

July 24, 2024

Morrow County Planning Commission  
Stacie Eckstrom, Chair  
% Tamra Mabbott, Planning Director  
215 NE Main Avenue  
Post Office Box 40  
Irrigon, Oregon 97844

RE: Conditional Use Request CUP-N-370-24

Chair Eckstrom and Members of the Planning Commission:

Thank you for the opportunity to provide comments on this request for a home-based business. The City of Boardman has an interest in this action as the subject property is within the city's urban growth boundary. There are a couple of items that the city would like to draw your attention to:

1. There is a provision within the Suburban Residential use zone that the Preliminary Findings of Fact does not address that is directly related to the request. Under the Limitations of Uses it states that, "2. In Suburban Residential ... zone, commercial trucks and trucking businesses are *not an allowed use* {emphasis added}. a. A landowner may be allowed to use a truck or tractor unit as personal transportation to the resident parcel. No more than one (1) truck or tractor unit is allowed per parcel." This request and proposed approval are in direct conflict with that standard and the request should therefore be denied. An alternative would be for Morrow County to amend both Suburban Residential use zones to expand the allowance for trucking businesses within the residential use zones.
2. This request is seeking approval as a home-based business, which is allowed in the use zone. However, when you look at the applicable standards in Article 6 of the Morrow County Zoning Ordinance the first standard requires that the "home occupation is to be secondary to the main use of the property as a residence and shall be conducted within the same dwelling or in an accessory building on the same property." This request is not proposed to be conducted in such a manner but to allow the parking of the trucks and trailers in an unimproved area of the subject property with no privacy fencing or parking structure. This simply is not a home-based business or home occupation and, again, should be denied.

The Findings of Fact are also confusing as this was received as part of the packet for the July 30<sup>th</sup> Planning Commission public hearing, but the notice provisions refer to an August

27<sup>th</sup> public hearing. That should probably be amended to correctly reference the public hearing and public notice dates.

The City of Boardman understands that Morrow County is seeking an appropriate pathway to allow the activities that have occurred not only in West Glen but other areas of the county for several years, decades even. But we are not convinced that the approval of Conditional Use Permits in clear conflict with the Morrow County Zoning Ordinance is the right path forward. There are also impacts to the local streets and Kunze Lane that should be considered as these types of activities are reviewed.

We do ask that this letter be made a part of the record and that our comments be incorporated into the final decision that is issued whether it be approved or denied. If approved the proposed Findings of Fact and Conditions of Approval should be completed in a way that acknowledges the clear discrepancy between the standards and the approval. An example might be that requiring the commercial activity to occur between the hours of 8:00 am and 5:00 pm may be impractical if the trucks are departing at 5:00 am and returning at 8:00 pm.

Thanks again for the opportunity to comment on this action. Should you have any questions about this comment letter, or the city's concerns please contact Carla McLane, Planning Official, for the City of Boardman at [mclanec@cityofboardman.com](mailto:mclanec@cityofboardman.com) or at the number below.

Cordially,



Brandon Hammond  
City Manager

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## Michaela Ramirez

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**From:** Daisy Goebel  
**Sent:** Monday, July 29, 2024 4:38 PM  
**To:** Michaela Ramirez  
**Cc:** Tamra Mabbott  
**Subject:** Fw: July 30th PC Comment  
**Attachments:** Redlines to 05282024 Proposed Changes

Please distribute the Port's comments to the planning commission.

Thank you,

**Daisy Goebel, AICP**  
Principal Planner  
Morrow County Planning Department  
[dgoebel@co.morrow.or.us](mailto:dgoebel@co.morrow.or.us)  
(541) 922-4624 x 5506

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**From:** Jacob Cain <JacobC@portofmorrow.com>  
**Sent:** Monday, July 29, 2024 4:33 PM  
**To:** Tamra Mabbott <tmabbott@co.morrow.or.us>; Daisy Goebel <dgoebel@co.morrow.or.us>  
**Cc:** Curtiss, Sarah Stauffer <sarah.curtiss@stoel.com>; Dan Kearns <dan@reevekearns.com>  
**Subject:** July 30th PC Comment

**[EXTERNAL EMAIL] - STOP and VERIFY - This message came from outside of Morrow County Gov**

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Hi Tamra,

Thanks for providing the draft of the proposed code changes that were included in the Planning Commission packet. We had the opportunity to review over the last couple days and wanted to provide a few comments. Please distribute this to the planning commission.

At a high level, we were disappointed to see that the comments that the Port provided by email on 5/23/2024 (attached) were not addressed in the current draft. In that email, we raised concerns about the water and wastewater provisions in the draft zoning permit and site plan review section, as well as concerns related to the provision that would require site plan review for applications for development outside a UGB that require extension of municipal water or sewer. Did staff have the opportunity to review the comments we provided?

Although we are continuing to review the current draft, we would like to offer the following comments for your consideration:

- 1. Section 5.010, Water and Wastewater.**

In Section 5.010, the applicant is required to demonstrate (under Review Criteria) that the applicant has “received all necessary permits or authorizations required by Oregon Water Resources Department and/or Oregon

Department of Environmental Quality pertaining to the provision of water, septic, and wastewater disposal” and that “[p]ermits for the necessary water, sanitary sewer, wastewater, and electric services facilities required to serve the proposed development have been granted.” This section also requires the applicant to submit (under Submittal Requirements) “[e]vidence that water, sanitary sewer, wastewater, and electric service facilities necessary to serve the site have been installed or have received all required outside agency approvals to permit the construction of such facilities.”

As drafted, these provisions focus on whether the applicant has required permits “in hand” rather than availability of water/sanitary service and feasibility of securing any required permits. This presents a significant issue for those projects where water and sanitary sewer authorizations will be available when needed (e.g. at occupancy) but may not be issued when the applicant needs to begin work on the development site. To address this issue, the code should provide a mechanism for an applicant to demonstrate feasibility of securing permits. This can be accomplished by providing a service provider letter.

## 2. Section 5.020, Water and Wastewater.

Under Section 5.020, we renew our prior comments related to water and wastewater. Specifically, the Review Criteria and Submittal Requirements language still appear to charge the County (rather than the water or wastewater provider) with assessing whether there is sufficient water quantity and wastewater capacity to serve the proposed development. In addition, it is unclear what the County would require in the water, wastewater, and sewage disposal plans.

To address these issues and streamline the section, the Port recommends the following revisions (which would also align with our recommended language in Section 5.010):

MCZO 4.166.E.1. Water, **sanitary sewer, wastewater, and electrical services are is** or **will be can be made** available to the site **at a quantity and quality adequate for the proposed use**, as demonstrated by complying with submittal requirements in Section F.

~~MCZO 4.166.E.2. Applicant’s proposed plans for sewage disposal, wastewater management, electrical services, and solid waste disposal are adequate for the proposed use, as demonstrated by complying with applicable submittal requirements in Section F.~~

MCZO 4.166.F.4. ~~Electric, water, and industrial wastewater services plans, including a description of any existing services and the applicant’s proposal for provision of such utility services to the site. This may include a letter, notice or memorandum of understanding from the providing utility evidencing a willingness to serve the site. To demonstrate that water and sanitary sewer/wastewater services are available or can be made available at the site, either: (a) Evidence that a well and septic system with adequate capacity are permitted, or can be permitted, to serve the proposed development, or (b) a will serve letter from the water and sanitary sewer/wastewater provider(s) that water and sanitary sewer/wastewater service is available or can be made available to serve the proposed development.~~

*[\*Note that the Port’s proposed language does not address electricity service. The Port would defer to UEC on whether the service provider approach would be appropriate for electrical service.]*

~~MCZO 4.166.F.5. Sewage disposal plan, including a description of the applicant’s plans for sewage disposal and, if applicable, the status of permitting a septic system capable of serving the proposed development.~~

To the extent it would be helpful, the Port is willing to work with County planning staff to develop a template water and sanitary sewer/wastewater will serve letter.

### 3. Section 5.020, Development Applications that Require a DEQ Permit

Under Section, 5.020, there is new language requiring site plan review for all applications that “require a DEQ permit for the proposed sewer and/or wastewater systems.” As written, this would appear to require all projects on Port-owned industrial property to go through site plan review because all require coverage under DEQ permits. Is the County’s intent to require all development on Port-owned industrial property to go through site plan review? The Port recommends that the County strike the language triggering site plan review for projects requiring DEQ permits and instead require that applicants demonstrate feasibility to secure required permits or permit coverage.

### 4. Section 5.020, Development Applications Outside UGB

Under Section 5.020, we renew our questions related to applications for development outside a UGB. Specifically, the meaning of “municipal water or sewer source” and “offsite extension” remain unclear. As you are aware, the Port is a municipal corporation and owns significant industrial-zoned land that is outside any city urban growth boundary. The Port also provides water and wastewater services to those areas. We want to confirm that 4.166.D.3 is intended to cover the extension of city water and sewer services outside the UGB and not the Port’s provision of water and sewer services to Port-owned properties.

To address this issue, the Port recommends the following clarifying revision:

MCZO 4.166.D.3. Applications for development outside of a City Urban Growth Boundary that rely on ~~the extension of a municipal city~~ water or sewer ~~source and/or require the offsite extension of utility facilities for a connection.~~

If you have any questions about these comments or would like to discuss, we’d be happy to set up a call.

Thanks,

Jacob K. Cain, PE



Director of Engineering

PH: (541) 481-7678

Cell: (541) 571-5148

[JacobC@portofmorrow.com](mailto:JacobC@portofmorrow.com)

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## Michaela Ramirez

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**From:** Jacob Cain <JacobC@portofmorrow.com>  
**Sent:** Thursday, May 23, 2024 12:31 PM  
**To:** Daisy Goebel  
**Cc:** Tamra Mabbott; Curtiss, Sarah Stauffer; Mark Patton; Lisa Mittelsdorf  
**Subject:** Redlines to 05282024 Proposed Changes



Tamra and Daisy,

Thank you for taking the time to meet with the Port of Morrow and other stakeholders last week to preview the proposed changes to the MCZO. We are still in the process of reviewing the markup and anticipate that we may have additional comments as the draft is refined, but we wanted to flag the following items for your further review and consideration:

### A. Section 4.165, Water and Wastewater.

In Section 4.165, the applicant is required to demonstrate (under Review Criteria) that “[w]ater, sanitary sewer, wastewater, and electricity are available on the site.” Section 4.165 also requires the applicant to submit (under Submittal Requirements) “[e]vidence that a well and septic system with adequate capacity are permitted, or can be permitted, to serve the proposed development.

As drafted, these provisions appear to focus on current availability rather than requiring the applicant to demonstrate that water/wastewater service is available or that levels/capacity can be made available through improvements completed by the developer or system owner. The provisions also appear to focus on the provision of onsite wells and septic systems, rather than the provision of water and sewer service from service providers like the Port.

To address these issues, the Port recommends the following revisions (additions in **red bold underline**; deletions in **~~red bold strikethrough~~**):

MCZO 4.165.D.8. Water, sanitary sewer, wastewater, and electricity **services** are available on the site, **or can be made available**.

MCZO 4.165.E.12. **To demonstrate that water and sanitary sewer/wastewater are available or can be made available at the site, either: (a) ~~E~~evidence that an onsite well and septic system with adequate capacity are permitted, or can be permitted, to serve the proposed development, or (b) a will serve letter from the water and sanitary sewer/wastewater provider(s) that water and sanitary sewer/wastewater service is available or can be made available to serve the proposed development.**

### B. Section 4.166, Water and Wastewater.

In Section 4.166, the applicant is required to demonstrate (under Review Criteria) that “[w]ater is or will be available at a quantity and quality adequate for the proposed use, as demonstrated by complying with the submittal requirements . . .” and that “[a]pplicant’s proposed plans for sewage disposal, wastewater management, electrical services, and solid waste disposal are adequate for the proposed use as demonstrated by complying with the submittal requirements . . .” Section 4.166 also requires the applicant to submit (under Submittal Requirements) water and industrial wastewater service plans and a sewage disposal plan.



Although it appears that staff has tried to revise the language related to water and wastewater to make it clear that the water/wastewater service providers are responsible for determining whether sufficient water supply and sanitary sewer capacity is available or can be made available to serve the proposed development, when read together, the Review Criteria and Submittal Requirements language still appear to charge the County (rather than the water or wastewater provider) with assessing whether there is sufficient water quantity and wastewater capacity to serve the proposed development. In addition, it is unclear what the County would require in the water, wastewater, and sewage disposal plans.

To address these issues and streamline the section, the Port recommends the following revisions (which would also align with the language in 4.165):

MCZO 4.166.E.1. Water, sanitary sewer, wastewater, and electrical services are is or will be can be made available to the site ~~at a quantity and quality adequate for the proposed use~~, as demonstrated by complying with submittal requirements in Section F.

~~MCZO 4.166.E.2. Applicant's proposed plans for sewage disposal, wastewater management, electrical services, and solid waste disposal are adequate for the proposed use, as demonstrated by complying with applicable submittal requirements in Section F.~~

MCZO 4.166.F.4. ~~Electric, water, and industrial wastewater services plans, including a description of any existing services and the applicant's proposal for provision of such utility services to the site. This may include a letter, notice or memorandum of understanding from the providing utility evidencing a willingness to serve the site.~~ To demonstrate that water and sanitary sewer/wastewater services are available or can be made available at the site, either: (a) Evidence that a well and septic system with adequate capacity are permitted, or can be permitted, to serve the proposed development, or (b) a will serve letter from the water and sanitary sewer/wastewater provider(s) that water and sanitary sewer/wastewater service is available or can be made available to serve the proposed development.

*[\*Note that the Port's proposed language does not address electricity service. The Port would defer to UEC on whether the service provider approach would be appropriate for electrical service.]*

~~MCZO 4.166.F.5. Sewage disposal plan, including a description of the applicant's plans for sewage disposal and, if applicable, the status of permitting a septic system capable of serving the proposed development.~~

To the extent it would be helpful, the Port is willing to work with County planning staff to develop a template water and sanitary sewer/wastewater will serve letter.

### C. Section 4.166, Development Applications Outside UGB.

Section 4.166 includes a list of applications that require administrative review, including 4.166D.3, which provides: “[a]pplications for development outside of a City Urban Growth Boundary that rely on a municipal water or sewer source and/or require the offsite extension of utility facilities for connection.”

We asked some questions about this provision during our meeting last week, but the meaning of “municipal water or sewer source” and “offsite extension” remain unclear. As you are aware, the Port is a municipal corporation and owns significant industrial-zoned land that is outside any city urban growth boundary. The Port also provides water and wastewater services to those areas. We want to confirm that 4.166.D.3 is intended to cover the extension of city water and sewer services outside the UGB and not the Port’s provision of water and sewer services to Port-owned properties.

To address this issue, the Port recommends the following clarifying revision:

MCZO 4.166.D.3. Applications for development outside of a City Urban Growth Boundary that rely on ~~the extension of a municipal city~~ water or sewer ~~source and/or require the offsite extension of utility facilities for a connection.~~

As I discussed with Daisy, Sarah Curtiss and I are not available to attend next week's Planning Commission work session due to prior commitments. However, we would welcome the opportunity to meet with you and Dan and to discuss the above items. I will be back in the office the week of June 3. Please let us know if there is a time and date that week that works for a Zoom call.

Thanks in advance,

Jacob K. Cain, PE



Director of Engineering

PH: (541) 481-7678

Cell: (541) 571-5148

[JacobC@portofmorrow.com](mailto:JacobC@portofmorrow.com)

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July 30, 2024

***VIA EMAIL***

Planning Commission  
Morrow County  
215 NE Main Ave.  
Irrigon, OR 97844

**Re: Legislative Code Updates AZ-154-24, Public Comments**

Dear Commissioners:

Thank you for the opportunity to provide comments on the proposed amendments to the Morrow County Zoning Ordinance (“MCZO”). We have appreciated the opportunity to talk with planning staff and provide these comments to help further the intent of the MCZO updates. DWT’s comments focus on the practical application of the proposed amendments to projects that have land use approval and are going to construction, and recommend language to more closely align the MCZO requirements with project development schedules. The County’s proposed language is shown in regular text and our suggested revisions are in underline/strikeout italics.

**A. MCZO 5.010, ZONING PERMIT**

The County proposes to codify its zoning permit process in new MCZO 5.010. DWT suggests the following revisions to streamline the section and clarify timing requirements.

**1. Preamble/Introduction.**

The paragraph includes language that is elsewhere in the section, specifically subpart (A) Purpose and subpart (C) Applicability. Suggest deleting all language except for the first sentence.

**2. Subpart (A) Purpose.**

Suggest clarifying with more affirmative language the purpose of the zoning permit review and that it is ministerial. Suggest using “land use approval” throughout as the general reference for any required land use review resulting in a land use decision.

- **Redline** (new language in redline underline/strikeout): The purpose of Zoning Permit review is to ensure compliance with the clear and objective standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions, and if applicable, any ~~to verify that conditions of approval have been met for development that has received from a~~ prior land use approval. A Zoning Permit is not ~~intended to be~~ a Land Use Decision as defined in ORS 197.015 or a Permit as defined in ORS 215.402. A Zoning Permit is not subject to MCZO Article 9 Administrative Review.

### 3. Subpart (C) Applicability.

Applicability addresses when a zoning permit is required, even if there was prior land use review and how long a zoning permit is valid, including availability of a 12-month extension. Arguably a zoning permit cannot lapse for noncompliance – the County must void it through its enforcement authority so suggest deleting that language.

- **Redline:** A Zoning Permit shall be required prior to the construction, reconstruction, or alteration of any structure larger than 100 square feet or for any change of use or establishment of a new use that is allowed outright in the underlying zone or received prior land use approval. ~~When Site Plan Review or Conditional Use Permit approval has been granted, a subsequent Zoning Permit is required to confirm that the following standards, and any conditions of approval, are met prior to building permit approval. A Zoning Permit shall expire within one year of issuance unless a building permit has been issued or if no building permit is required, the use has commenced. A 12-month extension request may be granted when submitted to the Planning Department prior to the Zoning Permit expiration date. The approval shall lapse and a new application shall be required, if a building permit has not been issued within one year of Zoning Permit approval, for if development of the site is in violation of the approved plan or other applicable codes.~~

### 4. Subpart (D) Review Standards.

A land use approval may contain several conditions with different timing considerations. Some conditions may apply to construction activities whereas others may apply to operational activities. Further, in many cases, a developer will “pull” building permits from the County building department while pursuing other state permits required for operation (like a water right, wastewater permit, air permit, etc.). Such operational permits will not be in hand when a developer files for a zoning permit. They will be, however, prior to operation and the County needs a mechanism to account for those later-issued permits that are required for compliance with the underlying land use approval.

- **Redline:** (1) If a ~~Site Plan Review, Conditional Use Permit, or other land use approval decision~~ is required for the proposed development, the land use approval decision has

Mabbott, Tamra  
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been granted and if the land use approval imposed conditions of approval, all applicable conditions of approval have been met or applicant has provided a compliance schedule for meeting the conditions prior to construction or operation, as may be applicable.

- **Redline:** (4) delete in its entirety and revise. Unless applicant's use of water is exempt from permitting requirements under Oregon water law, the applicant shall have received all necessary permits or licenses from the Oregon Water Resources Department prior to construction or operation, as may be applicable.
- **Redline:** (7) All applicable ~~p~~Permits for ~~the necessary~~ water, sanitary sewer, wastewater, and electric service facilities required to serve the proposed development have been granted or the service provider has provided confirmation that such services will be provided to the site prior to operation.

#### **MCZO 6.080, OCCUPANCY PERMIT**

This code section applies to conditional use permits and appears to be required to ensure permit compliance. It is unclear how this permit may work in relation to the new MCZO 5.010 Zoning Permit provisions or the County's building code review. Suggest deleting or significantly revise to conform to proposed code updates.

#### **MCZO 9.050, PUBLIC HEARING**

Suggest revising new language in subpart (J) Recess of Hearing to say "in accordance with the timeframes identified in ORS 197.797 or if longer, as otherwise allowed by the Hearing Body." This allows the Planning Commission or the Board to exercise its discretion to allow for longer time periods if the proceeding warrants.

In closing, thank you for your consideration.

Very truly yours,

Davis Wright Tremaine LLP



Elaine R. Albrich

cc: Daniel Kearns  
Olivier Jamin