

(4) It will be interesting what ODOT has to say as the highway is very congested at certain times of the day. Adding more big rigs will only add to the trouble as they try to access the highway when there are vehicles everywhere in both directions.

(5) A 50' set back is all that is required. For the dwelling to the north and to the west this will not be enough if only a chain link fence is required. Will the Cherry property lose their view to the east because of tall buildings? They will hear the brunt of any noise pollution. It would be like living near a truck stop. And again how loud are the press machines? How many machines will there be? How many fork lifts? The statement starts talking about a well. What does a well have to do with the opening statements in (5). Is this an existing well, a new well? The groundwater is already lowering in this area. Will the pressing and seed operations require large amounts of water, and if the water is contaminated after it is used where will it go? It is stated the buildings will be in the center but then states they will maintain a 50' setback. So is not that saying that the buildings can be 50' away from the homes located to the north and west? 18 acres is not that big to reduce noise to either of these homes and to the surrounding area.

152.615

(A) It states "may impose". It is quiet here at night. Balers and other field equipment are often run at night in the fields. Will there be 24 hours of operation at this operation during harvest? If so we will have no peace and quiet at night. Sounds are heard differently at night. They are more magnified. We are already subjected to highway traffic noise at night. If this operation has trucks unloading and moving around at night this creates noise pollution for the surrounding residential area.

(C) The Cherry property will be impacted if any building is constructed, of any height, that will block their view to the east.

(F) Vehicles and trucks and tractors have oil leaks, or gas leaks. If they are parked on a gravel surface this will contaminate the underlying groundwater. If they are on a paved surface what is going to be done with runoff that will be contaminated? Will it end up in the irrigation water, or our groundwater?

(I) Again, the statement does not say anything about a well that is in the second sentence. I would think that some type of landscaping would be necessary for the property to the north the Cherry property.

In the "Subsequent Condition" it states the hours of operation would be limited to daylight hours, but as stated above it is also stated "may impose".

We are not against any business opening in this area. However, if it devalues our way of life and our property, and threatens our groundwater, we do. Thank you for listening to our concerns. Please feel free to call me (I am Michelle LeFore) at 541-861-3033.

Thanks You

Michelle LeFore 1/17/2017

Smiley RV Sales
53816 W. Crockett Rd.
Milton Freewater, OR 97862
800-338-6562/541-938-6563

RECEIVED

January 29, 2018

JAN 29 2018

UMATILLA COUNTY
PLANNING DEPARTMENT

Robert T. Waldher, Director
Umatilla County
Dept. of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: Blue Mt. Hay, LLC conditional use permit #C-1293-17

Dear Mr. Waldher,

My name is Tim S. Werhan. I own property lot#1902, assessor's map 6N3525B00, at 53816 W. Crockett Rd., on the corner of Hwy. 11 & Crockett Rd. in Milton Freewater. I purchased the property in 1983 because of the location and commercial zoning and developed it into Smiley RV Sales & Service, Inc. We sell RV's and autos. There is also a parts store and repair shop located on the property.

I am worried that an agricultural retail processing operation would be very detrimental to our business and products. The proposed operation is only approximately 330' away. I have a good well on my property that supplies a home on the property and the sales lot. The new business would have fuel storage and chemicals that could, should an accident or leakage occur, seep into the ground water and destroy our only water source.

In retail sales, one of the big factors is keeping the product clean, both inside and out. We already spend a lot of money to keep the units clean year around. The operation that Blue Mt. Hay LLC is proposing will completely cover our sales lot in dust, dirt and hay product. It will make it virtually impossible to keep our inventory clean and sell-able; this is my livelihood.

This type of business, so close to a commercial property, is not compatible.

1. The increase in traffic with big trucks will most likely hinder access to our Hwy. 11 access for the big motorhomes, not to mention the congestion in that one block area.
2. The manufacturing noise and equipment usage going on 8 to 12 hours a day will be very intrusive. The highway noise is bad enough without adding more. Our customers would find it difficult to stand outside and look at RV's with the extra noise and dirt, let alone try to talk to a salesman. Our renters might also feel that the dirt and noise are more than they want to deal with and move. That takes my income

away from me.

3. The possible foul odors from chemicals is also a big negative to sales.

4. The possibility of soil contamination and ground water is very real.

These items that I have listed would make it impossible to run a retail RV operation next to this supposed commercial farm operation

The simple truth is this: If you allow Blue Mt. Hay LLC to put in a commercial farm operation next door to an RV business that has been around for 40 years and is the only one in the valley, it could very well mean the end of Smiley RV.

I strongly object to this conditional use permit #C-1293-17 for Blue Mt. Hay LLC. If they want to operate a commercial business, then they should buy a commercial property. The property they want the permit for is farm use only.

If I need a public hearing to stop this then I will pay the \$250 for a public hearing.

Thank you.

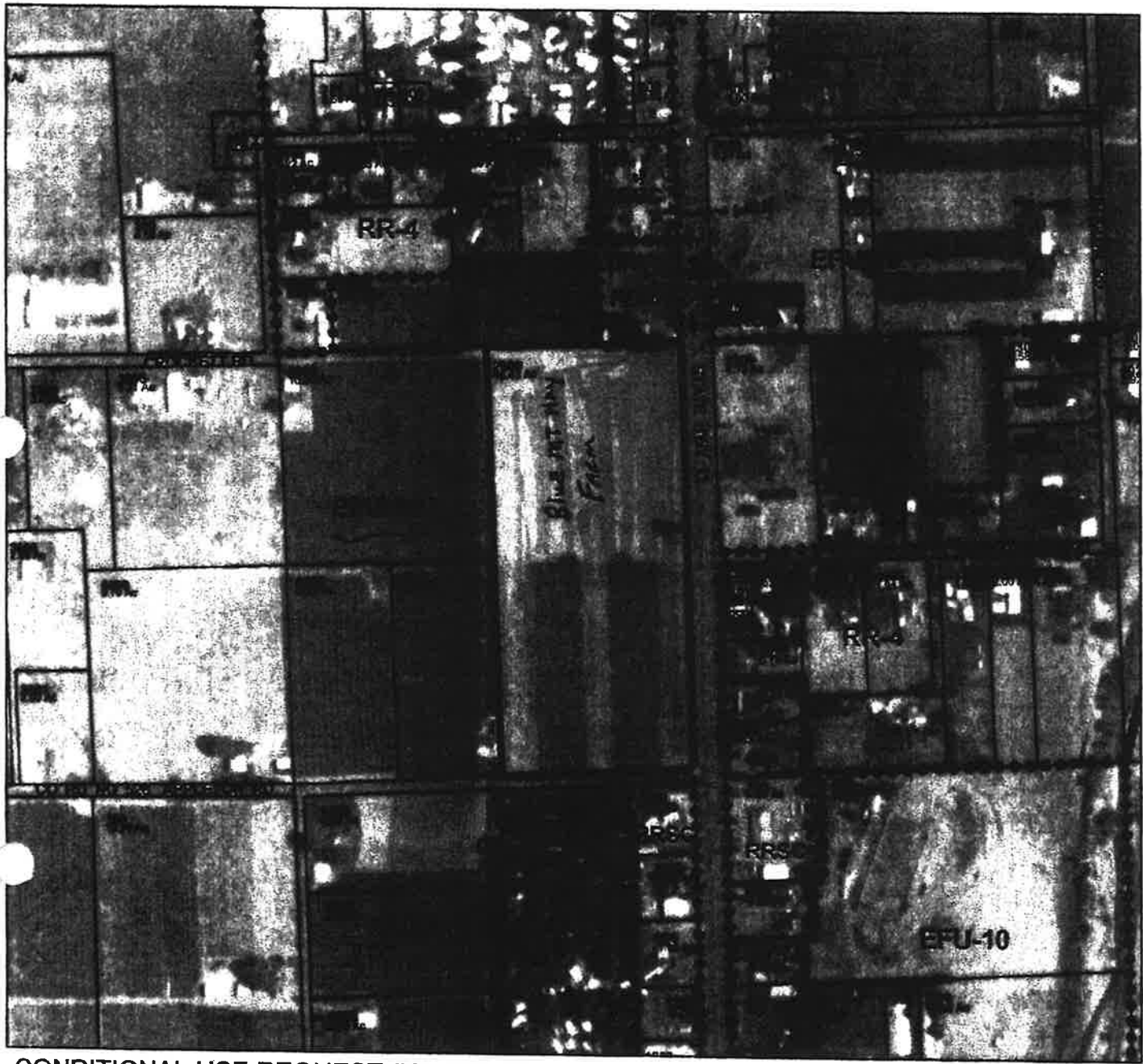
Respectfully,

 1/29/18

Tim S. Werhan

Owner

Smiley RV

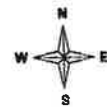


SEE ATTACHED LIST FOR PROPERTY OWNERS WITHIN NOTICE AREA

Tim S WERHAN OWNER
 # 1902 LOT
 RETAIL SALES LOT SMILBY AV
 APPROX 330' FROM LOT 2800

CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY, LLC / JEREMY CHRISTIAN, APPLICANT & OWNER
 MAP 6N3525B, TAX LOT 2800

2016 AERIAL PHOTO



DATE: 12/5/17

 Subject Property
  Zone Boundary

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by Umatilla County Planning Department, 12/5/17



Since 1889

CITY OF

MILTON-FREEWATER

P.O. Box 6, Milton-Freewater, OR 97862 • Phone (541)938-5531 • Fax (541)938-8224

January 30, 2018

Robert Waldher, Director
Umatilla County Planning Department
216 S.E. 4th Street
Pendleton, OR 97801

RE: Blue Mountain Hay, LLC
Conditional Use Permit C-1293-17

Dear Bob:

This letter is in response to your public notice letter dated January 9, 2018 for the above referenced conditional use permit. Thank you for the opportunity to comment on this project. The site is located to the north of Milton-Freewater. Although not within the City limits, the property serves somewhat as a gateway to the City. We request that some landscaping be provided along the highway frontage, and/or possibly adjacent to the office area. We also see that fencing is proposed. We request that razor wire be avoided along the top of the fence.

Sincerely,

A handwritten signature in cursive script that reads "Laurel Sweeney".

Laurel Sweeney
City Planner



CUP#C-1293-17

SILBERNAGEL Greg M * WRD <Greg.M.Silbernagel@oregon.gov>
To: Robert Waldher <robert.waldher@umatillacounty.net>

Thu, Jan 18, 2018 at 3:00 PM

Hi Bob,

Regarding the recent CUP #C-1293-17 for Blue Mountain Hay, LLC

- 1) The applicant has stated they plan to use the irrigation well for their equipment and spray needs. What is the estimated use per day during the peak months? I did not notice an industrial or commercial water right for this property which would limit them to exempt uses if they cannot provide one. There may be an option to change the character of use from irrigation to industrial on the Groundwater Registration associated with this property. I cannot guarantee the success of this as the applicant would have to apply through OWRD's transfer program and go through the public review process.

- 2) I did notice a Groundwater Registration for this property, GR-1465. It would be in the applicants favor to identify a plan for the place of use effected by property development (Both groundwater and surface water, if applicable). Development can cause water rights to become subject to forfeiture after 5 years of non-use. i.e. parking lots, outbuildings, ect. This is educational only and should not prevent the application from moving forward. It is something the applicant should be aware of to prevent loss of water rights on the property. They are welcome to contact me directly with any questions.

- 3) This area is within the Walla Walla River Irrigation District and did not notice their name under "agencies notified". They recently remapped and issued new certificates within the Walla Walla River Irrigation District. I do not yet have a copy of the updated maps and certificates. You would need to check with them to determine irrigation district rights affected by this proposal.

Best,

Greg Silbernagel - Watermaster, District 5

Oregon Water Resources Department

116 SE Dorion Ave.

Pendleton, OR 97801

(541) 278-5456

Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252



Request for a Public Hearing

Process taken from UCDC 152.769

REQUEST FOR A HEARING

The purpose of a notice for a land use request application is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

RECEIVED

FEB 20 2018

UMATILLA COUNTY
CODE ENFORCEMENT

FILING FEE

Requesting a Public Hearing - \$250

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009

File Location: H:\shared\FORMS_Master\Appeal_Hearing.doc

Section 1: Request and Description of Application

This information deals with the Land Use Request Application where a Public Hearing is being requested.

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #C-1293-17
- Type of Land Use Request Application: conditional use permit
- Decision-Making Body: Planning Director or Other _____
- For a Request of a Public Hearing, Date Notice was sent: 1-29-18

Section 2: Contact Information

Name of Submitter(s): Tim S. Werhan

Address: 53816 W. Crockett Rd.

City, State, Zip: Milton Freewater, OR 97862

Telephone Number & Email Address: 541-938-6563, smileyrv@hotmail.com

Date of Submittal for Request of a Public Hearing: 2-9-2018

Section 3: Basis for the Request for a Public Hearing

Complete only for a Request for a Public Hearing

The Request for a Public Hearing must be based on issues you feel should be addressed in a public forum. Please describe the reasons you feel that a public hearing should be held before the Umatilla County Planning Commission in relation to the land use request application specified above:

The property is permitted for Exclusive Farm Use. A chemical storage & dry fertilizer storage for personal use leads a person to be concerned with potential foul odors & possible contamination of ground water. Also, if said chemicals & dry fertilizer are sold commercially, it would seem that Blue Mt. Hay needs to obtain a commercial property for that purpose. A fuel island and a truck repair shop also pose problems with possible contamination. Also, just how long does the "conditional permit" last? Surely not permanently. I can't imagine Blue Mt. Hay investing a lot of money for a temporary permit.

Umatilla County Department of Land Use Planning, Notice of Request for a Public Hearing page 3
Version: February 20, 2009, File Location: H:\shared\FORMS_Master\Appeal_Hearing.doc

Farm is farm & commercial is commercial.

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X *Tim S. Werhan*
Signature of Submitter

02-09-2018
Date

Tim S. Werhan
Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: 02/20/18

Accepted by: *Robert T. Waldner*
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 17674

Conditional use permit

2 Messages

Don Ehrhardt <dehrhar@hotmail.com>

Tue, Mar 6, 2018 at 11:20 AM

To: "planning@umatillacounty.net" <planning@umatillacounty.net>, "robert.waldher@umatillacounty.net" <robert.waldher@umatillacounty.net>

re: Request #C-1293-17 Blue Mountain Hay, ILC

We own property in RR-4, lot 1701. We have a well for our needs. The subject property is only one lot, # 1600 away from us. What provisions or assurances is there concerning farm chemicals/fertilizer storage from entering the water table over us? Unfortunately both my wife and myself cannot attend the hearing. We hope that natural resources and environment questions can be asked by your staff for the meeting.

Sincerely,

Don Ehrhardt

Robert Waldher <robert.waldher@umatillacounty.net>

Thu, Mar 8, 2018 at 3:14 PM

To: Don Ehrhardt <dehrhar@hotmail.com>

Hello Mr Ehrhardt - Thank you for the comments. These will be added to the project record and presented to the Planning Commission for their consideration.

In terms of your concerns for farm chemicals and fertilizer storage methods, these would all be regulated by the Department of Environmental Quality. As a condition of the Planning approval, they would be required to comply with any DEQ's requirements for these types of facilities.

Please let me know if you have additional questions/concerns. Thank you!

Kind Regards -

Bob

[Quoted text hidden]

--

Bob Waldher, RLA

Director

Umatilla County Department of Land Use Planning

216 SE 4th ST | Pendleton, OR 97801

Phone: 541-278-6251 | Fax: 541-278-5480

<http://www.umatillacounty.net/planning> - Visit our website for copies of planning documents, permit applications and other helpful information.

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

NEW HEARING

SUBDIVISION REQUEST #S-055-18: DUSTY PACE, APPLICANT, SOUTH COUNTY CONSTRUCTION INC. & EAT TWO, LLC, PROPERTY OWNERS

The applicant requests approval to subdivide 17 acres of Rural Residential (RR-2) Zoned land into a 4-lot subdivision consisting of a minimum lot size of 2-acres per lot. The property is located along the west side of State Highway 395 and south of Colonial Lane, approximately 2-miles south of Pendleton. The property is identified as Tax Lot 202, Assessor Map 2N 32 34. Criteria include policies in the Comprehensive Plan listed in the public facilities, services, and transportation elements and approval criteria in Umatilla County Development Code (UCDC) Section 152.666 (6).

**PACE PLACE SUBDIVISION, #S-055-18
UMATILLA COUNTY
PLANNING COMMISSION HEARING
MARCH 22, 2018
PACKET CONTENTS**

1. PC Memo, page 1
2. Vicinity Map, page 2
3. Subdivision Plat Survey, page 3
4. Staff Report and Findings, pages 4 – 9
5. County Option 2/P-2 Road Standard, page 10
6. Floodplain Map for Tax Lot 202, page 11

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

March 14, 2018

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

CODE
ENFORCEMENT

To: Umatilla County Planning Commissioners

From: Carol Johnson, Senior Planner *CJ*

SOLID WASTE
COMMITTEE

Re: March 22, 2018, Planning Commission Hearing,
Dusty Pace, Applicant

SMOKE
MANAGEMENT

Pace Type I Subdivision, #S-055-18
Map #2N 32 34, Tax Lot #202

GIS AND
MAPPING

CC: Robert Waldher, Planning Director

RURAL
ADDRESSING

Request:

The applicant requests a land division of a 17-acre parcel, Tax Lot 202, into a four-lot subdivision. The subdivision is proposed to be named "Pace Place."

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Location:

The subject property is located along the west side of State Highway 395 to the northwest of McKay dam and approximately two miles south of the City of Pendleton. (See vicinity map.)

Standards:

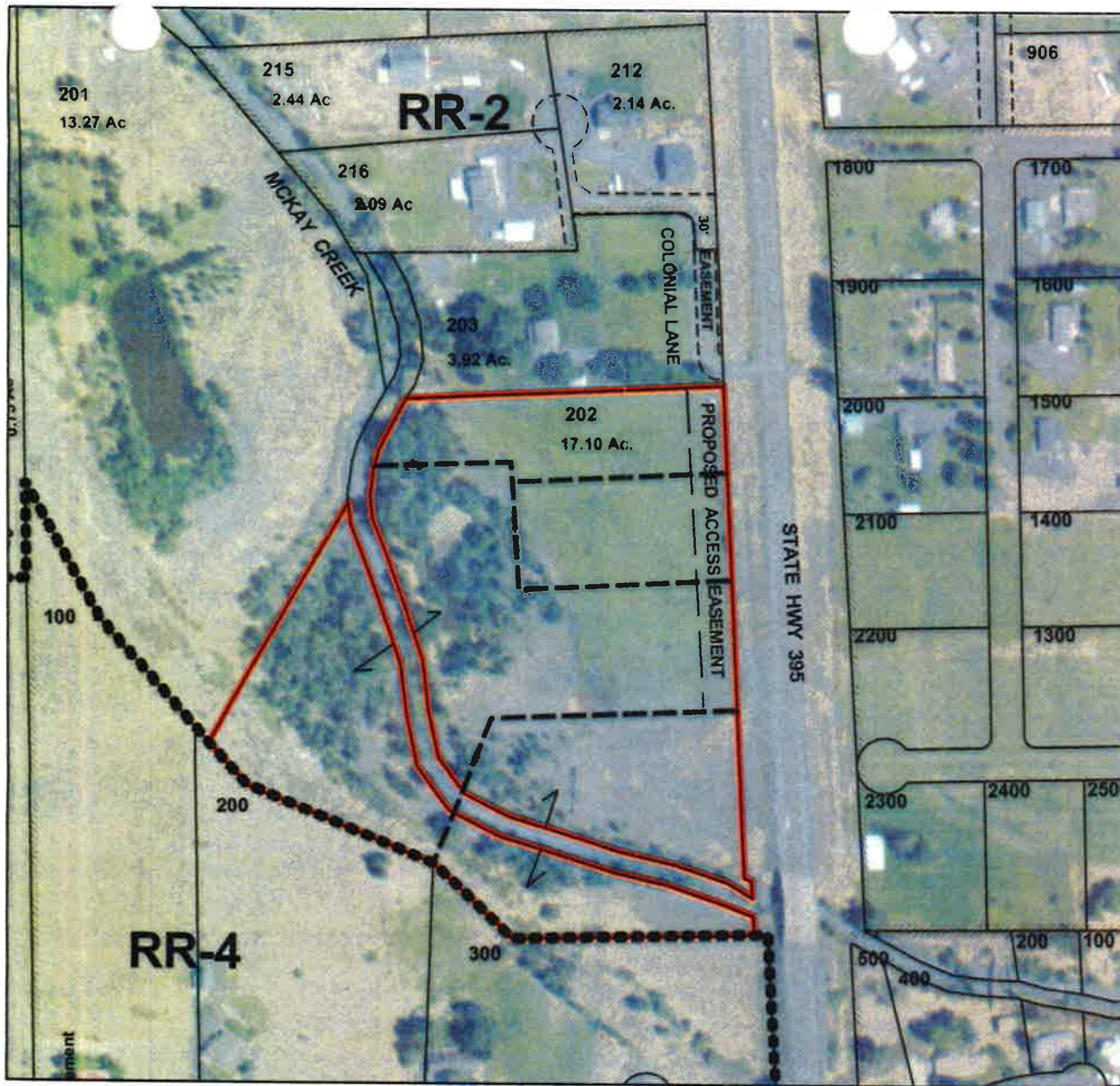
The Standards of Approval are found in the Umatilla County Development Code Section 152.666(6), Type I Land Division (Subdivision). The Standards generally consist of complying with zoning and development requirements (i.e., parcel/lot size, setbacks, etc.), conformance to the existing development scheme of the area including the logical extension of existing roads and/or public facilities within, and adjoining the site. In addition, the applicant is required to supply a survey plat that meets county and state regulations.

Conditions:

The proposed Conditions of Approval concern access, road improvements, future road improvements, septic site suitability, access to irrigation water and finally recording of the final survey plat.

Decision:

The decision by the Planning Commission is final unless appealed to the Board of County Commissioners.

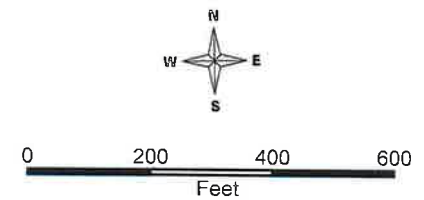


PROPERTY OWNERS WITHIN NOTICE AREA OF SUBJECT PROPERTY

MAP & TAX LOT	OWNER
2N32340000201	MCKENNA DAVID & LOREE
2N32340000202	SOUTH COUNTY CONSTRUCTION, ET AL
2N32340000203	COLLINS ROBERT W JR & DONNA F
2N32340000212	ROY JOSH & JESSICA J
2N32340000215	IMSLAND JERRY & JULIE
2N32340000216	FRAZIER JEFFREY B ET AL
2N3234B000100	HUMISTON DELMA J
2N3234B000200	LAMBERT JOHN D & LINDSEY
2N3234B000300	PATTERSON LARRY & JAYNE A
2N3234BD01900	UNDERWOOD MATHEW W & RACHELLE
2N3234BD02000	WOODS CHARLES E & BECKY L
2N3234BD02100	ROSE ROBERT C & LORNA J
2N3234BD02200	ROSE ROBERT C & LORNA J
2N3234BD02300	DIRKES RONALD A & BETTY L
2N3234CA00400	DIRKES RONALD A & BETTY L
2N3234CA00500	DIRKES RONALD A & BETTY L

SUBDIVISION APPLICATION #S-055-18
 DUSTY PACE, APPLICANT
 SOUTH COUNTY CONSTRUCTION INC., OWNER
 MAP 2N3234, TAX LOT 202

2016 AERIAL PHOTO



DATE: 2/27/18

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J.Alford, Umatilla County Planning Department

y:\workspace\Planning\Vicinity Maps\M-P\Pace_S_055_18.gws

Subject Property Proposed Subdivision Lines

202

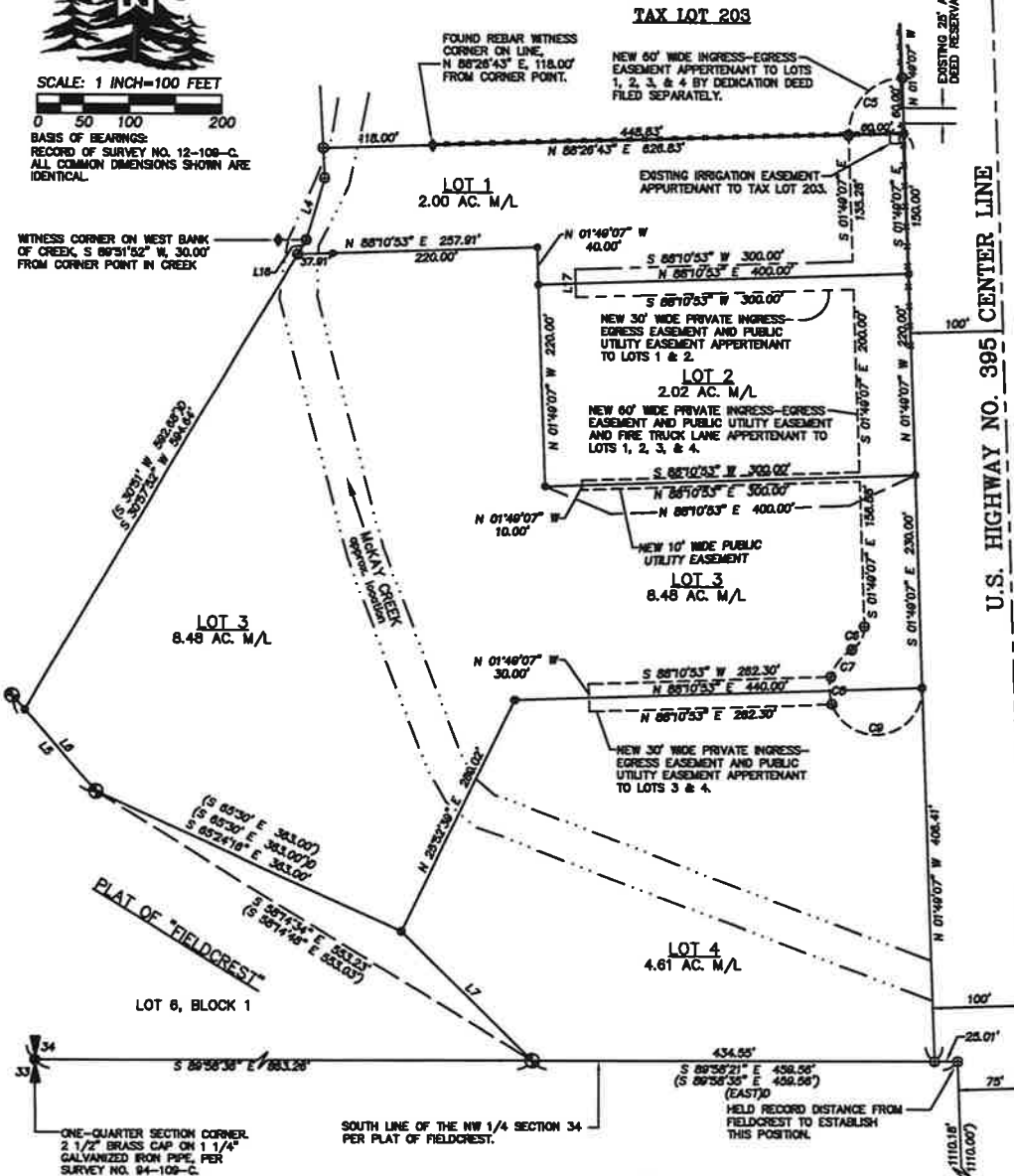


SCALE: 1 INCH=100 FEET

0 50 100 200

BASIS OF BEARINGS:
RECORD OF SURVEY NO. 12-108-C.
ALL COMMON DIMENSIONS SHOWN ARE IDENTICAL.

WITNESS CORNER ON WEST BANK OF CREEK, S 89°51'52" W, 30.00' FROM CORNER POINT IN CREEK



CURVE TABLE

NO	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C5	89°44'10"	60.00'	93.97'	84.66'	N 43°18'48" E
C6	60°50'41"	28.00'	29.73'	28.36'	S 28°36'13" W
C7	43°23'13"	50.00'	37.86'	36.96'	N 37°19'57" E
C8	34°54'55"	50.00'	30.47'	30.00'	N 01°49'07" W
C9	182°32'33"	50.00'	141.85'	98.84'	S 79°27'09" W

LINE TABLE

NO.	BEARING	DISTANCE
L4	S 18°30'30" W	89.89'
L5	S 41°02'18" E	138.88'
L6	S 41°02'18" E	118.38'
L7	S 45°03'01" E	198.30'
L10	S 07°45'56" E	89.32'
L18	N 30°57'52" E	18.07'
L17	S 01°49'07" E	30.00'

PACE PLAC.

A SUBDIVISION OF TAX LOT 202. SAID PROPERTY BEING LOCATED IN THE NW1/4 OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M., UMATILLA COUNTY, OREGON.

SURVEYORS CERTIFICATE AND NARRATIVE

"TENTATIVE FOR REVIEW"

I, JASON M. WELLS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS, IN ACCORDANCE WITH O.R.S. CHAPTER 92, AS REVISED, AND THE UMATILLA COUNTY DEVELOPMENT ORDINANCE, THE LANDS SHOWN IN THE ACCOMPANYING SUBDIVISION PLAT OF "PACE PLACE", A SUBDIVISION OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M., UMATILLA COUNTY, OREGON.

THIS SURVEY WAS MADE FROM CONTROLLING MONUMENTS FOUND OR ESTABLISHED ON UMATILLA COUNTY SURVEY NO. 12-108-C. COMMON DIMENSIONS SHOWN ON THIS PLAT ARE IDENTICAL WITH SAID SURVEY. LOTS 1, 2, 3, AND 4, ARE MONUMENTED AS SHOWN.

THIS SURVEY WAS MADE BY A 2 PERSON CREW USING TRIMBLE 5700 GEODETIC GPS RECEIVERS OPERATED IN REAL TIME KINEMATIC MODE.

REAL PROPERTY DESCRIPTION

LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M., UMATILLA COUNTY, OREGON, DESCRIBED AS FOLLOWS:

WILL FILL IN FOR THE FINAL PLAT.

REGISTERED PROFESSIONAL LAND SURVEYOR

JASON M. WELLS, PLS

OREGON
NOVEMBER 29, 2010
JASON M. WELLS
54657PLS
RENEWS 6/30/18

OWNERS DECLARATION

DUSTY PACE AND TAMERA PACE, HUSBAND & WIFE, OWNERS,

ACKNOWLEDGES THIS SUBDIVISION PLAT AS THE OFFICIAL MAP AND PLAT OF "PACE PLACE" A SUBDIVISION OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M., UMATILLA COUNTY, OREGON. FURTHERMORE, WE ACKNOWLEDGE ALL EASEMENTS AND ENCUMBRANCES AFFECTING THE PROPERTY INVOLVED IN THIS PLAT.

DUSTY PACE, OWNER TAMERA PACE, OWNER

ACKNOWLEDGMENT

STATE OF OREGON) SS
COUNTY OF UMATILLA)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2018

BY DUSTY PACE AND TAMERA PACE, HUSBAND & WIFE.

NOTARY PUBLIC FOR THE STATE OF OREGON

MY COMMISSION EXPIRES: _____

COMMISSION NUMBER: _____

LEGEND

- - SET 5/8"x30" IRON REBAR WITH 1 1/4" BLUE PLASTIC CAP MARKED "WELLS SURVEYING PLS 54657."
- ◆ - FOUND 5/8"x24" REBAR WITH 1 1/4" RED PLASTIC CAP MARKED "ORPLS 1106 WA PLS 17372", PER SURVEY 12-108-C.
- ⊕ - FOUND 5/8" REBAR BY STAEBLER, PLAT OF "FIELDCREST".
- ⊙ - CALCULATED POINT ONLY, NOT SET OR FOUND.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
NOVEMBER 29, 2010
JASON M. WELLS
54657PLS
RENEWS 6/30/18

WELLS SURVEYING
200 SE HAILEY SUITE 108
P.O. BOX 1896
PENDLETON, OR 97801
PHONE: (541) 278-6362

DATE: 03/18 DR. BY: JMW
CK. BY: WRW NO: 18-1686

RECORDING INFORMATION,
UMATILLA COUNTY OFFICE OF RECORDS:

PROJECT: \paceub2018

PACE PLACE

A SUBDIVISION OF A TRACT OF LAND LOCATED IN THE NW1/4 OF SEC. 34, T2N., R32E., W.M. UMATILLA COUNTY, OREGON.

UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
PACE PLACE SUBDIVISION REQUEST, #S-055-18
Map #2N 32 34, Tax Lot #202, Account #100283

1. APPLICANT: Dusty Pace, 71480 Gateway Lane, Pendleton, Oregon 97801
2. PROPERTY OWNERS: South County Construction, Inc., Dusty Pace, President, and Eat Two, LLC, a Washington Limited Liability Company, 71480 Gateway Lane, Pendleton, OR 97801
3. LOCATION: The property is located on the west side of State Highway 395, situated along McKay Creek, northwest of the McKay Reservoir, approximately two miles south of the City of Pendleton.
4. PARCEL ACREAGE: Tax Lot 202 = 17.10 acres
5. REQUEST: The applicant requests approval of a rural residential subdivision. The proposed subdivision would establish four lots. (See the applicant's site plan map for lot configuration and proposed access.)

According to the property owner each undeveloped lot will be served by a septic system and either an on-site well or one or two lots will share a well. The applicant has not submitted septic site suitability reports on whether each lot can be approved for a standard septic system. Site suitability will be a condition of the subdivision approval.

6. PROPOSED LOT ACREAGE:

Lot 1=2.00 ac	Lot 3=9.9 ac
Lot 2=2.00 ac	Lot 4=3.2 ac

7. COMPREHENSIVE PLAN MAP DESIGNATION: Rural Residential
8. ZONING: RR-2 Zone (Rural Residential two-acre minimum parcel/lot size)
9. ACCESS: Access will be provided from State Highway 395 via the south extension of Colonial Lane, a new 60-ft wide access easement. The applicant's site plan depicts two access points proposed along Colonial Lane, one shared between Lots 1 and 2 and the second shared between Lots 3 and 4. The applicant will be required to verify an approach permit from State Highway Department for access to State Highway 395.
10. ROAD TYPE: State Highway 395 is a two lane paved State Highway. Colonial Lane will be required to be improved with 22-ft wide gravel road surface within a 60-ft wide access easement.
11. EASEMENTS: Irrigation Easement, August 14, 2012, Instrument No. 2012-5950093, Office of Umatilla County Records.

PRELIMINARY FINDINGS AND CONCLUSIONS
Pace Type I, Subdivision Request, #S-055-18

12. LAND USE: The property (Tax Lot 202) is residential zoned land and pasture area. One land use Zoning Permit has been issued for a dwelling to be constructed on Lot 2.

13. ADJACENT LAND USE: The property is zoned residential, RR-2. Likewise, the properties surrounding the property are zoned residential, RR-2 and RR-4. Many of the area parcels are developed as rural home sites. The east side of the property adjoins State Highway 395.

14. SOILS: The property consists of the following soils.

Unit Number, Soil Name, Description & Slope	Land Capability Class		Sanitary	Building Site
	Dry	Irrigated		
28A: Freewater Gravelly Silt Loam, (unique soil), 0 to 3 percent slopes	6s	3s	Severe	Severe
126A: Xerofluvents, 0 to 3 percent slopes	4e	---	Severe	Severe

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” – soil limitations and “w” – water (*Survey, page. 172*).

15. BUILDINGS: The applicant’s site plan currently shows one building located in the northeast corner of the property. This small building is associated with the irrigation ditch company and the building is identified as no longer in use.

16. UTILITIES: Electricity is provided by Pacific Power & Light and land line phone service is provided to the area by Century Link.

17. WATER AND SANITATION: Prior to County approval the property owner is required to submit a favorable site suitability evaluation from County Environmental Health, to demonstrate whether a septic system can be approved on each undeveloped lot. Additionally, each of the four lots will be served by installing or sharing a domestic well.

18. IRRIGATION: There are surface water rights for 5-acres under #24237 from the Morton Elder ditch and pipeline improvement.

19. OTHER: Before subdivisions can be accepted for recording, all property taxes must be paid in full, including prepayment for the current tax year.

20. PROPERTY OWNERS & AGENCIES NOTIFIED: March 2, 2018

21. PUBLIC HEARING DATE: March 22, 2018

22. AGENCIES NOTIFIED: Oregon Department of Transportation, County Public Works

5

PRELIMINARY FINDINGS AND CONCLUSIONS

Pace Type I, Subdivision Request, #S-055-18

Director, County Surveyor, County Environmental Health Department, Fire District 10 McKay Dam - Pendleton Fire Department, County Assessor, County GIS/Mapping Department, State Water Resources, County Rural Address Coordinator, Pacific Power, Century Link, and the Confederated Tribes of the Umatilla Indian Reservation

23. COMMENTS RECEIVED: None to date.

24. CRITERIA FOR APPROVAL OF A TYPE I LAND DIVISION "SUBDIVISION", contained in Section 152.666(6) of the Development Code.

Following are the standards of approval for the subdivision, and criteria applicable under a broad category of several of these standards. The standards are provided in underlined text while the responses are provided in standard text.

(a) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and transportation elements of the Comprehensive Plan.

Sewage Disposal: The property owner understands that individual septic systems will be necessary to serve each lot. The property owner is required, as a condition of approval, to submit a favorable site suitability evaluation from County Environmental Health to demonstrate whether a standard or alternate septic system can be approved on each undeveloped lot.

Domestic Water: Domestic water wells are considered exempt wells and do not requiring a water right. Each exempt well allows 15,000 gallons per day of household usage including irrigating up to one half acre of lawn and landscaping per well. Exempt wells may be shared through a recorded shared well agreement; however, the water usage amount is shared, and not increased or doubled; therefore, the shared well is limited to the same gallon amount per day and in providing water for a half acre of lawn and landscaping.

Irrigation: The property owner must develop an irrigation water rights plan and delivery system. This is to ensure that the subdivision lots that benefit from the five acres of irrigation surface water rights will continue to have access to the irrigation delivery system and access to maintain the irrigation system.

Fire Protection: The subject property is within the McKay Dam Fire Protection District. The Pendleton Fire Department provides fire protection services to the area and will be notified of the applicant's subdivision proposal. The extension of an existing access road, Colonial Lane, will be required to be established on the subdivision plat. Colonial Lane will provide each new lot with ingress and egress and a turn-around area at the southern terminus of the lane. The turn-around area is required to be improved to accommodate large firefighting equipment by the fire protection service provider. A copy of the report will be shared with the Pendleton Fire Department for input on their ability to provide service to the subdivision lots.

Access Road Improvements: The County Transportation Plan (TSP) road standards and Section 152.648 "Creation of Roads, Easements and Rights-of-way; Minimum Standards." Table 1: Rural Road Standards Option 2 and also known as the P-2 standards apply to subdivisions. These Option 2 standards include an easement and/or right-of-way width of 60-ft and a surface road improvement of 22-ft wide. A condition of the subdivision is imposed to improve the road extension of Colonial Lane to the Option 2 (P-2) road standard including the proposed turn around area. A diagram of the County Option2/P-2 road standard is attached.

(b) Complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission (LCDC), until the comprehensive Plan is "acknowledged." Yes, the Umatilla County Comprehensive Plan, acknowledged by the State Land Conservation & Development Commission (LCDC), designates the subject property and surrounding properties for residential use. The applicant's proposal will create four lots for rural residential home sites. This property and properties in the vicinity are designated residential in the County Comprehensive Plan.

(c) Complies with provision of 152.019, Traffic Impact Analysis, as applicable. A Traffic Impact Analysis (TIA) is required to be submitted with a land use application when the proposal is projected to cause an increase in traffic volume by 250 or more Average Daily Trips (ADT). A single family dwelling generates on week days approximately 9.52 ADT. The applicant's proposed four lot residential subdivision would on week days total less than 40 ADT and therefore, the TIA is not required for the 4-lot subdivision.

(d) Complies with applicable provisions listed in the zoning regulations of this chapter;

Lot Size: All proposed parcels will conform within the 2-acre minimum parcel size for the RR-2 zone and the minimum of 150-ft of road frontage along the extension of Colonial Lane.

Setbacks: The applicant's site plan shows how the structures will meet the minimum 20-ft property line setback requirements as well as the 100-ft stream setback requirement for all zones including the RR-2 zone. All proposed lots are configured with adequate develop area to accommodate dwellings, accessory structures, septic systems and a water source within the zoning setback requirements.

Flood Hazard Areas: The area of property next to McKay Creek is located in a designated flood hazard area. A Flood Plain Development Permit may be necessary if development is proposed within this flood hazard area. Attached is a copy of a GIS floodplain map with the property area determined to be in the flood hazard area along McKay Creek.

(d) Complies with the applicable provisions, including the intent and purpose of the Type I regulations listed in this chapter;

Subdivision Name: The applicant has selected "Pace Place" as the subdivision name. The County Surveyor must approve new subdivision names to avoid duplicate names. Prior to recording the subdivision plat, the subdivision name must be confirmed by the County Surveyor. A condition of the subdivision approval is to place an approved subdivision name on the Final Plat Map prior to recording.

Road Signs: Roads that serve four or more residential properties are required to be named. The applicant will extend the named lane, Colonial Lane, to serve the four proposed subdivision lots. There currently is an installed Colonial Lane sign. The location of this sign was confirmed by a recent site visit to the property by the County's Address Coordinator. The requirement for the road sign is satisfied.

Road Improvement Agreements:

Over time additional road impacts, future upgrading and realignment often can become necessary. An Irrevocable Consent Agreement (ICA) is required when approval for parcels and lots are granted. The ICA is for participation in the future upgrading, and possible realignment of an access easement road. The Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property and does not operate as a personal contract of the owners.

An Irrevocable Consent Agreement is required as part of the subdivision approval for future participation in improvements to Colonial Lane, if and when, a Local Improvement District is formed for road improvements along this area of Colonial Lane. County Planning finds that by the property owners signing the ICA agreement fulfills the criterion for the road improvement agreement. Signing and recording the Irrevocable Consent Agreement for future participation of Lots 1, 2, 3 and 4 in road improvements is a condition of approval.

(f) The Tentative Plan conforms and fits into the existing development scheme in the area, including the logical extension of existing streets [roads] and public facilities through the tentative plan; The subject property and the surrounding properties are plan designated and zoned for rural residential development. The existing development scheme is rural parcels for dwelling sites. The subject property is bordered on the north by several parcels currently served by Colonial Lane which the applicant plans to extend to the south and serve as access to the proposed four lots. Therefore, the applicant proposes the logical extension of an existing roadway, Colonial Lane, for ingress and egress to four lots as shown on the applicant's site (tentative) plan. There are no public facilities located nearby to extend to the subject property except for access to surface water.

(g) Complies with other specific requirements listed in Section 152.667 for approval of subdivisions within multiple use areas. This requirement does not apply. The subdivision is not located within a multiple use area.

(g) All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading. Outside of a bluff area to the south and southwest of McKay Creek, the property generally consists of 0 to 3 percent slopes; therefore, the development area has relatively flat natural topography. The extension of Colonial Lane for access to the subdivision lots would adjoin the west side of State Highway 395.

DECISION: THE PACE SUBDIVISION, #S-055-18, REQUEST COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

8

PRELIMINARY FINDINGS AND CONCLUSIONS

Pace Type I, Subdivision Request, #S-055-18

The following "Precedent Conditions" shall be completed prior to issuance of final approval signified by recording of the final subdivision plat.

1. Submit a preliminary subdivision plat that meets county and state plat requirements. The subdivision name must be placed on the subdivision plat. The plat shall include the extension of the 60-ft easement, Colonial Lane, for subdivision access, as well as, two 30-ft access easements extending to the west from Colonial Lane, as represented on the applicant's site plan for shared access between Lots 1 and 2 and between Lots 3 and 4.
2. Pay and possibly prepay property taxes.
3. Submit copies to the County Planning Department of favorable site suitability reports from the County Environmental Health Department for all underdeveloped subdivision Lots, 1, 2, 3 and 4.
4. Sign and record an Irrevocable Consent Agreement to participate in future road improvements to Colonial Lane. (Agreement provided by the Planning Department.)
5. Submit verification from Oregon Department of Transportation of an access approach from State Highway 395 to Colonial Lane.
6. If applicable, submit irrigation information confirming a water rights reallocation plan and lot access to the irrigation delivery system, including irrigation easements for access.
7. Improve the road extension of Colonial Lane to the County Option 2 (P-2) road standard including the proposed turn around area. The Option 2 or P-2 road standard consists of a 22-ft wide, nominal compacted 8-inch crushed gravel surface. (Verification that roadway improvements have been completed to the County Option 2 (P-2) standard may be provided by a combination of photos of the road improvements and receipt copies for gravel and services by the road contractor, or by written verification from a licensed Civil (road) Engineer that County Option 2 (P-2) standards have been met.)

The following "Subsequent Condition" to be completed after all precedent conditions are met:

8. Record the final subdivision plat.

Suni Danforth, Chairman,
Umatilla County Planning Commission

Date

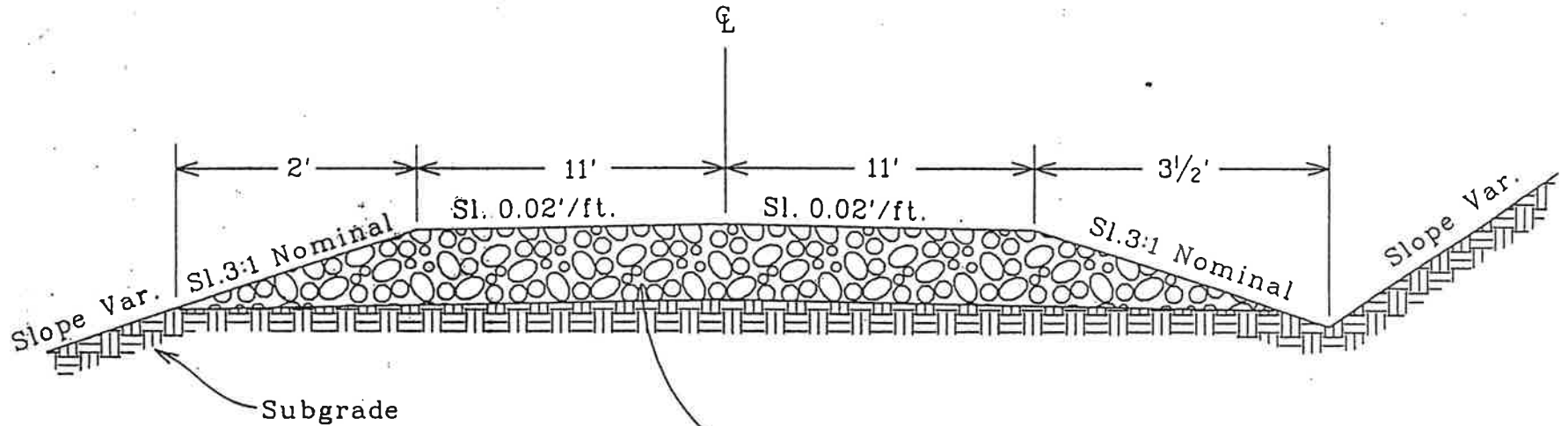
Attachments:

Diagram of Option 2 (P-2) Road Standard,
Floodplain Map

9

"P-2" (Land Partition)

To be used in cases where future partitioning or development is anticipated.



- * Note: If Partition is within a City Urban Growth Boundary, City Standards should apply.
- * Culvert pipes to be installed in locations determined by the Director of Public Works. Materials & workmanship shall conform to current ODOT Standard Specifications
- * All other construction details and specifications to conform to current ODOT Standard Specifications and to be approved by the Director of Public Works.
- * Any changes to surfacing width or depths or variance from current Oregon Department of Transportation Standard Specifications must be approved by the Director of Public Works.

Crushed gravel surfacing
Nominal compacted thickness 8"
(size and grading requirements to conform to current Oregon Department of Transportation Specifications).

Umatilla Co. Rd. Dept.

"P-2"

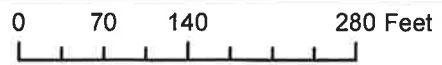
Drawn By: JG	Checked By: GR
Date: July 1997	Road Standard

FLOOD MAP: PACE SUBDIVISION S-005-18

MAP:2N 32 3400 TAX LOT: 202



- Tax Lot 202
- Base Flood Elevation
- Floodway
- A, No Base Flood Determined
- AE, Base Flood Determined
- AO, Shallow Flooding



MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Map data should be used for reference purposes only. Not survey grade or for legal use. Created By Jacob Potterf 2/28/2018



DRAFT MINUTES

**Applicant/property owner, 3R Valve, LLC,
Kent Madison, Member**

**COMPREHENSIVE PLAN TEXT AMENDMENT & GOAL 3
EXCEPTION, #T-17-075**

**COMPREHENSIVE PLAN MAP AMENDMENT, #P-121-17
ZONING MAP AMENDMENT, #Z-312-17**

PLANNING COMMISSION HEARING

November 16, 2017

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, November 16, 2017
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Gary Rhinhart, Vice Chair, Don Wysocki, Don Marlatt, Tami Green (attended via conference speakerphone)

ABSENT: Randy Randall, Tammie Williams, Clive Kaiser, Cecil Thorne

STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner, Tierney Dutcher, Administrative Assistant

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING IS AVAILABLE AT THE PLANNING DEPT. OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:30 p.m. and read the Opening Statement.

MINUTES

Chair Danforth asked the Planning Commission to review the minutes from the October 19, 2017 meeting. Chair Danforth stated that toward the bottom of page 6 she is mistakenly referred to as Commissioner Danfield. Tierney Dutcher, Administrative Assistant, stated that she will make that change. Commissioner Rhinhart moved to adopt the minutes with the noted change. The motion was seconded by Commissioner Marlatt. Motion carried by consensus.

NEW HEARING

COMPREHENSIVE PLAN TEXT AMENDMENT & GOAL 3 EXCEPTION, #T-17-075, COMPREHENSIVE PLAN MAP AMENDMENT, #P-121-17 & ZONING MAP AMENDMENT, #Z-312-17, applicant/property owner, 3R Valve, LLC, Kent Madison, Member

The applicant requests a Post-Acknowledgment Plan Amendment to rezone approximately 11 acres of Exclusive Farm Use (EFU) zoned land to a Rural Retail Service/Commercial (RRSC) Zone with a LU, Limited Use Overlay Zone. The property is identified as Tax Lot #103 on Assessors Map #4N 28 33B and is located at 29701 Stanfield Meadows Road, Hermiston, Oregon 97838. The property is south of the Umatilla River situated between State Highway 207 and Stanfield-Meadows Road, approximately one mile south of the City limits and Urban Growth Boundary of Hermiston. The applicant's request includes the following land use actions: 1) Amendment of the County Comprehensive Plan Text and approval of a Statewide Planning (Agriculture) Goal 3 Reasons Exception; 2) Amendment of the County Comprehensive Plan Map from North South Agriculture to Commercial; 3) Amendment of the County Zoning Map from EFU to RRSC Zone & LU, Limited Use Overlay Zone.

The Goal Exception must comply with the Goal 2 Exception process, Oregon Revised Statutes (ORS) 197.732 and the reasons exception criteria in Oregon Administrative Rule (OAR) 660-004-018, 660-004-0020, 660-004-0022. Also, addresses OAR 660-014-0040, Goal 14, the OAR 660-012-0060,

Transportation Goal 12, County Transportation System Plan (TSP) and Umatilla County Comprehensive Plan Policies from Chapters 10-12, 14, 15, 17 and under Chapter 18 how the exception meets one of three general types of Commercial lands for the exception. And Umatilla County Development Code (UCDC) Sections 152.019, RRSC Zone Sections 152.251-152.256, Limited Use Overlay Zone Sections 152.530-152.536. The process follows the UCDC Section 152.750-152.755 for Amendments.

STAFF REPORT

Carol Johnson, Senior Planner, stated that she processed the applicants request for amendments to the County's Comprehensive Plan Text and Maps. The applicant/owner is 3R Valve LLC, Kent Madison. The property is located to the south of the Umatilla River between the Butter Creek Highway (State Highway 207) and Stanfield-Meadows Road, approximately one mile south of the Hermiston city limits and Urban Growth Boundary or (UGB). The applicant requests a zone change from Exclusive Farm Use (EFU) to Rural Retail/Service Commercial (RRSC) through a "reasons exception" to Statewide Planning Goal 3. Planning Goal 3 preserves and maintains agricultural lands.

The applicant proposes the following uses; travel trailer (RV Park), use of an existing farm shop building by Jack-E Up LLC, as a machine or welding shop for fabricating and selling trailer hitches, or alternatively, use of the shop building as an office for a different business, use of an existing dwelling as an office for wind service technicians for dispatch to maintain and repair area wind power projects, or use of the dwelling as an accessory dwelling for the RV Park operator (caretaker).

ORS 197.732(2)(c), Statewide Planning Goal 2, and OAR 660-004-0020(2)(a), provide for an exception to a statewide planning goal to authorize uses of land not otherwise allowed under the goal, if there are sufficient reasons that justify why the applicable goals should not apply. In addition, OAR 660-004-0022 (1) sets out general standards for a reasons exception. The rules consist of four standards; "sufficient reasons" standard, "reasonable accommodation" standard including steps for the "alternative sites analysis" for evaluation of 1) sites within existing exception areas, 2) irrevocably committed resource lands, and 3) urban growth boundaries or UGBs, "environmental, economic, social and energy" or ESEE standard, and "compatibility standard."

OAR 660-004-0022 (1) and OAR 660-004-0020 (2)(a), require a determination that there are "sufficient reasons" to authorize a use or uses not allowed by the applicable goal. One proposed use justified by one reason may not necessarily justify another proposed use. OAR 660-004-0020 (2)(b), "reasonably accommodate standard," asks a very different question from the question posed by the ESEE analysis required in (2)(c). The "reasonably accommodate" standard is the more difficult to satisfy because it does not ask which site is better suited, it asks which alternative site can "reasonably accommodate" the proposed uses and the analysis is not limited to only lands owned or controlled by the applicant.

OAR 660-004-0020 (2)(b)(B) allows for economic factors to be considered in determining that the use cannot "reasonably be accommodated" in other areas. However, Goal 9, the economic goal, does not impose particular requirements on rural lands outside of urban growth boundaries and although economic development is important to the County it is not necessary for the County to change zoning

from EFU to RRSC to meet or satisfy Goal 9. Therefore, the desire to diversify uses or add to the local economy is not in itself a “sufficient reason” to justify an exception to Goal 3. Otherwise, this approach would allow exceptions to be easily approved and would be contrary to the Statute, because exceptions are just that, exceptional.

The ESEE standard under OAR 660-004-0020 (2)(c), assumes the exception is justified for the proposed uses and therefore, the rule asks whether other resource land, that also would require a Goal exception, may be better suited for the proposed uses. However, properties similarly situated and that also would require a zone change and exception were not offered or considered by the applicant in the application materials.

Subsequently, OAR 660-004-0020 (2)(d), the “compatibility standard”, requires determination that the proposed uses are compatible with adjacent uses, or will be made so through measures to reduce adverse impacts. Again, if there are sufficient reasons to justify each proposed use the County’s Plan and Zoning designations must effectively limit uses, density, and services to only those justified by the reasons exception. In addition, the applicant referred to several policies of the County Comprehensive Plan, and Statewide Planning Goals as presented in the report.

The Planning Commission’s decision is a recommendation to the Board of Commissioners. Options for the Planning Commission’s consideration are available on page 58 of the commissioner’s packet.

Chair Danforth noted that Commissioner Green is attending the hearing tonight via conference speakerphone.

TESTIMONY

Applicant Testimony: Kent & Laura Madison, 28647 Madison Road, Echo, Oregon. Mr. Madison stated that the application was completed with the assistance of his Attorney, Lolly Anderson and Shae Talley is the Engineer who completed the Traffic Impact Analysis. Both women are present and available for questions.

Mr. Madison stated that he and his wife are farmers out of Echo. He started with history of the property. He did not purchase the property with the intention to do what he is asking for today. Around 2008, John Deere Renewables approached him with a contract to build a windfarm on their land and the neighbors land. John Deere Renewables built the windfarm and in the process of permitting it, they were required to establish a right of way for the power line to reach the Hinkle Substation where the windfarm is contracted to deliver power to Pacific Power. John Deere Renewables acquired this property from Steve and Shelly Walker in order to establish that right of way. After the permitting was complete, John Deere Renewables asked Mr. Madison if he would like to purchase the property from them at a discount. It was known that the property did not have much value. It had a house, a farm/shop and a covered building. He was unable to find a definitive record of when the property was last farmed. Bill Profilly, Manager of the Westland Irrigation District, told him that he thought it was last farmed by the Walker family in the late 1970’s or early 1980’s. Mr. Madison stated that when he purchased the property from John Deere

Renewables, he assumed his only revenue stream would be the rental of the house. After purchasing this property he transferred the water rights from this property to another Madison Ranches Inc. property located in the Westland Irrigation District. He explained that they did not abandon water rights from EFU ground, they were just moved to a more productive location.

Chair Danforth asked for clarification about the ownership history of the property. The Staff Report noted that Mr. Walker sold the property to Madison Ranches. However, Mr. Madison has stated that he purchased the property from John Deere Renewables. Mr. Madison reiterated that the Walker's sold to John Deere Renewables and they had ownership for about 2 months before it was sold to Madison Ranches. Mrs. Johnson stated that she had done research on ownership as part of the permitting process and was only able to find information that showed the property was sold by the Walker's to the Madison's. She added that, there is a chance that contract was not officially recorded. Mr. Madison stated that he did not purchase the property for the transmission rights, nor to do anything they are proposing to do today. He is making this proposal today because he owns the property and is not sure what else they could do on it.

Mr. Madison presented a series of images aerial pictures of various farm properties in the county where, over time, the use has changed and development has occurred. He stated that, when water rights are moved from unproductive farm ground to productive farm ground they are benefiting the community as a whole. Commissioner Rhinhart stated he believes that when you lose farm ground and open space, it is gone and never coming back. Mr. Madison stated that he agrees with that, but from a standpoint of the value it brings to society in terms of food production, a little may have been lost. However, when the water right is transferred to another productive piece of farm ground the benefit is ultimately greater.

Commissioner Rhinhart stated that a lot of the investment coming from the new Farm Bill will be granted to small acreage properties. They will be encouraging people to farm those smaller properties and, down the road, they will be looking at 10 acre lots as viable pieces of farmland. Mr. Madison stated that, if it is economical for a land owner to farm the property today, he will farm it today. If it is not economical for the farmer, and the government wants them to farm those smaller parcels, they will have to subsidize the land owner in order to make it viable. The result, from a tax based standpoint, will be a net loss to society. Commissioner Rhinhart stated that he still does not see it as a good thing because if looking long term, Oregon is losing over 100,000 acres of high value EFU ground and almost a million acres of EFU and forest ground are being developed every year. He believes that, at some point, we won't be able to eat unless we come up with alternative ideas and sites to grow crops. Mr. Madison stated that he is not a developer out of Portland coming into our community with the intention to take agricultural land out of production. He would like to build an RV park because they have nothing else to do with that piece of land.

Mr. Madison stated that Vestas, the company that provides service personnel for the windfarm, is currently located in Hermiston. Employees start their day by driving to Hermiston to get in the trucks then drive back through Hermiston to do maintenance on Madison Farm. They estimate they are spending \$100,000 annually, transporting employees from their current service territory to Madison Farm. The additional cost of transport is reflected in the bottom line cost passed down to the owners of

the windfarm. Mr. Madison and his wife are 7% owners of the windfarm. He was approached by Vestas with a request to rent the house on his farm to use as a facility. After consulting County Planning, they learned they were not allowed to use the home on this property for the wind industry, unless he changed the zoning designation. If he had originally asked for the property with home to be included as a wind maintenance facility in the Conditional Use Permit (CUP) he received, he could have had that option. He stated that he can also legally use high-value farm ground on Madison Farms to build a facility for Vestas, but he doesn't like that idea. He would rather use this property because it is low-production and low-value farm ground.

Mr. Madison stated that he would like to do something productive with the remaining 4 acres available on this property. The property has solar panels that are spaced out and the power poles are approximately 50 feet high. The power lines must be located twice the distance from the solar panels in order prevent shading. This requirement keeps him from placing solar panels any closer to the edge of his property. Between the solar array and windfarm, they have met the substations capacity to receive renewable energy. He stated that he can't argue with Mrs. Johnson's comments and issues with the application, but he wants to allow for continued economic growth.

Commissioner Wysocki asked what the soil type on the property is. Mr. Madison stated that it is incredibly sandy. It would have been productive land, but because of the size it has not been in production for 35 years. He believes it has not been producing any benefit to society and the economy does not allow for it to be productive. He asked why we continue to keep it under the same zoning designation. Commissioner Rhinhart stated that not everything needs to make money. Some things are better left alone. He added that, prior to the wind and solar development, that land may have been a perfect place for wildlife like pheasants and deer. He would consider that a benefit. He believes it's important for farmers to consider how they are protecting the ground and what it will be like a couple hundred years from now. Commissioner Rhinhart stated that he understands that money is the driving force for everything but it is not the only benefit. We cannot consider this application based on money. The property should be looked at as having value because it is farm ground, and the Commissioners are required to follow the rules in place to protect EFU lands. Mr. Madison stated that he is asking for an RV park overlay zone because it's located along to Highway 207 and it is in a flood zone. He feels that if they were to have a flood issue they could easily move an RV, as opposed to anything else. They do not plan to put any structures in the flood zone area. The wastewater treatment and other various structures like that will be located outside the area.

Chair Danforth asked Mr. Madison if he prepared a proposal for the RV site. Mr. Madison stated that he intends to make a 40 unit RV Park. Chair Danforth stated that she appreciates Mr. Madison's presentation. She acknowledged that he showed the farm ground has not recently been productive and the water rights have been moved to another parcel. However, under OAR 660-033-0020(9), "an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract." She stated that this means the soil class has not changed even though there is currently no irrigation on the property. Additionally, she stated that many of the chapters and policies required to approve an application like this have not been met. After researching the request, she made a list of ten places where the minimum

requirements are not met, so she has a problem moving this request forward. She asked if they have looked for other properties for this purpose. She also asked if there is a contract with Vestas to use the facility. Mr. Madison stated that he has an agreement with Vestas that they will use the property if the zone can be changed. Chair Danforth stated that the Planning Commission needs facts presented, in place of assumptions. Mrs. Johnson provided clarification on the operation and maintenance building attached to the wind project. She stated that there is a provision in the CUP section of the Development Code. The application for a transmission line is a Land Use Decision (LUD) and not a CUP. The CUP applies to the land where the project is located. If, at that time, they had wanted to place an operations and maintenance building there, or use an existing building, they could have included this as part of the approval request. Our current County Development Code Standards for Review of Conditional Uses and Land Use Decisions under (HHH) Commercial Wind Power Generation Facility still allows this as a use, although it does express a preference that it be located in an appropriate zone. Mrs. Johnson also stated that in 1997, Mr. Walker was permitted to build a shop on the property for the purpose of storing melons. As pointed out by Chair Danforth, storage of farm crops is considered a farm use, even if it is on land that does not contain a crop. Mr. Madison stated that the Walker's also farmed in other locations around the county. He stated that it was being used as a processing and storage facility but the land has not physically raised a commodity since 1984. He stated that he understands that the process for building an RV park requires him to find a zone that already allows for that use. However, he does not really want to build an RV park. He just wants to do more with the property to benefit the community. He unable place any additional solar panels on it, and it's not economical to farm.

Chair Danforth stated the applicant is burdened with the task of proving that they have met the requirements for an application to be approved. They are expected to do due diligence and follow the processes and laws in place. If those standards are not met, it's not something the Planning Commission can move forward. Commissioner Rhinhart stated that the State requires the applicant to look at other all other possibilities for locations in the appropriate zone before considering a zone change to accommodate a use. Sometimes the property will need to stay as it is because there is nothing else you can do with it. He pointed out that there are available parcels inside Umatilla County zoned for RV parks and the State's land planning rule is to protect farm ground.

Commissioner Wysocki stated that he knows of no land that has gone back to its previous state after the water right has been removed. Water is our scarcest commodity. When the water right went away, the productivity of this piece of land went with it. If the law was black and white, the Planning Commission would not be needed. In the long run, there may be other possible uses to consider. It's always the gray area issues they need to decide and each issue must be decided on its own merit. Mrs. Johnson stated that sometimes there are choices made by land owners, and things done on farmland that reduce acreage for farm crops and other types of farm uses. The resulting issues with acreage are self-imposed. For a land owner to come back after the fact and use those self-imposed situations to argue that the use should be changed, does not meet the standards of the rules. "Highest and best use" of a piece of property is not a land use term, it is a real estate term. It does not represent a standard that has to be met.

Opposition Testimony: Rhonda Villalobos, 29730 Stanfield Meadows Road, Hermiston, Oregon. Ms. Villalobos stated that she lives directly west of the proposed RV park. She has 95 acres and is a third

generation farmer. She and her husband struggle to keep the farm ground in the family. Whenever she sees a land zone change from Exclusive Farm Use, it bothers her. The area landscape has already changed with Space Age and the towers on the hill. She pointed out that Mr. Madison stated that it will be a 40 unit RV park, and she doesn't necessarily want 40 neighbors who may not have the knowledge of farming and farming practices. Sometimes they need to aerial spray, and she feels that could become an issue. She also has free range chickens that stay on her property and is concerned about additional people and dogs up and down the road. Commissioner Rhinhart asked what they farm on their property. Ms. Villalobos stated that, right now, they have an alfalfa. In the past they have farmed asparagus, corn and peas. She agrees that sometimes it's best just to leave a piece of land alone. She added that they have deer, rabbit, opossum and wolves in the area. Commissioner Green asked which parcel belongs to Ms. Villalobos. Chair Danforth noted that it is tax lot #300 on the map in the Commissioner's packet.

Public Agencies: Mrs. Johnson stated that she received some materials after the packets were distributed. The Commissioners were given the new paperwork prior to the hearing. First is an email with additional comments from Jon Jinings with the Department of Land Conservation and Development (DLCD). Second is a letter from the Brandon Seitz with City of Umatilla. Chair Danforth added the City of Umatilla letter as #11 and the email from DLCD as #12 to the record.

Applicant Rebuttal: Kent & Laura Madison, 29299 Madison Road, Echo, Oregon. Mr. Madison stated that he intends to put a 4 foot high fence around the property so the RV park would not be accessed by Stanfield Meadows Road. He stated that, as a farmer, he understands Ms. Villalobos' concern about aerial application. He would try to mitigate her and other neighbors' concerns as much as possible.

Chair Danforth stated that she sympathizes with Mr. Madison. She appreciates the energy and effort put forth with the application and presentation. She stated that we have statewide planning goals and guidelines, OAR's and ORS's, and when those standards are not met, and DLCD provides a letter stating the requirements are not met, it is something the she doesn't feel comfortable going against.

Mrs. Madison stated that they are not intending to be RV park developers. It's something they are experienced with because they use them. They see the need for newer, wider RV parks and this is a great location. They were trying to take the land and environment into consideration when developing the property by not building in the flood zone, etc. They are trying to be the best stewards of the piece of property they have. Mr. Madison stated that there is nothing they can do to meet the goals, especially now that DLCD has said it's not a good idea. Mrs. Johnson stated that there are over 30 CUP opportunities and many LUD opportunities in the EFU Zone. There are a multitude of allowable uses that may provide an opportunity for another use of the land.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Marlatt stated that he has over 30 years in the military and considers himself a rule-follower. But, in this case, he feels it's a matter of doing what's right rather than doing the right thing.

He believes that approving this application is the right thing to do. He feels it is not detracting from EFU practices and Mr. Madison makes a compelling argument. He stated that the traditional values of maintaining farm land is very important to him but he believes that turning this application down is not going to put the land back into production. Mrs. Johnson reminded the Commissioner's that their decision tonight will be used to make a recommendation to the Board of County Commissioners (BCC). Commissioner Wysocki asked what the next step will be. Mrs. Johnson stated that the BCC will have a hearing on December 20th to make a final decision.

Chair Danforth stated that the letter from DLCD supports the Staff Findings that the applicant has not met the criteria to make an exception. She does not think it is a good idea to set a precedent and is not in favor of approving this request. Commissioner Rhinhart and Commissioner Green agreed.

Commissioner Marlatt made a motion to recommend approval of the 3R Valve, LLC Goal 3 Exception Text Amendment #T-17-075, Comprehensive Plan Map Amendment #P-121-17 & Zoning Map Amendment #Z-312-17 to the Board of County Commissioners. The motion was seconded by Commissioner Wysocki. Motion denied with a vote of 3:2.

ADJOURNMENT

Chair Danforth adjourned the meeting at 8:11 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

(Minutes adopted by the Planning Commission on _____)