



PLANNING DEPARTMENT

P.O. Box 40 | Irrigon, Oregon 97844
 (541) 922-4624 or (541) 676-9061 x 5503
 FAX: (541) 922-3472

AGENDA

Morrow County Planning Commission
Tuesday, July 30, 2024, 6:00 pm
Morrow County Government Center, Irrigon, OR
[For Electronic Participation See Meeting Information on Page 2](#)

Members of Commission

Stanley Anderson
 Charlene Cooley
 Stacie Ekstrom, Chair

Tripp Finch
 John Kilkenny, Vice Chair
 Mary Killion

Elizabeth Peterson
 Karl Smith
 Brian Thompson

Members of Staff

Tamra Mabbott, Planning Director
 Stephen Wrecsics, GIS Analyst
 Michaela Ramirez, Administrative Assistant

Daisy Goebel, Principal Planner
 Landon Jones, Planning Tech
 Kaitlin Kennedy, Compliance Planner

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Minutes:** (Draft) June 25, 2024 [pgs. 4-7](#)
5. **Public Hearings** to begin at 6:00 PM (COMMISSION ACTION REQUIRED):

5a. Hardship Variance HV-S-051-24: Brian & Melissa Ketelson applicant and owner. [pgs. 9-20](#)
 Request to approve a temporary hardship dwelling to allow for the daily care and assistance of an immediate family member. The property is described as Tax Lot 600 of Assessor's Map 5N 26E 23B, and is located approximately one mile northwest of Irrigon, north of Usage Lane. The property is zoned Rural Residential and is located outside of the Irrigon Urban Growth Boundary (UGB). Criteria for approval includes Morrow County Zoning Ordinance Article 7 Section 7.300, Special Uses.

5b. Conditional Use Permit CUP-N-370-24: Rafael Calvillo applicant and owner. [pgs. 22-34](#)
 Home Occupation Permit to allow the operation of a commercial trucking business on a residential property. The subject property is described as Tax Lot 5700 of Assessor's Map 4N2520A and is in the Suburban Residential (SR) zone. The property is in the West Glen Subdivision, inside the City of Boardman Urban Growth Boundary and is located at the southeast intersection of Hilltop Drive and Ridgecrest Lane. Criteria for approval includes Morrow County Zoning Ordinance (MCZO) Section 3.050 Suburban Residential Zone, and MCZO Article 6, Conditional Uses.

5c. Conditional Use Permit CUP-N-372-24: Turner Ranch applicant, Todd and Melissa Lindsay owner. [pgs. 36-59](#)

Application to permit the siting of ten temporary RV spaces to accommodate workforce housing in the Exclusive Farm Use (EFU) Zone in conjunction with the construction of an approved power generation facility in accordance with Morrow County Zoning Ordinance (MCZO) 3.010 K.1.a(3). The subject property is described as Tax Lot 4200 of Morrow County Assessor's Map Number 01N 26E. Criteria for approval include MCZO Section 3.010, EFU Zone and MCZO Article 6, Conditional Uses.

5d. Legislative Code Updates: AZ-154-24 [pgs. 61-130](#) [comments 132-139](#)

Zoning Code Update to revise ministerial and administrative processes, provide clear and objective standards for ministerial permits, include basic serviceability requirements, improve consistency in terminology, reassess the appropriate process for certain uses, clarify vesting requirements, and consolidate the current public comment and appeal periods for administrative decisions, among other changes. Criteria for approval are provided in MCZO Article 8, Amendments.

6. **Other Business:** July Planning Update [pgs. 141-145](#)

7. **Correspondence:**

8. **Public Comment:**

9. **Adjourn:**

Next Meeting: Tuesday, August 27, 2024, at 6:00 p.m.
Location: Bartholomew Building, Heppner, OR

ELECTRONIC MEETING INFORMATION

Morrow County Planning is inviting you to a scheduled Zoom meeting. Topic: Planning Commission
Time: July 30, 2024, 6:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/6554697321?pwd=dFMxR2xlaGZkK1ZJRFRVrS1Q0SmRxUT09&omn=82399460065>

Meeting ID: **655 469 7321**

Passcode: **513093**

Find your local number: <https://us02web.zoom.us/j/6554697321>

Should you have any issues connecting to the Zoom meeting, please call 541-922-4624. Staff will be available at this number after hours to assist.

This is a public meeting of the Morrow County Planning Commission and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Tamra Mabbott at (541) 922-4624, or by email at tmabbott@co.morrow.or.us.

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**Minutes of the Public Meeting of the
Morrow County Planning Commission
Tuesday, June 25, 2024, 6:00 pm
Bartholomew Building
110 N Court St Heppner, OR**

COMMISSIONERS PRESENT:

Stacie Ekstrom, Chair
Tripp Finch
John Kilkenny
Elizabeth Peterson

COMMISSIONERS ABSENT:

Brian Thompson
Karl Smith

ATTENDANCE via ZOOM:

Charlene Cooley
Stanley Anderson
Mary Killion

STAFF PRESENT:

Tamra Mabbott, Planning Director
Daisy Goebel, Principal Planner
Landon Jones, Planning Tech
Michaela Ramirez, Administrative Assistant

Staff Zoom:

Stephen Wrecsics

1. CALL TO ORDER

Chair Ekstrom called the meeting to order at 6:00 PM

2. ROLL CALL**3. PLEDGE****4. APPROVAL OF MAY MINUTES**

Recommended Action: Approve

Action: Accepted as presented

Planning Tech Landon Jones presented: Conditional Use Permit CUP-S-311A-24: Ruggs Ranch; John & Polly Flynn, Applicant and Owner.

Conflicts of interest: None

Request: Proposed amendment to previously permitted CUP-S-311A to expand the amount of authorized lodging units for the approved Guest Ranch. The subject property is described as Tax Lots 2400 and 2402 of Assessor's Map 3S25E, and Tax Lot 400 of Assessor's Map 4S25E. All subject parcels are zoned Exclusive Farm Use (EFU). The properties are located approximately 10 miles south of Heppner on Highway 207, near the junction of Highways 206, 207, and Rhea Creek Road. Criteria for approval includes Morrow County Zoning Ordinance (MCZO) Section 3.010 EFU Zone, and MCZO Article 6, Conditional Uses.

Motion to add comments submitted by David Boyd, ODOT, into the record.

Motion by: Charlene Cooley

Seconded by: Commissioner Kilkenny

Vote: All voted
Action: Approved

Questions or Comments for Staff by Commissioners: None

Testifying Parties:

Applicant/Representatives

John Flynn, 55549 Hwy. 207, Heppner, OR 97836

Questions or Comments for the Applicant by Staff: None

Questions or Comments for the Applicant by Commissioners: None

Proponents, Opponent, Neutral: None

Anyone wanting to keep the record open or continue: None

Public Hearing is closed:

Conditions of approval:

1. Any additional proposed lodging units on the Guest Ranch must receive zoning permit approval and meet all zoning standards prior to construction.
2. All applicable water and wastewater permits shall be obtained prior to construction.
3. Applicant is to comply with all ODOT comments received regarding access points and signage.

Motion to approve: Conditional Use Permit CUP-S-311A-24

Motion by: Commissioner Finch

Seconded by: Commissioner Peterson

Discussion on the motion:

VOTE: All voted

Action: Approved

Planning Tech Landon Jones presented: Conditional Use Permit CUP-N-368-24: Beau Bankston, Applicant; Caitlin & Sean Shimer, Owner.

Request: Conditional Use Permit to approve the siting of a church located within the Suburban Residential (SR) Zone. The subject parcel is described as Tax Lot 807 of Assessor's Map 4N25E16. The property is located southeast of the Boardman City Limits, within the Boardman Urban Growth Boundary along Olson Road. Criteria for approval include MCZO Section 3.050 SR Zone, and MCZO Article 6, Conditional Uses.

Motion to add comments submitted by Greg Silbernagel, Watermaster, District 5, Carla McLane, City of Boardman, Bev Bridgewater, WEID, Eric Imes, Morrow County Public Works

Motion by: Chair Ekstrom

Seconded by: Commissioner Kilkenny

Vote: All voted.

Action: Approved.

Chair Ekstrom opened the testimony part of the Public Hearing.

Questions or Comments for Staff by Commissioner: None

Testifying Parties:

Applicant/Representatives

Beau Bankston, 31946 Summit Ln, Hermiston, OR

Questions or Comments for the Applicant by Staff: Director Mabbott

Questions or Comments for the Applicant by Commissioners: Chair Ekstrom, Commissioners, Kilkenny, Finch

Testifying Parties:

Applicant/Representatives

None

Rebuttal by Applicant: None

Proponents, Opponent, Neutral: None

Anyone wanting to keep the record open or continue: None

General Public: None

Public Hearing is closed.

Conditions of approval:

1. The parking lot shall include a minimum of two bicycle parking spaces conveniently located no further away than the closest vehicle parking space, visible from the building entrance so as not to create or impede hazards for pedestrians.
2. The applicant shall provide ample interior or exterior bicycle storage for long-term and employee parking.
3. None of the proposed parking shall be used for the storage of material or parking of vehicles not associated with the use.
4. All proposed ADA parking shall be constructed in conformance with all applicable ADA standards.
5. The access easement be constructed to at least a County Rural Access II surface and maintain minimum sight distance standards.
6. All proposed structures are to be built with a minimum of 30 feet setback from the side or rear lot lines.
7. The applicant shall provide appropriate emergency vehicle access at the time of development.
8. Applicant shall obtain applicable water and wastewater permits.
9. The applicant shall comply with OWRD Exempt Well regulations.
10. No permanent features shall be sited within the Federal irrigation right of way.
11. County recommends annual testing of onsite drinking water, and installation of a water treatment system if necessary.

Discussion on changes: None

Motion to approve: Conditional Use Permit CUP-N-368-24 with conditions stated above.

Motion by: Commissioner Kilkenny

Seconded by: Commissioner Finch

Discussion on the motion:

VOTE: All voted

ACTION: Approved

Other Business: June Planning Update

Correspondence: None

Public Comment: None

Adjourned: Meeting adjourned at 7:06 PM

Next Meeting: Tuesday, July 30, 2024, at 6:00 p.m. The next meeting will be held in Irrigon, OR in the Morrow County Government Center.

**Respectfully submitted,
Michaela Ramirez**

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**FINDINGS OF FACT
HARDSHIP VARIANCE REQUEST
HV-N-051-24**

REQUEST: Approve a Manufactured home as a special use temporary hardship dwelling to provide close-at-hand care to the property owner.

APPLICANT/OWNER: Brian & Melissa Ketelson
81714 W Seventh Road
Irrigon, OR 97844

PROPERTY DESCRIPTION: Tax lot 600 of Assessor's Map 5N 26E 23B

PROPERTY LOCATION: 1 mile northwest of Irrigon, north of Usage Lane.

I BACKGROUND INFORMATION:

The request is to approve one (1) temporary hardship dwelling to allow close-at-hand care for applicant's mother-in-law, Susan Chandler. The subject property is located in the Rural Residential (RR) zone outside of the Irrigon Urban Growth Boundary.

II APPROVAL CRITERIA:

The criteria for the Variance Request is found in the Morrow County Zoning Ordinance Article (MCZO) 3 Section 3.040(D) and 3.040(E), Rural Residential Yard, Setbacks, and Dimensional Standards, and MCZO Article 7 Variances Section 7.300. Criteria are listed below in bold type, followed by a response in standard type.

SECTION 3.040. RURAL RESIDENTIAL, RR 1 ZONE.

The Rural Residential Zone

recognizes the existence of smaller lots outside of urban growth boundaries and allows the continuation of single family dwellings on small lots in areas where this development has been established. However, state policy discourages the expansion of small lot development outside of urban growth boundaries, and effective October 4, 2000, increased the minimum lot area for rural residential development to two acres. In an RR Zone, the following regulations shall apply:

D. YARD AND SETBACK REQUIREMENTS. In an RR 1 Zone, the following yards and setbacks shall be maintained:

1. The front setback shall be a minimum of 20 feet from a property line fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions from combining accesses are provided and approved by the County.

2. There shall be a minimum side yard of 10 feet for all uses, except in the case of a non-residential use adjacent to a residential use the minimum side yard shall be 20 feet.

3. The minimum rear yard shall be 20 feet.

HV-N-051-24

Findings of Fact

The proposed Hardship Variance dwelling shall comply with all yard and setback requirements. This is recommended and listed as a Condition of Approval.

E. DIMENSIONAL STANDARDS. In an RR 1 Zone, the following dimensional standards shall apply:

1. **Percent of Lot Coverage.** The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the total lot area.
2. **Building Height.** No building or structure, nor the enlargement of any building or structure, shall be hereafter erected to exceed two stories or more than thirty (30) feet in height.
3. **The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul-de-sac, where the frontage may be reduced to 30 feet.**

The proposed Hardship Variance dwelling shall comply with all dimensional standards. This is recommended and listed as a Condition of Approval.

SECTION 7.300 Special Uses

Morrow County may allow the following land uses that may or may not be specifically listed as an allowed use in a designated zone. When considering a request for a Special Use the Planning Commission will use the specific criteria to balance whether the detriment to the local community caused by granting a Special Use is outweighed by the benefit to the property owner and/or the larger community. Any change in use, relocation or expansion would require a new or amended use authorization.

MEDICAL HARDSHIP. A medical hardship is a Special Use of a manufactured home, recreational vehicle or an existing building necessary for a relative or other designated caregiver to care for or provide custody for an elderly, mentally handicapped, or infirm person whom a medical professional certifies needs this kind of care or custody. This certification will be on the medical professional's stationery or stamped by the medical professional's office, and will indicate that the patient is not physically or mentally capable of maintaining himself/herself in a residence on a separate property and is dependent on someone being close by for assistance. As an alternative, the medical professional can stamp and sign the application form available through the Planning Department for a medical hardship. Financial hardship conditions, child care, and other convenience arrangements not relating to physical and/or mental impairment are not considered an infirm condition.

The provisions of this section are to apply when the proposed use does not qualify as a continuation of a nonconforming use, not permitted by right, nor permitted through the operations of other more pertinent procedures and provisions of this zoning ordinance. Medical hardship Special Use permits for dwellings are not to be construed, permitted nor utilized as a means to abrogate the intent, purpose or procedures of the County's Comprehensive Plan or Zoning Ordinance regulations.

No medical hardship Special Use permit shall be granted that would have the effect of creating a permanent zone change or result in a hardship when the use is

HV-N-051-24

Findings of Fact

not permitted to continue at the expiration of the permit periods. Further, no medical hardship Special Use permit will be granted which has the effect of conferring a special privilege for which other property within the same zone would not be equally eligible.

The applicant has been provided with the procedures and standards and does comply with the intent of this Section. The use does not qualify as a continuation of a nonconforming use as it is a permitted variance for hardship reasons as allowed by Morrow County Code. This temporary hardship permit will not have the effect of creating permanent zoning as when the hardship variance is no longer needed the dwelling is required to be removed. This permit does not confer a special privilege for which other properties within the same zone are equally eligible when they meet the applicable criteria for approval.

A. As a medical hardship Special Use in any zone that allows dwellings, the Commission may allow as a Special Use one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110, as applicable, and providing that no additions, except approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

- 1. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm person who a medical professional certifies needs this kind of care or custody as required in A. above.**

A signed doctor's statement was received with the application. The medical professional states that Ms. Chandler has mild dementia and does require assistance from family in daily care and safety.

- 2. Electric, water and sewer utility connections shall be made to the temporary residence. If the medical hardship dwelling will not use a public sanitary sewer system, the dwelling shall use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling or as otherwise allowed and conditioned by the Planning Commission.**

Electricity is available at the site. Water shall be obtained through the existing well on the parcel. Position on the property would allow for easy connection to the existing septic system. The applicant would need to obtain approval from Umatilla County Public Health prior to installation of manufactured home. This is listed as a condition of approval.

- 3. Within 90 days of the end of the medical hardship, the manufactured dwelling or recreational vehicle shall be removed or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.**

It is listed as a Condition of Approval that the applicant notify the Planning Department when Ms. Chandler is no longer in need of the hardship as the hardship dwelling must be removed within 90 days of the hardship ending.

B. As a medical hardship Special Use in a resource zone, the following are also applicable:

- 1. That the medical hardship dwelling use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;**

HV-N-051-24

Findings of Fact

2. **The medical hardship dwelling use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.**
3. **The landowner for the hardship dwelling shall sign and record in the deed records for the County a Right-to-Farm or a Right-to-Forest Statement binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from customary farm or forest practices.**

These criteria are not applicable as the subject parcel does not exist within a resource zone.

- C. A medical hardship Special Use permit granted under this section is void when the elderly, mentally handicapped, or infirm existing resident or other person who is the subject of the permit no longer needs care, moves to another residence, is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning for continued residency of at least 30 days. Exception to the 120-day limit can be provided for in the case of extraordinary circumstances such as extended hospitalization. These extensions can be approved by the Planning Director for up to an additional 60 days without Planning Commission approval. Additional extensions will require Planning Commission review and approval.**

It is listed as a Condition of Approval that the applicant notify the Planning Department if Ms. Chandler is not in need of the hardship approved under this request for more than 120 days to determine next steps under this approval.

- D. The County Planning Director or designee may review permits issued under this section at any time and may revoke permits when they are found to be out of compliance. After the initial approval by the Planning Commission any required renewal shall be applied for as a medical hardship extension. The decision to approve a medical hardship extension shall be an administrative decision of the Planning Director.**

Should the Planning Commission approve the request and the applicants seek renewal before the initial permit expires, the decision will be administrative and not have to be heard in front of the Planning Commission. Any Code Enforcement action or failure to comply with the conditions of this permit would put this permit at risk of being revoked.

- E. Any dwelling authorized by a medical hardship Special Use permit must be located as close as possible to the primary dwelling. Unless there are physical limitations of the land this should be within 100 feet of the primary dwelling.**

The subject parcel is one-acre, and the applicant proposes siting of the medical hardship dwelling within 100 feet of the primary dwelling. This criterion is met.

- F. County Zoning and Building Permits will be required. A Rural Address will also be required to facilitate emergency response.**

It is listed as a Condition of Approval that the applicant obtain appropriate Zoning and Building permits. Also listed and recommended as a Condition of Approval is for the applicant to apply for a Rural Address for the hardship dwelling in conjunction with the Zoning Permit.

- G. A medical hardship Special Use permit is valid for up to 2 years from the date of initial issuance, i.e., permits issued in an odd-numbered year will expire in the next odd-numbered year. All permits will have an expiration date of January 31. The County will process all medical hardship Special**

HV-N-051-24

Findings of Fact

Use permit renewal requests once per year in January. The County will give permittees not less than 30 calendar days written notice of the pending expiration of their Special Use permits, advising that a renewal will be required. Failure to receive notification of pending expiration does not constitute an extension of time for the permit. The Planning Director shall not renew the medical hardship Special Use permit until the permittee has shown compliance with the conditions for issuance specified in this Section at the time of renewal and the County has received evidence of the continued validity of the medical hardship.

If approved, this permit is valid through July 30, 2026. Notice of renewal opportunity will be sent to owner at least 30 days prior to expiration date.

- III PUBLIC NOTICE PUBLISHED:** July 9th, 2024
East-Oregonian
- July 10th, 2024
Heppner Gazette-Times
- IV AGENCIES NOTIFIED:** Dawn Hert, Department of Land Conservation and Development; Marty Broadbent, Fire Marshall; Greg Silbernagel, District 5 Watermaster; Thomas Robertson, Irrigon RFD; Mike Gorman, Morrow County Assessor; Glen McIntire, Building Official; Eric Imes, Morrow County Public Works; Umatilla County Public Health – Onsite
- V PROPERTY OWNERS NOTIFIED:** July 10th, 2024
- VI HEARING DATE:** July 30th, 2024
North Morrow County Government Center
Irrigon, Oregon
- VII DECISION OF PLANNING COMMISSION:** Recommendation of staff is to approve the application subject to the following conditions of approval:

CONDITIONS OF APPROVAL:

1. The proposed dwelling shall comply with all setback and dimensional standards.
2. Obtain approval from Umatilla County Public Health for the hardship dwelling to connect into the existing septic system before Zoning permits are issued.
- 3.
2. Notify the Planning Department when Ms. Chandler is no longer in need of the hardship variance permit as the hardship dwelling must be removed within 90 days of the hardship ending.
3. Notify the Planning Department if Ms. Chandler is not in need of the hardship variance permit approved under this request for more than 120 days to determine next steps under this approval.
4. Applicant shall obtain appropriate Zoning and Building permits.

**HV-N-051-24
Findings of Fact**

5. Applicant shall obtain a Rural Address for the hardship dwelling in conjunction with the Zoning Permit.
6. This hardship variance permit is valid until July 30th, 2026.

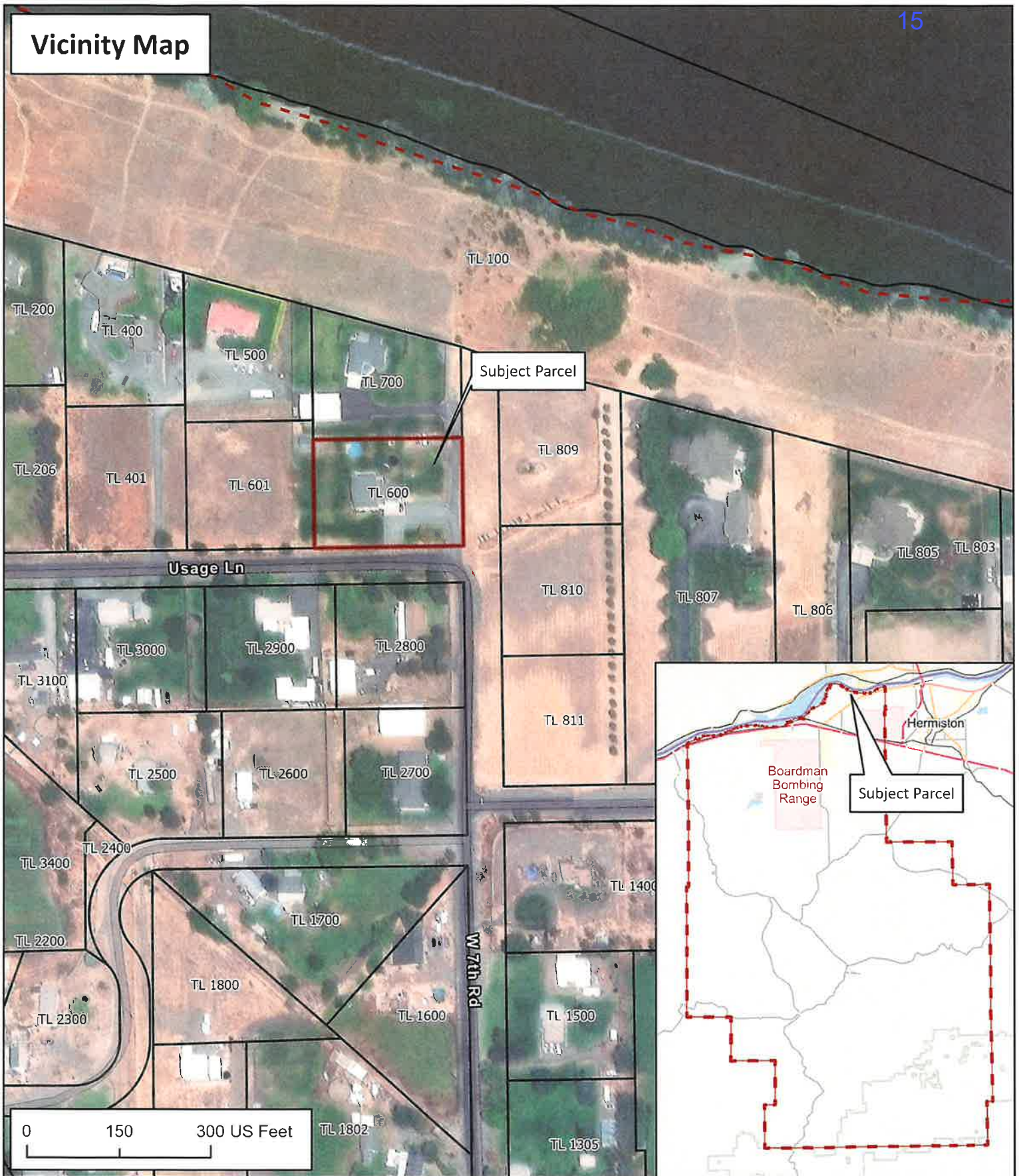
Stacie Ekstrom, Chair

Date

ATTACHMENT:

Vicinity Map
Adjoining Property Owners List
Application
Applicant Narrative
Site Plan

Vicinity Map



Subject Parcel

Usage Ln

W 7th Rd

Subject Parcel

Boardman Bombing Range




Hermiston

0 150 300 US Feet



HV-N-51-24

Brian and Melissa Ketelson
5N26E23B TL600

-  Morrow County Tax Lot
-  Morrow County Boundary
-  Subject Parcel

Coordinate System:
 NAD 1983 HARN StatePlane Oregon North FIPS 3601
 Projection: Lambert Conformal Conic
 Datum: North American 1983 HARN

Cartography By: Stephen Wrecsics
 Wednesday, July 3, 2024
 Morrow County Planning Department



CORRECTED	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
5N26E23B 100	USA (CORPS)					0
5N26E23B 401	TURNER, ROBERT & DAISHA		1408 WILLOW WAY	BENTON CITY	WA	99320
5N26E23B 400	DICK, STUART & JULIE		74639 USAGE LN	IRRIGON	OR	97844
5N26E23B 2900	YOUNG, DANNY & MEREDITH		74662 USAGE LN	IRRIGON	OR	97844
5N26E23B 2800	REAVES, BILLY J		81698 W SEVENTH RD	IRRIGON	OR	97844
5N26E23B 600	KETELSON, BRIAN LEE & MELISSA SUE		81714 W SEVENTH RD	IRRIGON	OR	97844
5N26E23B 700	STARNES, LARRY & STARNES, GLENDA		PO BOX 122	IRRIGON	OR	97844
5N26E23B 3000	SCHNEIDER, BARRY S		PO BOX 125	UMATILLA	OR	97882
5N26E23B 601	MESSMAN, MICHAEL ANTHONY & ANNETTE JO		PO BOX 25	IRRIGON	OR	97844
5N26E23B 500	MESSMAN, MICHAEL A & MESSMAN, ANNETTE J		PO BOX 25	IRRIGON	OR	97844
5N26E23B 811	BUCHANAN, WAYNE O & BUCHANAN, DIANE K		PO BOX 4438	SOLDOTNA	AK	99669
5N26E23B 810	BUCHANAN, WAYNE & DIANE		PO BOX 4438	SOLDOTNA	AK	99669
5N26E23B 809	BUCHANAN, WAYNE & BUCHANAN, DIANE		PO BOX 4438	SOLDOTNA	AK	99669

HV-N-51-24 | Ketelson | RR: 250ft.
5N26E23B TL600
S:\Planning\Variances\Hardships\2024



LAND USE APPLICATION
VARIANCE REQUEST

RECEIVED
JUN 17 2024

PAID
250.00 ck 1004

FILE NUMBER HV-N-5124

Date Received BY: MZ

Date Deemed Complete _____

Applicant:

Name(s) Brian + Melissa Ketelson

Address 81714 W. Seventh Rd Irrigon Or 97844

Phone 541-720-3181 E-mail address unsheath@aol.com

Legal Owner: (if different from applicant)

Name(s) _____

Address _____

Existing Property Description:

Township 5N Range 26E Section 23B Tax Lot(s) 600

Zoning Designation RR Located within an UGB? No If yes, which city? _____

Physical Address 81714 W. Seventh Rd. Irrigon Or 97844

General Location 1 mile NW of Irrigon, North of Usage Ln.

The Morrow County Zoning Ordinance authorizes the Planning Commission to allow variances from the requirements of the Ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of the Ordinance.

Variance Type Requested:

Area Variance _____ Use Variance _____ Hardship Variance

Please explain why the variance is requested: My mother in law's declining health and mild dementia have made it necessary to have her closer to us. My wife is already helping her pay her bills, maintain her home and attends her appointments with her + more. Her need of help will only continue to grow.

It is our hope to find a better housing solution for our family when circumstances allow.

NOTE: Applications for hardship variances will be processed as a Conditional Use when the proposed hardship dwelling will be located in a Forest Use or an Exclusive Farm Use Zone. The associated fee will be charged as for a Conditional Use Permit application.

Signatures:

We, the undersigned, acknowledge that we are familiar with the requirements of approval for a variance and propose to meet all standards set forth as outlined above. We certify that the statements and information provided with this application are true and correct to the best of our knowledge.

Signed: _____	<u>Melissa Ketchum</u>
(Applicant)	(Applicant)
_____	<u>Melissa Ketchum</u>
(Legal Owner)	(Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Date: _____ Fee: _____

Hardship Variance:
Name of person in need of care: Susan Chandler
Relationship to Applicant: Mother
Medical Doctor/Professional Statement of Medical Hardship: (if not provided separately)
 Patient has mild dementia and does require assistance from family for assistance in daily care and safety.
Jones Olman MD

Morrow County Planning Department
P.O. Box 40, Irrigon Oregon 97844
(541) 922-4624 FAX: (541) 922-3472

If you need proposed lines for connections I can add those also, didn't want to clutter it if it's not necessary

[Sent from AOL on Android](#)

On Thu, Jun 27, 2024 at 11:42 AM, Landon Jones
<ljones@co.morrow.or.us> wrote:

Appreciate the timely response Brian. If you were to shoot me a Google Earth image with an outline of where you're thinking of placing the home, that would go a long way with your application.

Landon Jones

Planning Technician

Morrow County Planning Department

PO Box 40, Irrigon, OR 97844

ljones@co.morrow.or.us

(541) 922-4624 Ext 5517

From: unsheath@aol.com <unsheath@aol.com>

Sent: Thursday, June 27, 2024 11:39

To: Landon Jones <ljones@co.morrow.or.us>

Subject: RE: Ketelson Hardship variance

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

No problem. We are planning on a park model, or mini home for a temporary situation. Position on our property would allow easy connection to septic, and in line with power. We haven't consulted any contractors yet.

[Sent from AOL on Android](#)

On Thu, Jun 27, 2024 at 11:33 AM, Landon Jones

Tiny
home

Septic



Hon²⁰

Usage Ln

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**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-370-24**

REQUEST: To allow a Home Occupation Permit in a Suburban Residential (SR) Zone for the operation of a small commercial trucking business.

APPLICANT: Rafael Calvillo
70120 Ridge Crest Rd
Boardman, OR 97818

OWNER: Reyes Calvillo
PO Box 1364
Boardman, OR 97818

PROPERTY DESCRIPTION: Tax Lot 5700 of Assessor's Map 4N25E20A

PROPERTY LOCATION: ±1400 feet south of Kunze Lane, located centrally in the West Glen Subdivision.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION: The subject site is approximately 1.04 acres and is within the Suburban Residential (SR) zone, inside of the City of Boardman Urban Growth Boundary (UGB). This Conditional Use Permit application requests a Home Occupation Permit to allow the applicant to store and operate two trucks and two trailers on the property. The applicant has been operating commercial trucks on the site for some time and submitted the CUP application in response to more robust code enforcement actions. The applicant is one of more than a dozen commercial truck operators currently utilizing residential property within the West Glen Residential Area (SR zoning) without the appropriate land use approvals. The approval of this CUP will serve to rectify outstanding code violations while providing specific parameters for the operation of the existing business.

Because the subject property is located within the Boardman UGB, there are direct concerns with the use being compatible with City zoning designations in the event of annexation. Access to the site requires the use of approximately 1400 feet of substandard public roads that are not currently subject to a maintenance or usage agreement.

II. STAFF RECOMMENDATION: The county has initiated a neighborhood-based code compliance effort to address growing concerns regarding unregulated commercial trucking operations and impacts to public roads in West Glen as well as other affected neighborhoods throughout the county. Staff understand that this effort puts property owners such as Mr. Calvillo in a difficult situation, as he has been operating his business on residential property for many years. Staff is neither recommending the approval or denial of this CUP.

- III. **COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS 3.050, 6.030, 6.050, and 6.075.** The requirements for approval are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY ZONING ORDINANCE SECTION 3.050 SUBURBAN RESIDENTIAL (B) Conditional Uses (8) Home Occupations.

The request is to approve the storage and operation of 2 trucks and trailers for a commercial trucking operation.

SECTION 6.030 GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.**

Mr. Calvillo has operated commercial trucks on the subject property for several years and the county has not received any specific concerns directly related to his existing operation. Nonetheless, the county has received general complaints related to the operation of commercial trucks in the vicinity of the subject site. The applicant did not provide specific details on operation times or activity taking place onsite. Staff recommend and list as a Condition of Approval that all commercial activity shall occur within regular business hours of 8:00AM – 5:00PM. Any complaints received may result in a review of the activity and potential revocation of the permit.

- B. Establishing a special yard or other open space or lot area or dimension.**

This proposed use will use the existing lot area. Planning staff do not recommend any additional requirements for open space.

- C. Limiting the height, size or location of a building or other structure.**

This application does not include the approval of new buildings or accessory structures. Staff do not recommend any additional limitations on height, size, or location of the structures.

- D. Designating the size, number, location and nature of vehicle access points.**

- 1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**

The existing access to the site is from Hilltop Drive, which is a substandard Public road without a maintenance or usage agreement. Hilltop Drive intersects with Kunze Lane, which is a dedicated Public road owned and maintained by Morrow County. Access to the site requires the use of approximately 450 feet of Hilltop Drive. The applicant has provided a site plan displaying the existing house and a proposed parking area but no access points. An access permit will be required for any new access points. A copy of the Preliminary Findings of Fact has been provided to Morrow County Public Works for their review and comment regarding road and property access.

- 2. In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car**

equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

This action will not trigger the need for a Traffic Impact Analysis as it will not generate more than 400 passenger car equivalent trips per day. According to the Applicants Narrative, the trucks enter and exit the property once per day during the operational season. During the remaining months of the year, the trucks sit dormant on the subject parcel. This analysis does not trigger the need for a TIA analysis in and of itself. Deviation from the proposed use plan may result in a review of the activity and potential revocation of the permit.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

No increase in street dedication, roadway width, or improvements in the right-of-way are proposed by the applicant. The streets that will be impacted by the proposal consist of substandard Public Roads that are not owned or maintained by the County or another entity. These Preliminary Findings of Fact have been provided to Morrow County Public Works for their review and comment.

1. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development.

Preliminary Findings of Fact have been provided to Boardman Fire and Rescue and the Fire Marshall for their review and comment.

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

The subject parcel is located on the northern end of the West Glen Residential Area. As identified on the site plan, the trucks will be parked on the western property line near the existing shop. Staff do not recommend additional conditions of approval related to the parking of the trucks as proposed.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

The Applicant has not requested signage for the Home Occupation. Any future signs must meet the sign requirements in the Morrow County Zoning Ordinance.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

Lighting is not proposed with the application. Any outdoor lighting other than typical residential lighting shall be limited and shielded from the roadway and neighboring residences.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

The proposed use would not require diking, screening or landscaping to protect nearby property. Planning staff recommend a condition of approval that will require that trucks are parked on the subject property and that mechanical and maintenance work be conducted wholly within an shop, not outside.

J. Designating the size, height, location and materials for a fence.

The applicant has not proposed any additional fencing for the proposed use. Planning Commission could include a condition requiring site obscuring fencing.

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

The lot has very little existing vegetation. The proposed home occupation will be limited to existing structures and will not create any foreseeable natural resource impacts based on the proposed use. Planning staff do not recommend additional conditions related to natural resources. Planning Commission could recommend a vegetative buffer along a portion of the property perimeter.

K. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

A copy of the Preliminary Findings of Fact have been provided to the City of Boardman for their review and comment regarding any additional conditions to apply with any future city zoning due to annexation.

SECTION 6.050 STANDARDS GOVERNING CONDITIONAL USES

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

G. Home Occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:

- 1. The home occupation is to be secondary to the main use of the property as a residence and shall be conducted only by the resident of such dwelling within the same dwelling or in an accessory building on the same or adjacent property.**

The primary use of the property is residential. The dwelling is the applicants' home, and he will be conducting the home occupation within the existing buildings, with truck parking outside of the existing structures, as shown on the applicant's site plan. This criterion is met.

- 2. No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alteration have been reviewed and approved by the Planning Commission. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.**

No structural alterations are proposed nor will be needed to accommodate the home occupation. This criterion is met.

- 3. One non-illuminated sign not to exceed 200 square inches and bearing only the name and occupation of the resident shall be permitted.**

No signs are proposed with this application. Any future signs will need to meet the requirements of the Morrow County sign ordinance. This criterion is met.

- 4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interferences with radio or television reception, or other factors.**

The applicant has stated that no material or mechanical equipment will be used which would affect adjoining properties. Deviation from the proposed use plan may result in a review of the activity and potential revocation of the permit. A Condition of Approval based upon hours of operation is recommended in order to limit expected noise to occur from the trucks and potential maintenance.

- 5. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial**

vehicle or a trailer or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.

Applicant states that no material or commodity deliveries are required for the proposed use. The proposal necessitates parking two trucks and two trailers on the subject site. Staff recognizes that the use has been ongoing for several years and does not anticipate that this will contribute to any disturbance to nearby residents. This criterion is met.

6. Retail sales shall be limited or accessory to a service.

Retail sales are not proposed with the application. This criterion is met.

7. No persons shall be employed except members of the immediate family.

The applicant has made known that he is the sole operator, and he lives on the property. This criterion is met.

8. The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.

This permit will be reviewed annually with other home occupation permits. Mr. Calvillo has proven to be exceptionally willing to work with the County to comply with any necessary requirements to achieve compliance with County Code.

9. Employ on the site no more than five full-time or part-time persons.

Mr. Calvillo has indicated in his application and in conversation that he is the only anticipated employee. This criterion is met.

10. Not unreasonably interfere with other uses permitted in the zone in which the property is located.

Due to the longevity of the existing operation, it is not anticipated that the proposed use will unreasonably interfere with other residential uses in the surrounding zone. This criterion is met.

11. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established pursuant to Section 3.010 and is operated in association with the winery:

- a. **The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and**
- b. **The meals may be served at the bed and breakfast facility or at the winery.**

This criterion is not applicable as a bed and breakfast facility is not being proposed.

SECTION 6.075. LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION.

- A. Length of Permit and Permit Holder: The County may evaluate how long a particular conditional use is expected to remain valid. Some conditional uses may be considered "permanent" as a fully developed use that "runs with the land" and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original conditional use permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.**

A conditional use permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the conditional use permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a conditional use permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a Conditional Use Permit will be reviewed or renewable after a stated time period.

The proposed home occupation does not have a designated term. Currently, operation of a trucking business is not an allowed use in this SR Zone. Staff recommend that if Planning Commission approves this CUP, that the use be allowed for up to five years with annual review or until the ownership of the land changes, or until the property is annexed into the City of Boardman. At the time of permit expiration, Mr. Calvillo will be required to reapply for another Conditional Use Permit. If, at any time, the property is annexed into the City of Boardman, the proposed use would cease, and the property shall conform to applicable city zoning standards.

- B. Reviews and Renewals. If a review or renewal date is included as a condition by which a conditional use permit is granted, initial review would be ministerial and completed by the Planning Director. The holder of the conditional use permit will be required to make an application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns arise further review will take place at a public hearing with notice. If no concerns arise the permit will be renewed.**

For conditional use permits without a review or renewal condition, or if complaints are received concerning a conditional use permit, the County may review any valid conditional use permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

This home occupation shall be reviewed annually with other home occupations therefore no condition is necessary. However, the applicant shall maintain the home occupation as presented in the application. If complaints are received and it is found that the home occupation is being performed outside of what has been proposed, the applicant will be responsible for paying any applicable review or renewal application fees. This is listed as a condition of approval.

- C. Revocation or Vacation. Any conditional use permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:**
- **The use has been terminated and there is no expectation by the landowner and the County that the use will continue;**
 - **The use is not being conducted in compliance with the stated conditions of the permit, or**

- **The County finds that the use jeopardizes the public health, safety and welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances. (MC OR-1-2013)**

The County reserves the right to revoke the permit based on this criterion.

- IV. LEGAL NOTICE PUBLISHED:** August 7th, 2024
Heppner Gazette-Times
- August 6th, 2024
East Oregonian
- V. AGENCIES NOTIFIED:** Mike Hiatt, DEQ Eastern Region Office; Gabriela Goldfarb, Oregon Health Authority-Drinking Water; Bev Bridgewater, West Extension Irrigation District; Mike Hughes, Boardman RFPD; Marty Broadbent, Fire Marshall; Brandon Hammond, City of Boardman; Carla McClane, City of Boardman; Glen McIntire, Building Official; Eric Imes, Morrow County Public Works; Umatilla County Public Health-Onsite Septic.
- VI. PROPERTY OWNERS NOTIFIED:** August 7th, 2024
- VII. HEARING DATE:** August 27th, 2024
Bartholomew Building
Heppner, Oregon
- VIII. DECISION OF PLANNING COMMISSION:** The Planning Commission recommends approval of the application subject to the following **CONDITIONS OF APPROVAL:**
1. All commercial activity shall occur within regular business hours of 8:00AM – 5:00PM.
 2. The applicant shall maintain the home occupation as presented in the application. No more than two trucks and two trailers are permitted to operate under this permit. If complaints are received or it is found that the business is being operated outside what has been proposed the applicant will be responsible for paying any applicable review or renewal application fees.
 3. Noise, traffic, lighting, and other potential impacts to neighboring properties shall be limited to those generally anticipated for a typical residential use.
 4. This permit is valid for five (5) years with annual review, or until the ownership of the land changes or until the property is annexed into the City of Boardman, at which time the proposed use will cease, and the property shall conform to applicable city zoning standards.
 5. Any proposed signage will need to meet the requirements of the Morrow County Zoning Ordinance and receive Zoning Permit Approval.
 6. Applicant shall secure necessary access permits for the parking area.

7. Applicant shall submit a final site plan and obtain a Zoning Permit.

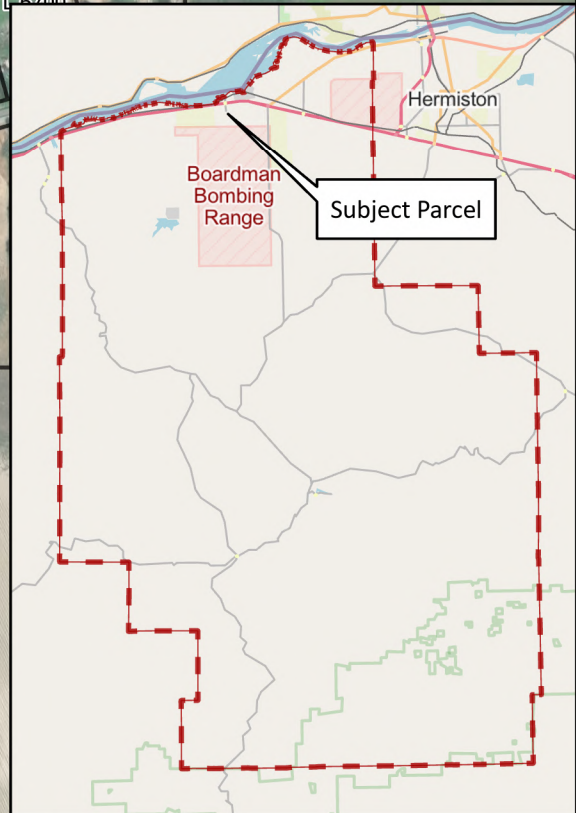
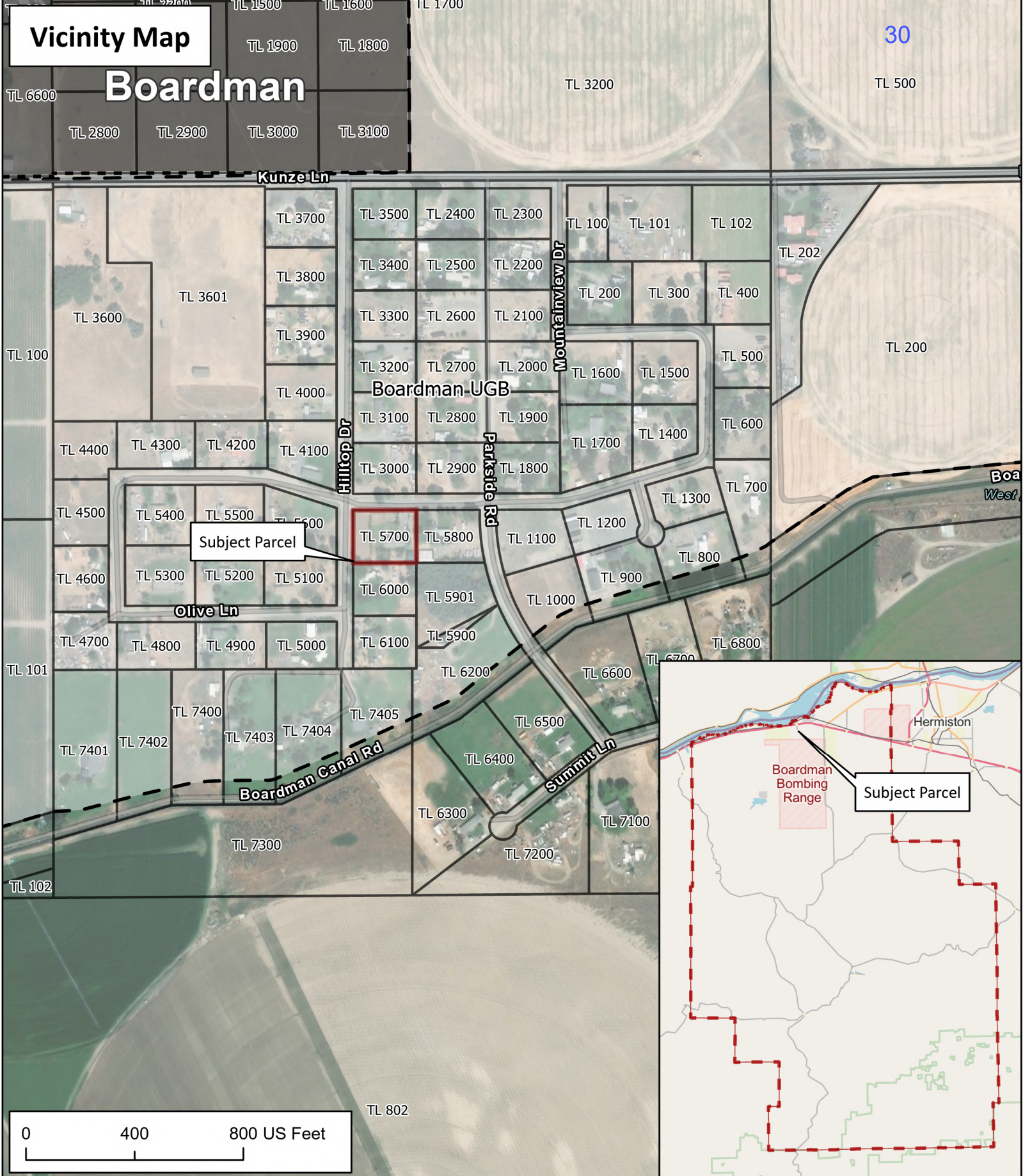
Attachments:
Vicinity Map
Application with Attachments

Stacie Ekstrom, Chair






Date

Vicinity Map

Boardman

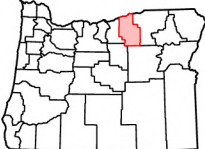



 **CUP-N-370-24**
 Rafael Calvillo
 4N25E20A TL5700

-  City Limits
-  Morrow County Tax Lot
-  UGB
-  Morrow County Boundary
-  Morrow County Tax Lot selection

Coordinate System:
 NAD 1983 HARN StatePlane Oregon North FIPS 3601
 Projection: Lambert Conformal Conic
 Datum: North American 1983 HARN

Cartography By: Stephen Wrecsics
 Wednesday, July 3, 2024
 Morrow County Planning Department

CORRECTED	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
4N25E20A 5100	REYES, JUANITA		1492 NE KENNA DR	HERMISTON	OR	97838
4N25E20A 5901	BONHAM, ROBERT		78472 PARKSIDE DR	BOARDMAN	OR	97818
4N25E20A 5600	MADRIGAL, MARIA GUZMAN		78800 DOWNEY LN	BOARDMAN	OR	97818
4N25E20A 4100	CALVILLO, FLORA & ETAL		PO BOX 1163	BOARDMAN	OR	97818
4N25E20A 5700	CALVILLO, REYES		PO BOX 1364	BOARDMAN	OR	97818
4N25E20A 5800	MENDOZA, VICTOR CALVILLO		PO BOX 1397	BOARDMAN	OR	97818
4N25E20A 2800	WEST GLEN	PACHECO, SALVADOR (C)	PO BOX 405	BOARDMAN	OR	97818
4N25E20A 2900	MENDOZA, VERONICA SANCHEZ ET AL		PO BOX 521	BOARDMAN	OR	97818
4N25E20A 6100	GONZALEZ, ROBERTO & GUADALUPE		PO BOX 534	BOARDMAN	OR	97818
4N25E20A 3100	OLGUIN, JAVIER MARTINEZ		PO BOX 787	BOARDMAN	OR	97818
4N25E20A 3000	WEST GLEN	MARTINEZ, BRIGIDO (DEED)	PO BOX 787	BOARDMAN	OR	97818
4N25E20A 6000	CALVILLO CANO, RAFAEL		PO BOX 823	BOARDMAN	OR	97818
4N25E20A 5000	CALVILLO, MARIO M & CALVILLO, ROCIO F		PO BOX 823	BOARDMAN	OR	97818

LANDOWNERS ADJOINING HILLTOP ROAD, NORTH TO KUNZE LANE						
CORRECTED	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
4N25E20A 3700	NELSON, MICHAEL R		70072 KUNZE LN	BOARDMAN	OR	97818
4N25E20A 3500	BRANDT, MICHAEL & BRANDT, VIRGINIA		70088 KUNZE LN	BOARDMAN	OR	97818
4N25E20A 3300	SMITH, HAZEL J		78571 HILLTOP RD	BOARDMAN	OR	97818
4N25E20A 3900	TRUJILLO ALBARRAN, ANTONIO ET AL		PO BOX 1194	BOARDMAN	OR	97818
4N25E20A 4000	MENDOZA, REYES CALVILLO & AVILA, ELVIA		PO BOX 1364	BOARDMAN	OR	97818
4N25E20A 3200	SANCHEZ, BENITO		PO BOX 678	BOARDMAN	OR	97818
4N25E20A 3800	VILLEGAS, GLORIA		PO BOX 972	BOARDMAN	OR	97818
4N25E20A 3400	ZAVALA RODRIGUEZ, JOSE ETAL		PO BOX 972	BOARDMAN	OR	97818

CUP-N-370-24 | Calvillo | SR: 250ft.
 4N25E20A TL5700
 S:\Planning\CUP North\2024



LAND USE APPLICATION
CONDITIONAL USE REQUEST

32
RECEIVED
JUN 13 2024

BY: LS

PAID
\$600.00

cash

FILE NUMBER CUP-N-370-24

Date Received _____

Date Deemed Complete _____

Applicable Zoning Ordinance Criteria: _____

Applicant:

Name(s) Raquel Calvillo

Address 70120 Ridgecrest Rd Boardman OR 97818

Phone 541 720 3338 E-mail address mary07272011@gmail.com

Legal Owner: (if different from applicant)

Name(s) Rexes Calvillo

Address P.O. Box 1364
Boardman OR 97818

Proposed Conditional Use:

Description of Request and the Proposed Use:

Park a 2 Truck and 2 Trailers
- Home Occupation

Existing Property Description:

Township 4N Range 2S Section 20A Tax Lot(s) 5700

Zoning Designation SR
(If EFU or FU, soil information is required with your statement)

Located within an UGB? Yes If yes, which city? Boardman

Physical Address 70120 Ridgecrest Rd, Boardman, OR 97818

General Location South of Kunze Ln.

Public Road Access Ridge Rd Boardman
 Improvement Type and Condition of Road gravel
 Fire Protection District or Method Fire Department (Boardman)
 Solid Waste Disposal Method N/A
 Existing Use of the Property Dwelling / park a family cars and Truck/trailer

Please provide a statement with the following information to the Planning Department:

1. A plot plan of the property with existing and proposed structures and roads and accesses existing
2. Existing and proposed water supply yes
3. Existing and proposed sewage disposal method septic tank
4. Utilities and other public services provided yes
5. Signs and/or lighting required no
6. Parking/loading and fencing required no
7. Drainage, is the land or any portion of it subject to flooding? no
8. What, if any, change will there be in traffic use of the existing access? none
9. Will the proposed use generate more than 400 automobile trips per day? no
10. Will any new access be required? no
11. A description of how the proposal will be compatible with surrounding land uses. yes
12. How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat and whether diking, screening or other landscaping will be required to protect nearby properties and habitats.
it will not interfere with all of above.

The applicant is responsible for providing all of the information to show compliance with the standards for approval. If you are unsure of the standards required by the code, the Planning Department will be happy to provide them, but it is the applicant's duty to prove to us your proposal meets all of the given code requirements. Your plot plan and narrative should show or answer the above details as well as address specific issues about your particular application as well.

Signatures:

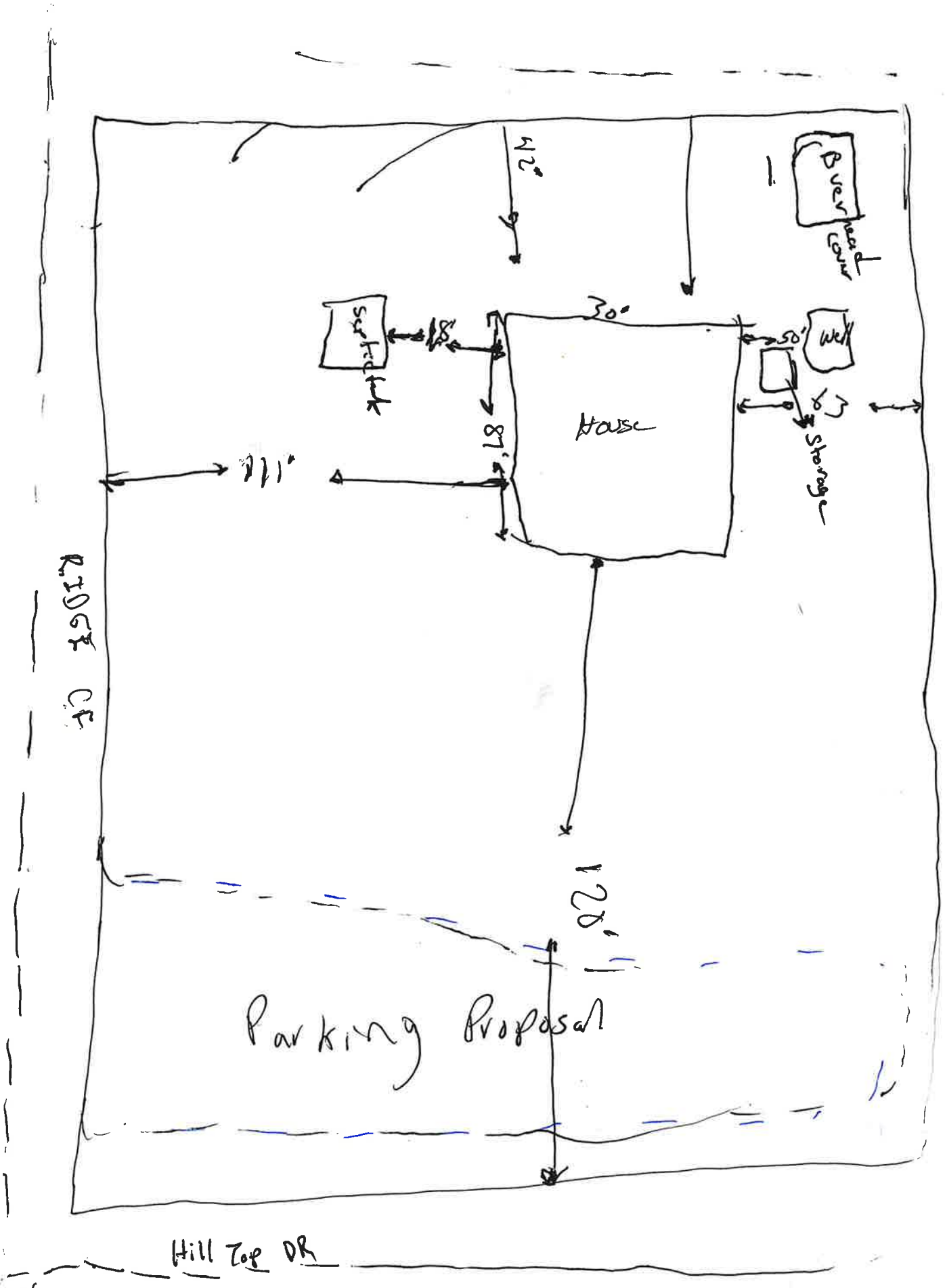
I(we), the undersigned, acknowledge that I am familiar with the standards and limitations set forth by the Morrow County Zoning Ordinance and that additional information and materials may be required, as provided by the Zoning Ordinance and Comprehensive Plan. I propose to meet all standards set forth by the County's Zoning Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my knowledge.

Signed: Rafael Colvillo Rafael Colvillo
 (Applicant) (Applicant)
Rafael Colvillo Rafael Colvillo
 (Legal Owner) (Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Date: 6/13/24 Fee: \$6000

Morrow County Planning Department
 P.O. Box 40, Irrigon Oregon 97844
 (541) 922-4624 FAX: (541) 922-3472



Hill Top DR

RIDGE CR

Parking Proposal

Beer house

Well

Storage

House

Sediment tank

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**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-372-24**

REQUEST: To approve a Conditional Use Permit for up to ten temporary recreational vehicle (RV) site spaces to accommodate workforce housing in conjunction with an approved Renewable Energy Generation Facility.

APPLICANT: Todd and Melissa Lindsay
75655 Baseline Road
Heppner, OR 97836

PROPERTY OWNERS: Turner Ranch, Inc.
75655 Baseline Road
Heppner, OR 97836

PROPERTY DESCRIPTION: Tax Lot 4200 of Morrow County Assessor's Map Number 01N26E

PROPERTY LOCATION: See attached site map for location.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

This application proposes the siting of 7-10 temporary RV spaces on property described as Tax Lot 4200 of Morrow County Assessor's Map Number 01N26E, within the Exclusive Farm Use (EFU) zone in conjunction with an approved Wind Power Generation Facility (Wheatridge Renewable Energy Facility East). The wind energy project was approved by the state's Energy Facility Siting Council (EFSC) on June 5, 2024, and Morrow County issued an associated Conditional Use Permit for the facility on June 13, 2024. Temporary workforce housing is allowed by state law and local zoning ordinance as an accessory use in conjunction with an approved Commercial Power Generating Facility. A new Conditional Use Permit (CUP) is required to ensure compliance with the general requirements for the use, and to impose clear and reasonable conditions of approval as necessary to ensure that the proposal is compatible with adjacent farming practices. An explanation of the procedural justification is provided in the attached legal memo prepared by Reeve Kearns, PC- Morrow County Land Use Counsel.

- II. APPROVAL CRITERIA:** The Applicant has filed under the Morrow County Zoning Ordinance (MCZO) ARTICLE 3, USE ZONES, Section 3.010 Exclusive Farm Use Zone and MCZO ARTICLE 6, CONDITIONAL USES. Criteria for approval are listed below in **bold type**, followed by a response in standard type:

MCZO SECTION 3.010 EXCLUSIVE FARM USE, EFU ZONE

C. Conditional Uses. The following uses are permitted subject to county review, any specific standards for the use set forth in Section D, Article 6, the general standards for the zone, and

Findings of Fact

"S:\Planning\Conditional Use Permit\CUP North\2024\CUP-N-372-24 Turner Ranch Temp. RVs"

CUP-N-372-24

any other applicable standards and review process in the ordinance:

23. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.2.

On-site and off-site temporary workforce housing is included as an allowed “component” of a Wind Power Generation Facility, as addressed below.

K. Commercial Facilities for Generating Power

2. Wind Power Generation Facility

(a) For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

(1) Temporary workforce housing described in Subsection K.1.b must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

As addressed in Condition of Approval #1, the proposed RV spaces may only be used to provide Temporary Workforce Housing for individuals employed to construct approved components of the Wheatridge Renewable Energy Facility East (WREFE). The RV spaces and associated facilities must be removed and/or converted to an allowed use no more than 30 days after the facility commences commercial operation. If the applicant wishes to utilize the temporary RV sites for workforce housing in conjunction with the construction of future facilities or subsequent phases of the Wheatridge project, a new Conditional Use Permit will be required.

(2) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

While the original CUP (CUP-N-369-24) did not include findings or address any specifications for the proposed workforce housing, the subject property was identified as a location contemplated for future workforce housing. This provision, mirroring OAR 660-033-0130, requires subjective analysis and a public hearing, but is not intended to impact or reconsider the original CUP approval. As such, the County finds that the appropriate mechanism for reviewing the proposal is via a new Conditional Use Permit addressing the standards of OAR 660-033-0130(5) and the general CUP criteria.

OAR 660-033-0130(5) Approval requires review by the governing body or its designate under ORS 215.296 (Standards for approval of certain uses in exclusive farm use zones). Uses may be approved only where such uses:

Findings of Fact

"S:\Planning\Conditional Use Permit\CUP North\2024\CUP-N-372-24 Turner Ranch Temp. RVs"

CUP-N-372-24

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The proposed RV spaces will accommodate workforce housing at or near the construction site for WREFE. The use is not anticipated to force a significant change or increase the cost of accepted farm practices on surrounding lands beyond the impacts considered during the EFSC review for the larger WREFE facility. By co-locating workforce housing with the facility, it is anticipated that any impacts resulting from the short-term population increase will be lessened in comparison to requiring employees to commute from existing offsite housing accommodations in urban areas to the construction site. Additionally, the RV spaces are temporary, and the project area is required to be reverted to an allowed farm-related use when the project is complete. Further, the RV spaces are generally co-located adjacent to an existing farm shop and the RV's will not displace any farm land and will not be located adjacent to farm land. Therefore, any impacts directly resulting from the workforce housing proposal will be temporary in nature. Planning Commission may find that the application complies with these criteria.

M. Yards. In an EFU Zone, the minimum yard setback requirements shall be as follows:

- 1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.**
- 2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet.**
- 3. Rear yards shall be a minimum of 25 feet.**
- 4. Stream setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.**

The final site layout will be required to provide the applicable setbacks for all RV spaces and fixtures in compliance with these criteria.

MCZO ARTICLE 6, CONDITIONAL USES

In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

The proposed temporary RV park is allowed as a conditional use in the EFU zone under specific circumstances, governed by state law. Planning Commission may find that the proposed use is consistent with the Comprehensive Plan and the objectives of the

Zoning Ordinance.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

The subject site is not within an Urban Growth Boundary; therefore, this criterion is not applicable.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

The addition of the planned RV spaces will not create a demand on public facilities or natural resources that cannot be accommodated on the subject parcel. According to the applicant's statement the RVs will self-supply individual water sources. Sewage will be handled by a local septic company who will supply a large tank for the RVs to dump waste and grey water. The septic service will be weekly or as needed for regular cleanout consistent with standard practices. Planning Commission may find that the application complies with these criteria.

SECTION 6.025, RESOURCE ZONE STANDARDS FOR APPROVAL.

A. In the Exclusive Farm Use zone a conditional use may be approved only with the County finds that the use will not:

- 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or**
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

These standards mirror the provisions of OAR 660-033-0130, addressed above.

SECTION 6.030. GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size or location of a building or other structure.

Staff have not identified specific time, place, and manner restrictions necessary to minimize the environmental impacts of the proposed temporary RV spaces. The proposed location is adjacent to an existing shop; no dwellings are adjacent to the site. The use shall comply with standard EFU setbacks, as addressed above. The Commission may impose additional conditions to mitigate concerns about noise, vibration, air pollution, glare and odor raised during the public hearing or comment period. A condition limiting open fire or flames and a requirement for an on-site hose and/or fire equipment is recommended as a condition of approval.

D. Designating the size, number, location and nature of vehicle access points.

- 1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is**

required.

Property does not abut a state highway and therefore a permit from ODOT is not required. The applicant is responsible for obtaining Access Permit approval from Morrow County Public Works. Any new, temporary driveway locations shall comply with Morrow County's access spacing, site distance, and minimum improvement standards. Permanent asphalt/paving is not recommended or required for the site facilities or driveway due to the temporary nature of the facilities.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.

The proposed use is not anticipated to generate more than 400 trips per day. This criterion is not applicable.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

1. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development.

Notice of this application has been provided to the Lone and Heppner Rural Fire Protection Districts. Site plan shall identify emergency access and fire suppression. Compliance with this standard is required prior to occupancy.

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

Due to the temporary nature of the use, staff does not recommend or require the installation of permanent fixtures such as hard surface parking areas, vegetated screening, or permanent fencing. The applicant may choose to develop or Planning Commission may want to require designated parking and/or loading areas for parking or loading,

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

No signs are proposed or approved with this application.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

Permanent lighting fixtures are not proposed with this application. Individual RV users are expected to provide their own lighting. Artificial lighting shall not shine or create glare on adjacent residential dwellings.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Due to the temporary nature of the use, staff does not recommend or require the installation of permanent fixtures or landscaping. If the applicant chooses to provide screening or other permanent improvements, the fixtures must be removed when the project is complete, and the

site shall be returned to its original state.

J. Designating the size, height, location and materials for a fence.

Fencing is not proposed with this application.

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

Staff is unaware of any significant natural resources within the project area.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

Conditions of approval are provided below in Section VII of this staff report. The subject parcel has a rural address for the shop, 68405 Sandhollow Road so that calls to county dispatch can easily locate the RVs parked on site. The Commission may impose additional conditions to mitigate any unaddressed concerns raised during the public hearing or comment period.

SECTION 6.040. PERMIT AND IMPROVEMENTS ASSURANCE

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

Staff does not recommend the establishment of a performance bond or other assurance for this approval.

SECTION 6.075. LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION.

A. Length of Permit and Permit Holder: The County may evaluate how long a particular conditional use is expected to remain valid. Some conditional uses may be considered “permanent” as a fully developed use that “runs with the land” and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original conditional use permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.

A conditional use permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the conditional use permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a conditional use permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a Conditional Use Permit will be reviewed or renewable after a stated time period.

B. Reviews and Renewals. If a review or renewal date is included as a condition by which a conditional use permit is granted, initial review would be ministerial and completed by the Planning Director. The holder of the conditional use permit will be required to make application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns arise further review will take place at a public

hearing with notice. If no concerns arise the permit will be renewed.

For conditional use permits without a review or renewal condition, or if complaints are received concerning a conditional use permit, the County may review any valid conditional use permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

This permit is valid for three years, or until the NextEra WREFE facility commences commercial operation in accordance with the approved EFSC Site Certificate. If the construction of the facility extends beyond the initial three-year period, the applicant may request an extension to this permit in accordance with MCZO Article 6, so long as the conditions of approval continue to be met.

C. Revocation or Vacation. Any conditional use permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:

- **The use has been terminated and there is no expectation by the landowner and the County that the use will continue;**
- **The use is not being conducted in compliance with the stated conditions of the permit, or**
- **The County finds that the use jeopardizes the public health, safety and welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances.**

The conditional use permit is valid for three years or until the NextEra WREFE facility commences commercial operation in accordance with the approved EFSC Site Certificate. If the applicant is found to have violated the conditions of approval adopted below, or if the use is conducted in a manner that jeopardizes the public, health, safety, and welfare of the County, the permit may be revoked in accordance with the process provided by code.

- III. LEGAL NOTICE:** July 10, 2024
Heppner Gazette-Times
- July 9, 2024
East Oregonian
- IV. AGENCIES NOTIFIED:** Mike Gorman, Morrow County Assessor; Eric Imes, Morrow County Public Works Director; Jim Johnson, Oregon Department of Agriculture; Christopher Clark, Oregon Department of Energy; Virgil Morgan, Lone Rural Fire Protection District; Glen McIntire, Building Official; Marty Broadbent, Fire Marshall; Dawn Hert, DLCD.
- V. PROPERTY OWNERS NOTIFIED:** July 10, 2024
- VI. HEARING DATE:** July 30, 2024
Morrow County Government Building
Irrigon, Oregon

Findings of Fact

"S:\Planning\Conditional Use Permit\CUP North\2024\CUP-N-372-24 Turner Ranch Temp. RVs"

CUP-N-372-24

VII. DECISION OF PLANNING COMMISSION:

1. The approved RV spaces may only be used to provide Temporary Workforce Housing for individuals employed to construct approved components of the Wheatridge Renewable Energy Facility East (WREFE). The RV spaces and associated facilities must be removed and/or converted to an allowed use no more than 30 days after the facility commences commercial operation.
2. This permit is valid for three years or until the facility commences commercial operation in accordance with the approved EFSC Site Certificate.
3. Applicant must obtain Access Permit approval from Morrow County Public Works prior to the construction and operation of the temporary RV facilities. Existing driveway may be adequate but should be inspected by Public Works.
4. All emergency access and fire suppression standards must be met in accordance with applicable Lone Rural Fire District requirements.
5. Submit a final site plan showing setbacks identified in Section 3.010(M) Minimum yard setback requirements in the EFU Zone.

 Stacie Ekstrom, Chair

Date

Attachments:

Vicinity Map

Notification List

Legal Memo- Reeve Kearns, PC

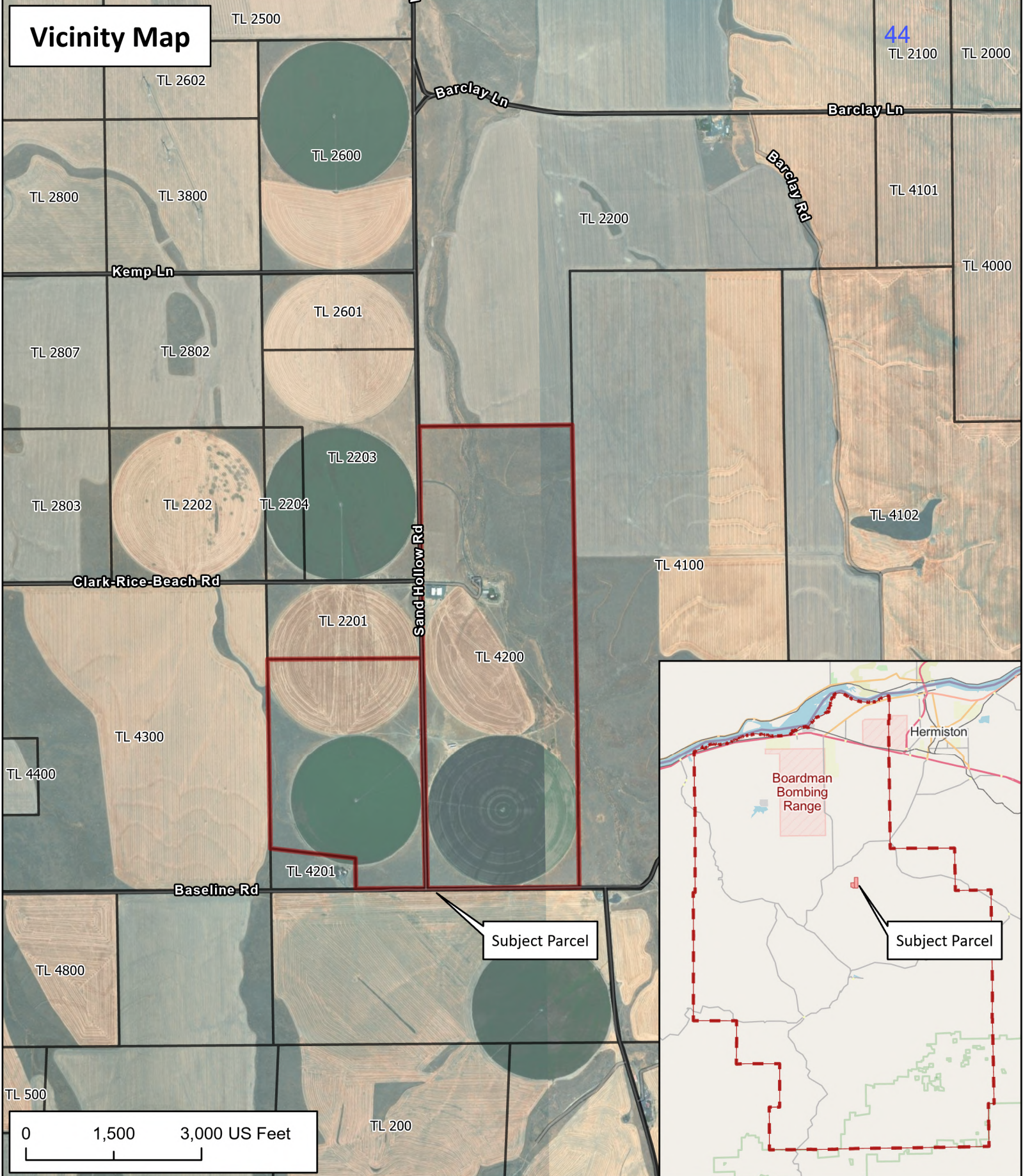
Application with Attachments

Findings of Fact

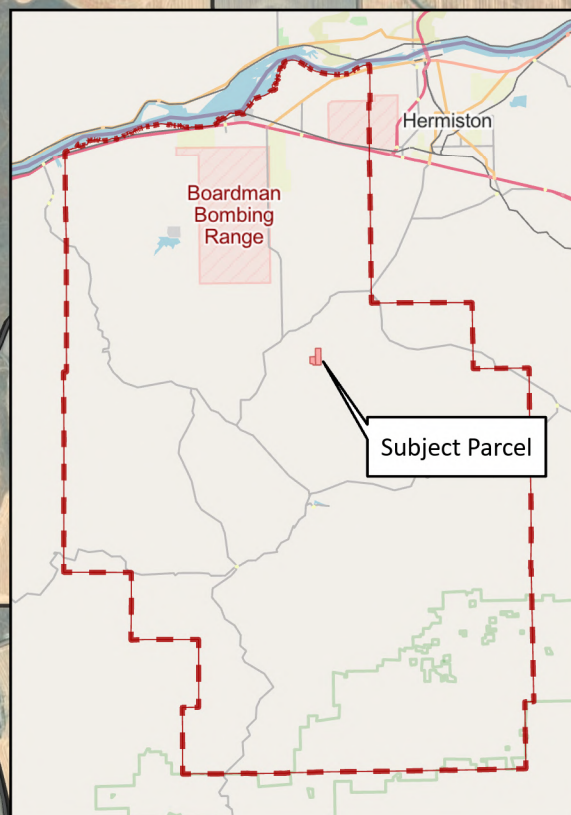
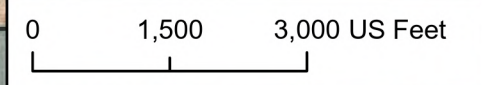
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CUP-N-372-24




Vicinity Map



44
TL 2100 TL 2000

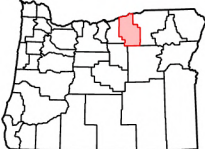



 **CUP-N-372-24**
Turner Ranch
1N26E TL4200

-  Morrow County Tax Lot
-  Morrow County Boundary
-  Subject Parcel

Coordinate System:
NAD 1983 HARN StatePlane Oregon North FIPS 3601
Projection: Lambert Conformal Conic
Datum: North American 1983 HARN

Cartography By: Stephen Wrecsics
Tuesday, July 9, 2024
Morrow County Planning Department

CORRECTED	OWNER 1	OWNER 2	MAIL ADDRESS	CITY	STATE	ZIPCODE
1N26E 3800	HEIDEMAN, LOREN A & DELLA K, TRUSTEES		22948 FAIRVIEW LN	IONE	OR	97843
1N26E 2807	HEIDEMAN, AARON D		33999 RIVER VIEW DR	HERMISTON	OR	97838
1N26E 2202	KEMP LAND LLC		516 NW 4TH	PENDLETON	OR	97801
1N26E 4300	HAGUEWOOD, KEVEN & BUTLER, MICHELLE		64396 MACNAB LN	IONE	OR	97843
1S26E 300	HAGUEWOOD, KEVEN & BUTLER, MICHELLE		64396 MACNAB LN	IONE	OR	97843
1S26E 500	MILLER, MARK T & MILLER, SHANNON E		67775 CUTSFORTH RD	HEPPNER	OR	97836
1N26E 4800	MILLER, MARK T & MILLER, SHANNON E		67775 CUTSFORTH RD	HEPPNER	OR	97836
1N26E 4102	4-M RANCH, INC		68700 HWY 207-ECHO	LEXINGTON	OR	97839
1N26E 4100	MARTIN, BRENT J & MARTIN, JILL E		71620 BASELINE LN	LEXINGTON	OR	97839
1N26E 4400	OREM, ERIC M & OREM, BRANDI L		72028 BLACKHORSE CYN LN	HEPPNER	OR	97836
1N26E 4900	FRITZ CUTSFORTH LAND CO		75655 BASELINE LN	HEPPNER	OR	97836
1S27E 400	FRITZ CUTSFORTH LAND CO		75655 BASELINE LN	HEPPNER	OR	97836
1S26E 200	FRITZ CUTSFORTH LAND CO		75655 BASELINE LN	HEPPNER	OR	97836
1S26E 100	FRITZ CUTSFORTH LAND CO		75655 BASELINE LN	HEPPNER	OR	97836
1N26E 4201	LINDSAY, TODD R & MELISSA J		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 4200	TURNER RANCH, INC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2601	TURNER RANCH, INC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2600	TURNER-LINDSAY FARMS, LLC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2204	TURNER RANCH, INC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2203	TURNER RANCH, INC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2201	TURNER RANCH, INC		75655 BASELINE RD	HEPPNER	OR	97836
1N26E 2803	KARYL SMITH, INC		8825 N ORCHARD PR RD	SPOKANE	WA	99217
1N26E 2802	KARYL SMITH, INC		8825 N ORCHARD PR RD	SPOKANE	WA	99217
1N26E 2200	SANDHOLLOW RANCH LLC		PO BOX 1587	HERMISTON	OR	97838

CUP-N-372-24 | Turner Ranch | **EFU**: 1-mile notice.
 1N26E TL4200
 S:\Planning\CUP\North\2024

Reeve Kearns PC

Attorneys at Law

P.O. Box 13015
Portland, OR 97213
Telephone: 503-997-6032

MEMORANDUM

To: Tamra Mabbott, Morrow County Planning Director
From: Daniel Kearns, Land Use Counsel
Date: July 9, 2024
Re: Request for RVs as temporary workforce housing accessory to an approved power project

You recently asked for advice in light of a request by a renewable energy project applicant – NextEra Energy Resources (“NextEra”) – to allow use of recreational vehicles (“RVs”) as temporary workforce housing on near-by properties while the renewable energy project is being constructed. In particular, you asked what is a lawful process for reviewing and approving such a request given the conflicting and overlapping state and local requirements.

By way of a short response, NextEra’s Site Certificate approved by the Oregon Energy Facility Siting Council (“EFSC”) that authorized the underlying power project, did not approve workforce housing for construction workers. The conditional use permit (“CUP”) issued by Morrow County in response to EFSC’s Site Certificate for the project similarly did not approve any particular workforce housing, but the CUP application included a list of properties that NextEra contemplated for temporary workforce housing. To allow workforce housing, in the form of temporary RVs or otherwise, NextEra would need to obtain a modification of its CUP, but it would not need to modify its EFSC Site Certificate.

A. **Procedural Background and Applicable Law.**

NextEra applied for and obtained a Site Certificate from EFSC for a large wind power project on EFU-zoned land in Morrow County as a Commercial Utility Facility pursuant to ORS 215.283(2)(g), which the statute describes as follows:

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447. A renewable energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

ORS 215.283(2)(g).

A Commercial Utility Facility is a Subsection (2) use under ORS 215.283, which means it is a conditionally allowed and must satisfy the conditional use criteria in ORS 215.296(1) and obtain a CUP from the local government. Significantly, this facility was not approved as a Utility Facility Necessary for Public Service under ORS 215.283(1)(c), which would have been a Subsection (1) use allowed outright on EFU zoned land.

Reeve Kearns P.C.

July 9, 2024

Page 2

After obtaining its Site Certificate, NextEra applied for and obtained a CUP from Morrow County consistent with the project approved by the Site Certificate. The County's CUP was limited strictly to the energy facility that EFSC had approved and did not include any approval, findings or conditions for workforce housing. However, as part of its CUP application to Morrow County NextEra included reference in Table 2 (Morrow County Project Infrastructure) to four parcels owned by Turner Ranch and one parcel owned by Fritz Cutsforth Land Company, all for "Temporary Housing." The five parcels identified for Temporary Housing were not part of the EFSC approval for the energy facility, and there was little or no explanation in the application in support of any land use request for these five parcels. Consequently, the County's CUP made no reference and granted no approval for these parcels.

Recently, Turner Ranch specifically requested County approval for temporary workforce housing on parcels that were listed in Table 2 in its CUP application. NextEra has cited the following local code provision as authorization for temporary workforce housing.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

MCZO §3.010(D)(10)(a)(5).

The County seeks clarification as to the process for allowing temporary workforce housing on the Turner Ranch parcels under this code provision, in this case, RVs are proposed for use as the temporary housing.

This local code provision is modeled after the Goal 3 (Agricultural Lands) administrative rule in OAR 660.033.0130(16)(E) and relates to Utility Facilities Necessary for Public Service. However, because the NextEra wind project was not approved as a Utility Facility Necessary for Public Service, but rather as a Commercial Utility Facility, neither this administrative rule nor the local code provision apply. A different section of the Goal 3 administrative rule, however, addresses temporary workforce housing for Commercial Utility Facilities, which is how the NextEra project was approved. That section provides that:

(17) Permanent features of a power generation facility shall not use, occupy, or cover more than 12 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A

Reeve Kearns P.C.

July 9, 2024

Page 3

minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval.

OAR 660-033-0130(17).

The MCZO contains the same provision allowing temporary workforce housing associated with a Commercial Utility Facility:

(3) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-0330130(5) and shall have no effect on the original approval.

MCZO §3.010(K)(1)(a)(3).

Both OAR 660-033-0130(17) and the parallel local code provision allowing temporary workforce housing associated with the construction of a power generation facility approved as a Commercial Utility Facility under ORS 215.283(2)(g). Both contemplate a “minor amendment” of the local CUP to allow the workforce housing, and both refer to the CUP approval standards in OAR 660-0330130(5), which are same CUP standards required by ORS 215.296(1):

(5) Approval requires review by the governing body or its designate under ORS 215.296. 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

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

OAR 660-033-0130(5).

An additional complication has arisen in this case. Apparently several other private property owners near the NextEra power project that were not included on Table 2 in NextEra’s CUP application to the County for project infrastructure have expressed an interest in hosting RVs on their properties. This raises the procedural question as to how that request can be granted.

B. Application of the Law to NextEra’s Request and the Neighbors’ Request.

Assuming that NextEra’s wind power project was approved as a Commercial Utility Facility under ORS 215.283(2)(g), and not as a Utility Facility Necessary for Public Service, its

Reeve Kearns P.C.

July 9, 2024

Page 4

workforce housing may be approved pursuant to OAR 660-033-0130(17) and MCZO §3.010(K)(1)(a)(3). These, in turn, reference the standard CUP criteria in OAR 660-0330130(5) and ORS 215.296(1) that all such applications must address.

For NextEra or the owners of the underlying properties to obtain approval for temporary workforce housing on any land associated with (accessory to) NextEra's wind power project, it must submit an application to Morrow County for a minor amendment to its CUP for that use (temporary workforce housing), and it must demonstrate compliance with the following CUP approval standards:

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

OAR 660-033-0130(5) and ORS 215.296(1).

Compliance with these standards should not be difficult in light of: (1) the express authorization for associated temporary workforce housing in MCZO §3.010(K)(1)(a)(3) and OAR 660-033-0130(17), (2) the expressly temporary nature of the use, and (3) the fact that the underlying and arguably more impactful Commercial Utility Facility already passed muster against these standards and included an exception to Goal 3.

C. Recommended Next Steps.

County Planning Staff should contact NextEra representatives and explain how to apply for a minor amendment to the CUP for the temporary workforce housing it desires and identify the applicable approval criteria. Staff should also contact all of the near-by property owners and inform them that, to obtain approval of their properties for temporary workforce housing to serve NextEra's project, they must coordinate with and obtain NextEra's agreement to include their properties in its CUP application. NextEra's CUP application is the vehicle for approval of all such temporary workforce housing, which would be accessory to the NextEra wind power project.

NextEra's CUP application to Morrow County must identify the parcels where it proposes to site temporary workforce housing; it must describe the type and number of RV units it plans to site, their temporary duration expressed as the date or trigger for their removal, the source of water for the units, the method of wastewater disposal, and any other aspect of the housing it desires. To the extent that any other neighboring property owner desires to also host RVs for temporary workforce housing for construction workers on the NextEra wind power project, those parcels must be listed in the CUP minor modification application, and the property owners must provide signed consent to have their properties included in NextEra's CUP amendment application.

Reeve Kearns P.C.

July 9, 2024

Page 5

Morrow County should process NextEra's application for a CUP minor amendment in the normal course and apply the approval criteria in OAR 660-033-0130(5) and ORS 215.296(1). Such temporary workforce housing would be expressly accessory to the already-approved NextEra wind power project and would be generally approvable so long as the permit is properly conditioned. The County has the following authority to impose reasonable "clear and objective" conditions on the approval of any such temporary workforce housing request:

An applicant for a use allowed under ORS ... 215.283(2) ... may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

ORS 215.296(2).

To gain approval, the County should be satisfied that a source of water and sanitation is reasonably (objectively) feasible for these housing units and that their placement and operation will not force a significant change in accepted farming practices on surrounding farmlands or significantly increase the cost of accepted farm practices. The focus of conditions should be to require a certain removal date or objective trigger for removal of the RV units to ensure they are temporary. A condition is warranted to limit residents of the housing units to construction workers for NextEra project and their families.

RECEIVED
JUN 17 2024



LAND USE APPLICATION

BY: MR

FILE NUMBER LUD-N-73-24

Date Received Fee 100.00
Date Deemed Complete _____

Type of Application (check one):

- Non-Farm Use
- Temporary Use
- Dwelling Authorization
- Agri-tourism
- Event(s)
- Other _____

Applicant:

Name(s) Todd & Melissa Lindsay
 Address 75655 Baseline
Heppner OR 97836
 Phone 541-561-0234 E-mail address TurnerRanch1@gmail.com

Legal Owner (if different from the applicant):

Name(s) Turner Ranch Inc
 Address Same

Legal and Physical Description:

Township 01 Range N Section 26E Tax Lot(s) 4200
 Physical Address _____
 General Location _____

PROPOSAL (Identify what you are proposing):

Temporary Workforce housing for workers constructing a power facility for wind power and transmission facility necessary

APPROVAL CRITERIA:

Zoning Designation _____ Acreage _____
 List the applicable Article, Section(s), and Subsection(s): _____

A Planner can assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided. For additional space on any questions, please attach a separate sheet of paper.

PHYSICAL FEATURES (Describe the site): (subject area)

Vegetation on the property: Native ground cover, non-farmed

Topography of the property (i.e. rocky, hilly, forested): flat

Any significant features of the property (i.e. steep slopes, water bodies, etc.): _____

Soil type(s): _____

Is the land or any portion of it subject to flooding? No

Most current use of the property: Non-farm native vegetation, Ag buildings

Has the location been utilized as an integral part of the farming operation on the property? yes

Does the location have water rights for irrigation? No

What are the predominant farming types in the area? Agriculture, Ag buildings, farm residence

Is the property currently under special assessment by the County Assessor's Office? EFO

EXISTING IMPROVEMENTS:

What structures or development does the property contain? Will any structure be removed or demolished? No

DESCRIBE THE ACCESS TO THE PROPERTY (check one):

State Highway County Road Public Road USFS Private Easement ^{Drive}

Road Name: Sandhollow Rd

Improvement type and condition of road: _____

Will any new access be required? No

EXISTING SERVICES:

Fire protection district or method: _____

Solid waste disposal method: _____

Utilities and other public services provided: CBEC, private well

Please include a map or plot plan with the following information:

- Existing and proposed water supply;
- Existing and proposed sewage disposal method;
- Location of existing and proposed structures; and
- Existing and proposed roads and accesses.

With the map please provide a description of:

How the proposal will be compatible with surrounding land uses: _____

How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat: _____

Whether you believe diking, screening or other landscaping will be required to protect nearby properties and habitats: _____

The applicant is responsible for providing all of the information to show compliance with the standards for approval. If you are unsure of the standards required by the code, the Planning Department will work with you to identify them. It is the applicant's duty to prove the proposal meets all of the given code requirements. Your plot plan and narrative should show or answer the above questions as well as address specific issues about your particular application.

Through applying for this application I authorize the Morrow County Planning Director or designee to enter upon the property subject of the application to conduct a site visit necessary for processing the requested application. Morrow County shall contact the Land Owner prior to the site visit to arrange an appropriate time for the site visit.

Signatures:

I(we), the undersigned, acknowledge that I am familiar with the standards and limitations set forth by the Morrow County Zoning Ordinance and that additional information and materials may be required, as provided by the Zoning Ordinance and Comprehensive Plan. I propose to meet all standards set forth by the County's Zoning Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my(our) knowledge.

Signed:	<u>Melan Lindsey</u> (Applicant)	<u>Turner Ranch Inc</u> (Applicant)
	<u>Melan Lindsey TRP President</u> (Legal Owner)	<u></u> (Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Morrow County Planning Department
P.O. Box 40, Irrigon Oregon 97844
(541) 922-4624 FAX: (541) 922-3472

Existing and proposed water supply; on site residential potable water sources will supply water to the self contained RV units as needed. The self contained units will supply their own water supply in many cases.

Existing and proposed sewage disposal method; RV spaces will be rented to self contained RV and travel trailer units with self-contained grey water storage. Units will either drive to proper dumping sites as needed or a septic pump truck will service on site as determined by the renters. The pumping services will be conducted on a consistent and often rotation to avoid in issues with gray or septic water spillage. We will work with renters to meet their needs in bringing in septic pump trucks as needed dependant upon the desire of the renters and their needs. This is TBD dependent upon the renters needs.

Existing and proposed structures; Two ag use structures are currently on site near the proposed camping area as well as a Well house and small ag farm storage building. Additionally irrigation equipment, pipe and underground main lines currently exist on the parcel. The proposed use will include adding 7-15 power supply posts for RV plug ins, professionally installed by a licensed Electrician appropriate for RV hook up use. The proposed hook ups do not impact the existing structures. No additional structures will be built to accommodate the camping.

Existing and proposed roads and accesses. Sandhollow Road, a paved County Road goes through the parcel. Beach Lane borders near by off of Sandhollow Road, a gravel County Road. The Temporary RV camp area will be serviced from an existing and well maintained private gravel driveway/ag building parking accessing off of Sandhollow Road at existing access points.

Compatibility with surrounding land uses; The proposed temporary workforce housing will not materially alter the stability of the overall land use pattern of the area. The locations within the parcel that will be used will not impact current farming or farming practices. The owner, Turner Ranch Inc, owns the surrounding farm and ag use properties. No current homes will be impacted by the use.

Protecting and preserving existing natural resources; Natural vegetation will be disturbed minimally, no lawns or other landscaping will be added to minimize water uses and impacts and the natural landscape will go mostly unchanged. No additionally buildings or structures are proposed. The ability of the workers/renters to stay near or within the project will minimize need for traffic to and from urban areas and allow for more efficiencies within the projects. With the existing housing emergency and need for temporary housing the use will greatly support the energy projects needs keeping workers staying locally to support the local economies. The proposed camping areas are not farmed and the use will not impact nor remove agricultural property from production. Upon expiration of the need for work force housing the property will be easily restored to its current range land status.

Morrow County and State of Oregon Zoning allows a power generation facility to include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered. The RV camping facility will be temporary with no plans to convert it to a full time use under the OAR.

Other landscaping required to protect nearby properties; We do not believe any diking, screening or other landscaping will be needed. Gravel will be placed in driving areas and where needed for RV access

to provide proper fire protection. Disturbance of natural vegetation will be held to a minimum. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces to prevent excess dust, and may include, gravel, and/or bark/wood chips.

Short term RV to support housing needs of Energy Projects
2024

56
RECEIVED
JUN 14 2024
BY: MR

The need for short term housing for the energy projects taking over mid Morrow County are huge. Past projects have seen many illegal by Morrow County code and unsafe for the community in large numbers. We believe that properly placed and managed parking areas will improve the safety for all by allowing local public safety responders to know where the parking exists for fire, emergency and all service.

In an effort to ease the burden to both the developer and the community we are proposing a small 7-10 unit parking within current project areas.

The focus of this application is the property located near our current shop/sheds off of Beach lane as it meets Sandhollow.

Access: Current access driveway onto private property will be used to access a gravel drive into the parking areas. The RV areas will be gravel and mowed at least biweekly dependent on vegetation growth. The current drive is a well-built graveled equipment road with access from Sandhollow Road.

Garbage: A dumpster will be placed at the site and serviced by Miller Disposal out of Heppner who manages the garbage area where this is located with a consistent weekly pickup. Number of dumpsters will be dictated by use. This is within our farm boundaries and will be well managed and clean

Sewer: Sewage dump will be set up with a local septic pumping company within the area. The company will supply a large tank for RV dump with a consistent clean out based on need and use. Again, this is in our farm boundaries and cleanliness, health and safety will be priority. The consistency of clean out will be closely monitored.

Water: RV's will be self-contained and self-supply water sources. This will be negotiated with renters and developer.

Vegetation: The vegetation will be mowed prior to placing gravel parking spots and entry road. It will be mowed consistently to avoid any fire risks. As part of our farming operation we will be the most impacted by a fire with crops nearby, this will be a priority and Heppner Fire Dept input will be sought out prior to moving any RVs on site. No fires will be allowed on site and any generators will be properly monitored and placed via negotiation with the renter prior to move in.

The parcel will be returned to its current state which is natural unfarmed ground upon vacate of the energy projects, as required by planning time lines.

Happy to supply any additional information or needs as required.

Todd and Melissa Lindsay




Turner Ranch Inc

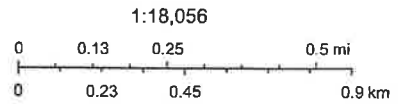
541-561-0234, 541-561-0343

ArcGIS Web Map



7/24/2023, 5:35:13 PM

-  Morrow County Boundary
-  Morrow County Assessor's Map Index
-  Morrow County Tax Lots



Esri Community Maps Contributors, Oregon State Parks, State of Oregon GEO, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, MET/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA.

Example - Possible Sites

Draft Planning -



201

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Esri Community Maps Contributors, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, JgimTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS

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PLANNING DEPARTMENT

PO Box 40 | Irrigon, Oregon 97844 | (541) 922-4624

July 11, 2024

TO: Planning Commission
 FROM: Daisy Goebel, AICP- Principal Planner
 RE: Zoning Code Update Work Session

This work session is intended to discuss the following recommendations:

Updating Ministerial/Administrative Processes, Clear & Objective Standards

There are three types of applications we are discussing (see attachment A- Application Process Flowchart). State law requires that any application that requires “interpretation or the exercise of policy or legal judgement” go through a standardized public process. This update addresses the following problems with the code:

1. Zoning permits currently include subjective standards.
2. Review criteria doesn't include basic serviceability (water/sewer/electric).
3. Code is unclear/inconsistent on whether ministerial or administrative review is required.

The suggested changes separate the ministerial (clear and objective) “zoning permit” process from the Site Plan Review Process, which is an Administrative Land Use Decision. Zoning permits are used to review uses that are allowed outright, using only clear and objective standards. Zoning Permits are also required prior to building permit approval for development that is subject to site plan review or conditional use permit approval.

Our intention is to create a process where the subjective elements of a development are reviewed during the broader “site plan review” process; Staff will then review the clear and objective elements and confirm that conditions of approval have been met through the zoning permit process.

Subjective standards include TIA review, uses that have a distinct set of standards specified in the code or the ORS, development that includes new public roads, development within overlay zones, and applications that request variances to code standards.

Conditional Use Permit Review Process

The Planning Commission voted to move CUPs from Planning Commission review (quasi-judicial) to Staff Review (Administrative). The results of this discussion were not completely codified, so we are re-opening the discussion.

As currently written, all CUP applications are reviewed by the Planning Commission. In Morrow County, CUPs most commonly involve:

- Home Occupation Permits
- Residential Uses in Commercial Zones
- Renewable Energy Facilities in Resource Zones

- Aggregate Mining Operations

Other uses that are not common, but would currently require CUP approval include:

- Golf Courses in residential and EFU zones
- Sewage treatment facilities in residential zones
- Personal Use Airports in the EFU Zone
- Hospitals and mobile home parks in the SR zone

I recommend moving considering several CUP uses from quasi-judicial to administrative review and retaining quasi-judicial review of the more unconventional uses.

Consistent Terminology

- Replace “County Court” with “Board of Commissioners”
- Remove reference to “Site Development Review” except in the SO zone
- Remove “Planning Commission Secretary”

Clarification of Extensions/Vesting Requirements

Expiration Dates

- SPR/CUP approvals valid for 2 years. (One year extension)
- Dwellings in Farm/Forest Zones valid for 4 years. (2 year extension)

Extensions

- Director can grant one extension (clear/objective).
- Zoning permits can be extended one time with written approval for a maximum of one year.

Vesting

- Land Use Decisions are vested when Zoning Permit is granted.
- Zoning Permit is vested when building permit is granted.

Comment Period

- Code currently has a 21-day comment period and a 15-day appeal period
- Recommendation to consolidate the comment period and appeal period and provide only a 21-day appeal period where a public hearing may be requested.

Other Changes

- Allows shipping containers to be used as accessory structures.
- Article 10 currently has a separate set of code enforcement provisions that aren’t consistent with the adopted Code Enforcement Ordinance (ORD-2021-4). Recommend replacing that section with reference to the MCCEO for consistency.
- Allows Temporary Hardship Dwellings to be reviewed administratively.
- Removes “Special Uses” as a permit type.
- Allows conversion of existing dwellings to non-farm dwellings in EFU zone.
- Limits the number of extensions staff can grant for administrative decisions.
- Allows entities with the power of eminent domain to provide a resolution of public necessity in lieu of property owner authorization.

Attachments:

- A- Application Process Flowchart
- B- Recommended Amendments (Redline)
- C- Alternative EFU Draft

Reeve Kearns PC

Attorneys at Law

P.O. Box 13015
Portland, OR 97213
Telephone: 503-997-6032

MEMORANDUM

To: Tamra Mabbott, Morrow County Planning Director
From: Daniel Kearns, Land Use Counsel
Date: June 26, 2024
Re: Land use decision making – when is a public process required and how much process?

Recent discussions with Amazon Web Services (“AWS”) in the context of its data center campus applications raise several questions about what kind and how much public process is required for these projects. This is an area governed by state law, which preempts all local land use regulations and procedures that fail to provide at least the minimum public process required by state law.

A. When is a public decision making process required? The procedural requirements that control local land use permitting are set forth in Oregon land use laws – ORS Chapters 197, 215 and 227 and flow from the Oregon Supreme Court’s decision in *Fasano Washington County Comm.*, 264 Or 574, 507 P2d 213 (1973). The public decision making process in state law is triggered depending upon whether the local government action meets the following statutory definitions of “land use decision” or “permit,” in ORS 197.015(10) and ORS 215.402(4), respectively.

“Land use decision”: ... Includes:

- (A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:
- (i) The goals;
 - (ii) A comprehensive plan provision;
 - (iii) A land use regulation; or
 - (iv) A new land use regulation;

ORS 197.015(10).

As you can see the definition of land use decision is really a statement of what it includes which then goes on to exclude the following from the definition:

“Land use decision”: ...Does not include a decision of a local government:

- (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
- (B) That approves or denies a building permit issued under clear and objective land use standards;
- (C) That is a limited land use decision;
- (D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise

- authorized by and consistent with the comprehensive plan and land use regulations;
- (E) That is an expedited land division as described in ORS 197.360;
 - (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;
 - (G) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

The expression “permit” is also a creature of state land use law, to which certain public procedures attach:

“Permit” means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. ...

ORS 215.402(2).

In both of these definitions, the key features are the discretionary interpretation or application of the local land use regulations.

For purposes of this discussion, you should assume that every local decision that qualifies as a “land use decision,” as defined in ORS 197.015(10) will also qualify as a “permit” as defined in ORS 215.402(2). Just because a use is listed as being allowed outright does not mean that its approval does not qualify as a “land use decision” or a “permit.” Examples of uses that involve no discretion, and therefore do not qualify as either “land use decisions” or “permits” typically (but not always) include building permits and zoning permits that involve no discretion. There is a substantial amount of LUBA and appellate caselaw, however, holding that even building permits can qualify as “land use decisions” whenever they involve any discretion. In this context, “discretion” means the use of legal or policy judgment in the evaluation of criteria, or the interpretation or application of any land use regulations that are not clear and objective or involve any terms capable of more than one possible meaning.

Again, the key feature for identifying a “land use decision” or a “permit” are the discretionary interpretation or application of the local land use regulations. Any element of discretion is enough to convert an otherwise non-land use decision into something that requires the public decision making procedures required by state law.

B. What Public Decision Making Process is Required and When? When rendering a statutory “land use decision,” the local government is required to provide the public decision making procedures in ORS 197.797 (formerly, ORS 197.763). The public decision making procedures for “permits” are similar and set forth in ORS 215.416. In all cases, the process includes mailed written notice to property owners within the statutory notice range describing the application and approval criteria and a statement of participation rights. Those rights can take

one of two forms: (1) the so-called Type II process involving an opportunity to comment on the proposal, notice of the government's initial decision on the proposal, and the opportunity to appeal the decision and call for a public hearing on the proposal or (2) the so-called Type III process that begins with a public hearing on the application that produces the initial local decision. With the first procedural path (the Type II process) the initial local decision is rendered without a public hearing, but there is a risk for the local government and applicant if there are any mistakes in notice.

A critical feature of the Type II process is that, where the local government renders a decision without first providing a public hearing, it must allow/accept an appeal from anyone who submitted written comments on the proposal and from anyone who is "adversely affected or aggrieved" by the decision. Local appeals may always be filed within the local appeal period (no shorter than 12 days) by people who received notice of the local decision. However, when a local government renders a decision without first providing a public hearing, there is a chance that an appeal may be filed subsequently (outside the local appeal period) by some previously unknown/unidentified person who legitimately claims either: (1) they were entitled to notice but did not receive it or (2) they were not entitled to notice but are "adversely affected or aggrieved" by the Type II local decision. The category is broadly construed, and it is nearly impossible to identify in advance who may be viewed by LUBA as "adversely affected or aggrieved."

The most significant and risky aspect of the Type II process, or by not providing a land use process at all, is that people who were entitled to notice but did not receive it or can demonstrate they are adversely affected or aggrieved can bring an appeal long after all appeal periods have run.

197.830 Review procedures; standing; fees; deadlines; rules; issues subject to review; attorney fees and costs; publication of orders; mediation; tracking of reviews. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

* * *

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the notice of the decision did not reasonably describe the nature of the decision.

The collective import of ORS 197.830(3) & (4) is that, where the local government follows a Type I process (non-land use process) when it should have followed a land use process or it follows a Type II process, the decision can be appealed for years after it was presumed final. This can occur when petitioners assert they are “adversely affected or aggrieved” by the local decision and appeal within 21 days of when they discover the decision exists. This can be years after the decision was actually rendered. A late-filed appeal can also occur when the government fails to provide proper notice to everyone entitled to notice, and those people discover the decision, possibly years later. As LUBA explained the effect of this statute on an appeal filed long after the local decision was presumed final:

In circumstances (like the present one) where a local government fails to recognize that it is rendering a decision on a "permit" as defined at ORS 215.402(4), and therefore fails to even attempt to comply with the standards and procedures at ORS 215.416 for making a permit decision, then adversely affected persons who belatedly learn about the decision can file a direct appeal of that permit decision to LUBA, pursuant to ORS 197.830(3). ... ORS 197.830(3) provides two appeal deadlines: (1) 21 days from the date of "actual notice where notice is required," and (2) 21 days from the date that the petitioner "knew or should have known of the decision where no notice is required." Where ORS 197.830(3) applies to provide a direct right of appeal to LUBA, consistency with ORS 197.825(2)(a) dictates that there are no administrative remedies available by right to exhaust. ... land use decisions appealed to LUBA pursuant to ORS 197.830(3) or (4) are not subject to the ORS 197.825(2)(a) exhaustion requirement. Typically, where ORS 197.830(3) applies, any fixed local appeal period has expired by the time the petitioner gains "actual notice" of the decision or encounters circumstances that would, to a reasonable person, constitute knowledge or constructive knowledge of the decision. Thus, where ORS 197.830(3) applies, the underlying decision has become final, in the sense that no local appeal is available.

Eng v. Wallowa County, __ Or LUBA __ (LUBA No. 2017-062, Dec 28, 2017, slip op at 28-29)

This is the situation that Morrow County and any applicant for a use presumptively allowed outright should strive to avoid.

C. How Does this Affect Morrow County? The critical lessons from these statutes for Morrow County are that, if the local decision involves the exercise of discretion in the application or interpretation of the local land use approval standards, then it qualifies as a “land use decision” and a “permit” and the County must provide public decision making procedures from ORS 197.797 and 215.416. Those procedures apply even if the local code incorrectly assumes that a particular use is allowed outright or that the local decision will not involve discretion. Failure to provide the required public participation procedures makes a presumptively final decision open for appeal for at least 10 years after it was presumed final.

The MCZO allows data centers outright in the Port Industrial (PI) and General Industrial (MG) zones and provides a ministerial, non-public process for reviewing and deciding a data center application. Among other requirements, both zones include the following transportation provision:

Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles B trucks, recreational vehicles and buses B will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.

MCZO 3.010(N) & 3.070(E).

The TIA requirement assumes that traffic mitigation is required for developments with significant traffic impacts – even the development of uses allowed outright – when they exceed 400 new vehicle trips per day. In such situations, the formulation of traffic mitigation involves the exercise of significant discretion and qualifies as a “land use decision” because it requires the formulation of: (1) what mitigation is needed to address the impact of the development’s new vehicle trips and (2) when is that mitigation needed during the process toward full build-out.

Likewise, the site plan criteria in MCZO 4.165 also implicate (require) compliance with the County’s Transportation System Plan, despite the stated presumption that site plan evaluations employ only clear and objective (non-discretionary) criteria. The following provisions bely that presumption, at least for larger developments that pose significant impacts for the County’s transportation facilities and possibly significant water and wastewater treatment demands:

A. Purpose. ... Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.

1. The lot area shall be adequate to meet the needs of the establishment.

* * *

7. County transportation facilities shall be located, designed and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.

* * *

10. The applicant shall determine if compliance is required with Oregon Water Resources Department water quantity and/or Oregon Department of Environmental Quality water quality designations.

MCZO 4.165(D).

Depending on the nature and scale of the particular development proposal, and its impacts on, and demand for, public facilities, the evaluation of these criteria may involve significant discretion. That will invariably be the case for larger developments, even if listed as being allowed outright in the zone, especially when trip generation is projected to exceed 400 ADT. For those projects, the County should employ a public process, at least a Type II and more appropriately a Type III process. This will meet the satisfy the state mandated public procedures and ensure compliance with all notice provisions, thus ensuring finality of the local decision once it is rendered.

Because the County's ultimate objective for larger projects is to fashion a set of approval conditions to satisfy these discretionary requirements, *i.e.*, to ensure adequate water quality and quantity, an adequate means of wastewater treatment or disposal, and mitigation for impacts to transportation facilities, I recommend a conditional use permit (Type III) process. This will ensure full compliance with all state mandated procedural requirements and eliminate the threat of appeals being filed years after permit approval from people who either were entitled to notice and did not receive it or are adversely affected and aggrieved. The problem of appeals being filed years after approval is only an issue where the local government renders the decision without holding a hearing. A Type III conditional use permit process avoids these problems entirely and imparts finality on all such decisions.

D. Recommended Procedures for Large-scale Development Projects. The significant discretionary issues associated with larger projects involve impacts on and demand for public facilities and services, *i.e.*, water quality and quantity, feasibility of wastewater disposal, and transportation system impacts, *i.e.*, formulation of transportation mitigation to ensure compliance with County operational standards up to and through full build-out and a schedule for mitigating those impacts. Evaluation of these issues requires the applicant to provide basic information about water demand, wastewater production estimates, vehicle trip generation (ADT and p.m. peak hour trip generation) and documentation that compliance with applicable standards is "feasible." Conditions of permit approval should require the developer to provide engineering and design details of the water and wastewater systems at the time of building permit issuance

(zoning permit issuance), which should not be a land use type process because there should be no discretion involved.

For traffic impacts from developments projected to generate more than 400 ADT, a TIA is required that evaluates (quantifies) impacts on near-by transportation facilities and proposes mitigation to maintain acceptable operation for those facilities. MCZO 3.010(N) & 3.070(E). From the TIA, the County must fashion transportation mitigation and a schedule for implementing that/those mitigation measures. Again, the most efficient way to fashion and attach those conditions and avoid any unexpected future appeals is through a Type III process, preferably a conditional use permit proceeding.

The applicant should demonstrate “basic feasibility” of compliance during the land use phase, sufficient to fashion such conditions. Conditions for multi-phase projects that will impact near-by transportation facilities at full build-out will need to: (1) specify what transportation improvements are needed to fully mitigate the development’s impacts and (2) an objective schedule for financing and actually constructing the needed mitigation so that the improvements are on-line by the time they are actually needed. There will need to be subsequent steps in the County review process to validate that any interim condition requirements are met at the correct time in the build-out process. That validation type process can be ministerial, since it should not entail any discretion, *i.e.*, it can use a ministerial Zoning Permit as the review mechanism.

E. How does Morrow County’s Zoning Permit Review fit into the Process? As presented in the Morrow County Zoning Ordinance, Zoning Permits are supposed to be processed ministerially based on the presumption they are not “land use decisions” or “permits” as defined in ORS 215.402(2). While that presumption is often valid, in practice, Zone Permits sometimes involve discretion, which means in those cases they are statutory “permits.” In those situations, the County is required to provide the statutorily required land use decision making procedures. For Zoning Permits that involve discretion, *e.g.*, when evaluating a use allowed outright for transportation impacts and fashioning mitigating conditions of approval, the lack of land use decision making procedures violates state law and makes the resulting permit open to appeal for many years post-approval pursuant to ORS 197.830(3) or (4). Consequently, Zoning Permits for uses allowed outright are a significant problem.

Rather than violate state law and expose an otherwise meritorious development to the possibility of an appeal years after approval, I recommend Morrow County provide the statutorily required land use decision making process whenever it considers any Zoning Permit that involves discretion, *i.e.*, is not controlled by strictly clear and objective standards. At a minimum, this process would involve notice of the application to those entitled to notice and an opportunity to comment and appeal the Director’s decision to the Planning Commission. Alternatively, a notice and hearing type process before the Planning Commission will avoid any procedural objections now or in the future. I am unaware of any reported case where LUBA has held that providing more public process than the local code requires, as opposed to providing an insufficient process, was a prejudicial procedural error. In short, I recommend the County err on the side of caution and provide more public process than the local code requires rather than risking violating state law when faced with a Zoning Permit that involves discretion.

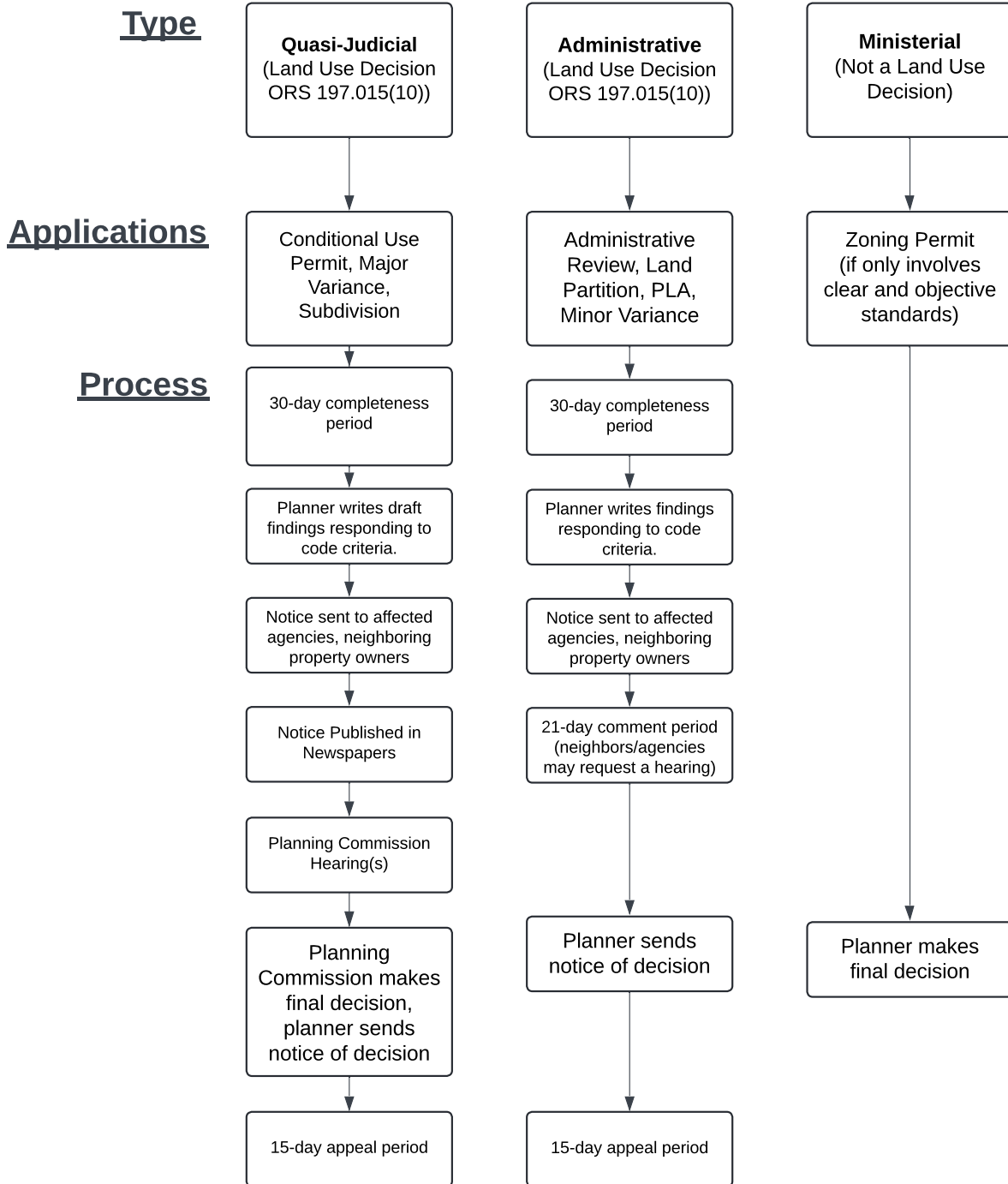
Reeve Kearns P.C.

June 26, 2024

Page 8

To put this advice into practice, planning staff must evaluate all Zoning Permit applications and determine whether they involve any discretionary determinations. A good indicator is where the proposed use is allowed outright in the zone and is anticipated to generate more than 400 additional daily trips (“ADT”), the County should provide a land use process. MCZO 3.010(N) & 3.070(E). The minimum notice and comment (Type II) process, while it would satisfy state law requirements, still leaves open the possibility that someone adversely affected and aggrieved that did not receive notice can appeal after the local appeal period otherwise closes. Consequently, the safest approach is to provide a notice and hearing (Type III) process to eliminate that risk. The ministerial Zoning Permit process should be reserved for situations that are strictly and predictably non-discretionary, *e.g.*, building permits for outright allowed uses that involve no discretion and as a final check to verify that all conditions of site plan approval have been satisfactorily completed.

Application Types and Processes



MORROW COUNTY, OREGON
ZONING ORDINANCE

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ARTICLE 1. INTRODUCTORY PROVISIONS

SECTION 1.010. TITLE.

This Ordinance shall be known as the Morrow County Zoning Ordinance of 1980, amended March 6, 1985, and amended and readopted in its entirety on November 7, 2001.

SECTION 1.020. PURPOSE.

The intent and purpose of this Ordinance is to promote the public health, safety and general welfare and to carry out the Comprehensive Plan of the County, the provisions of ORS Chapter 215, and the Statewide Planning Goals adopted pursuant to Oregon Revised Statutes (ORS) Chapter 197. Therefore, approvals granted pursuant to the provisions of this Ordinance shall be based on the following considerations among others: the characteristics of the various areas in the County, the suitability of an area for particular land uses, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of an area, needed access to particular sites in the County, natural resources, and the need for development or conservation thereof, and the public need for healthful, safe and aesthetic surroundings and conditions.

SECTION 1.030. DEFINITIONS.

As used in this ordinance, the following words and phrases shall have the meaning set forth in this section. Words and phrases not defined shall have the meaning commonly and ordinarily understood, as determined by the Planning Director, Planning Commission, or Board of Commissioners.

...

Event, Temporary. A temporary event is one that is held primarily on or is using public property that has an expected attendance of more than [50], but no more than [500] people, that will not continue for more than [72] hours in any three-month period, and that will be located in a rural or resource area. Temporary Events are permitted through a [ministerial/Type-I] process and are not considered "outdoor mass gatherings" as defined by ORS 433.735 or Agri-tourism events as provided for by ORS 215.283(4).

...

~~Nursery, Day. An institution, establishment, or place in which are commonly received at one time three or more children not of common parentage under the age of 14 years for a period or periods not exceeding 12 hours for the purpose of being given board, care, and training by someone other than parents or guardians for compensation or reward.~~

~~Family Child Care Home. A registered or certified childcare facility in a dwelling that cares for not more than 16 children, including children of the provider, in accordance with ORS 329A.~~

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~~Childcare center. A childcare facility that cares for more than 16 children and is certified under ORS 329A.280.~~

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...

Zoning Permit. - An authorization issued prior to the issuance of a building permit, or commencement of a use that is allowed outright ~~subject to administrative review~~, stating that the proposed use is in accordance ~~consistent~~ with the clear and objective requirements of the corresponding land use zone.

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SECTION 1.050. ZONING PERMIT.

~~Prior to the construction, reconstruction, alteration, or change of use of any structure larger than 100 square feet or use for which a zoning permit is required, a zoning permit for such construction, reconstruction, alteration, or change of use or uses shall be obtained from the Planning Director or authorized agent thereof. A zoning permit shall become void after 1 year unless the development action has commenced. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period. At the Planning Director's sole discretion, the Director may refer any Zoning Permit application to the Planning Commission for consideration and decision, following notice and public hearing consistent with the public hearing procedures in Section 9.050.~~

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SECTION 1.060. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restriction.

SECTION 1.070. ADMINISTRATIVE TERMINOLOGY AND CONSTRUCTION.

...

B. Construction. Words used in the present tense include the future tense; words used in the singular include the plural and words used in the plural include the singular; the word "shall" is mandatory; the word "may" is permissive; the masculine shall include the feminine and ~~neutereutral~~.

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ARTICLE 2. ESTABLISHMENT OF ZONES

...

SECTION 2.010 IDENTIFIED ZONE DESIGNATIONS. For The purpose of this ordinance, the following zones are hereby identified.

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Zone Designation	Abbreviated Designation	Code Section	Effective Date
Exclusive Farm Use Zone	EFU	3.010	08-01-2016
Resource Related Industrial Zone	RRI	3.015	10-01-2013
Forest Use Zone	FU	3.020	08-01-2016
Rural Service Center Zone	RSC	3.030	01-01-2011
Umatilla Depot Wildlife Habitat Zone	UDWH	3.035	11-01-2014
Rural Residential Zone	RR	3.040	09-28-2005
Farm Residential Zone	FR	3.041	09-28-2005
Small Farm-40 Zone	SF	3.042	08-01-2016
Rural Residential Ten Zone	RR-10	3.042	7-15-2021
Suburban Residential Zone	SR	3.050	03-06-1985

Suburban Residential 2A Zone	SR-2A	3.051	10-28-2006
General Commercial Zone	C-G	3.060	04-30-2015
Tourist Commercial Zone	TC	3.061	03-15-2006
General Industrial Zone	M-G	3.070	01-01-2011
Air/Industrial Park Zone	AI	3.071	03-06-1985
Space Age Industrial Zone	SAI	3.072	10-01-2013
Port Industrial Zone	PI	3.073	02-01-2014
Umatilla Army Depot Military Zone	UADM	3.074	11-01-2014
Rural Light Industrial Zone	RLI	3.075	03-15-2006
Airport Light Industrial Zone	ALI	3.076	06-17-2016
Airport Approach Zone	A-A	3.090	06-17-2016
Airport Hazard Zone	A-H	3.091	06-17-2016
Airport Safety and Compatibility Overlay Zone	ASC	3.092	06-17-2016
Flood Hazard Overlay Zone	FP	3.100	01-01-2011
Limited Use Overlay Zone	LU	3.110	03-06-1985
UMCD PI Limited Use Overlay Zone	(none)	3.120	11-01-2014
Speedway Limited Use Overlay Zone	SO	3.130	01-23-2008
Parkland Overlay Zone	PO	3.150	04-01-2011
Significant Resource Overlay Zone	SRO	3.200	10-01-2013
Historic Buildings and Sites	(none)	3.300	03-06-1985

SECTION 2.030. ZONING MAP. A zoning map or zoning map amendment adopted by Section 2.020 of this ordinance or by an amendment thereto shall be prepared by authority of the Planning Commission or by a modification by the ~~County Court~~ Board of Commissioners of a map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the County Clerk as long as this ordinance remains in effect.

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SECTION 2.040. ZONE BOUNDARIES. Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad ~~rights-of-ways~~, water courses, ridges or rimrocks, or such lines extended. Whenever uncertainty exists as to the boundary of a zone as shown on the Zoning Map or amendment thereto, the following regulations shall control:

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ZONE-SPECIFIC CHANGES PROVIDED IN ARTICLE 3 DOCUMENTS

ARTICLE 4. SUPPLEMENTARY PROVISIONS

SECTION 4.010 ACCESS.

...

H. Access Spacing Requirements for Development Accessing County Facilities. All developments shall have legal access to a County or public road. Except for interim access as provided in Section 4.010 ~~H-1~~ [Interim Access], access onto any County road in the unincorporated or incorporated urban area shall be permitted only upon issuance of an

access permit upon demonstration of compliance with the provisions of the County road standards and the standards of Section 4.010.

For County roadways designated as major collector or arterial in the Transportation System Plan, the standards in Table 4.010-2 apply for intersections created by a new public roadway, new private roadway or new private driveway. For County roadways designated as minor collectors or local access roads, intersections created by a new public roadway, new private roadway or new private driveway shall meet minimum County traffic safety and operational requirements, including sight distance, as determined by the County Engineer.

TABLE 4.010-2
ACCESS MANAGEMENT STANDARDS FOR MORROW COUNTY ROADWAYS

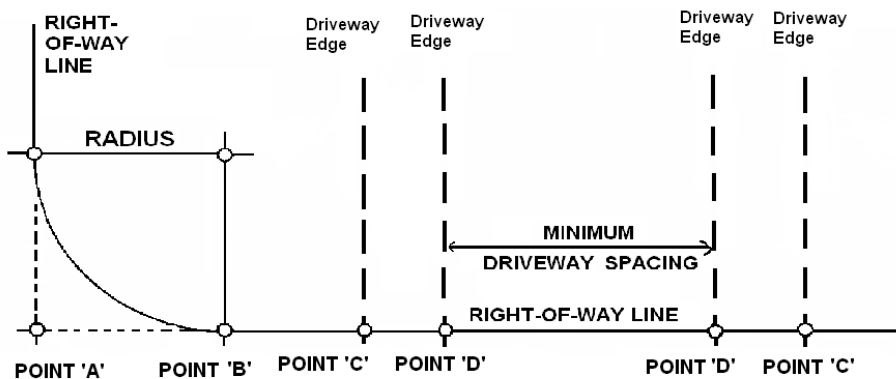
Classification	Access -Spacing Standards for Public or Private Access (ft)		
	Public Roadway	Private Roadway	Private Driveway ^a
Arterial	600	600	300
Collector	300	300	100
Local	200	200	Access to each lot

a. For most roadways, at-grade crossings are appropriate. Also, allowed moves and spacing requirements may be more restrictive than those shown to optimize capacity and safety. Any access to a state highway requires a permit from the district office of ODOT and is subject to the access spacing standards in Table 4.010-1 in this section.

No use will be permitted to have direct access to a street or road except as specified below, or as provided in Section 4.010.H (Interim Access). Access spacing shall be measured from existing or approved accesses on either side of a street or road. Measurements shall be made from easement or right-of-way line to easement or right-of-way line. (See following access diagram where R/W = Right-of-Way; P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines, and 'C' and 'D' = each side of adjacent accesses to private property.

1. All minimum distances stated in the following sections shall be governed by sight distance requirements according to this Ordinance and applicable County Road Standards.
2. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.
3. The minimum curb radius shown in the diagram below (i.e., distance from Point "A" to Point "B") shall be 15 feet. In areas zoned for industrial uses, the minimum curb radius shall be 30 feet. At intersections between facilities classified as major collector, arterial or highway, any new or modified intersection shall be designed to accommodate a WB-50 Semitrailer Design Vehicle. If either route is designated by the County as a truck route, the intersection shall be designed to accommodate a WB-65 Interstate Semitrailer Design Vehicle. The curb alignment shall be designed so that the design vehicle can complete a right turn without entering a lane used by opposing traffic.

4. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.
5. Minimum spacing between driveways shall be measured from Point "D" to Point "D" as shown below (i.e., the edges of adjacent driveways closest to each other).
6. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. Additionally, access shall be located beyond the back of any left turn refuge either existing on the affected road or required to accommodate the proposed development. This requirement may result in an access spacing greater than one hundred (100) feet in the case of a collector, or 300 feet in the case of an arterial.
7. Access onto local roads will not be permitted within ten (10) feet of Point "B" as shown below. If no radius exists, access will not be permitted within twenty-five (25) feet of Point "A".
8. Access onto collector roads will not be permitted within fifty (50) feet of Point "B" as shown below. If no radius exists, access will not be permitted within sixty-five (65) feet of Point "A". Where a common or shared access is available it shall be used, provided that such use will not result in operational or safety problems. Minimum spacing between driveways shall be one-hundred (100) feet.
9. Direct access to an arterial will be permitted provided that Point 'C' of such access is more than three hundred (300) feet from any intersection Point 'A' or other access to that minor arterial.



I. Interim Access onto County Facilities. No development with sole access onto a County arterial or major collector shall be denied based only on an inability to provide an access that meets applicable access spacing standards. In such an event, the use may be issued an interim access permit which shall expire when access as required under this Ordinance becomes available. An interim access permit may be granted based upon the following:

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1. The site is situated such that adequate access cannot otherwise be provided in accord with the access spacing requirements of this Code.
2. The interim access shall meet minimum County traffic safety and operational requirements, including sight distance.
3. Alternate access shall **not** be deemed adequate and connections to alternate access shall **not** be required if the resulting route of access would require a trip in excess of one (1) block or five-hundred (500) feet out of direction (whichever is less).
4. The property owner signs a consent to participate agreement for the formation of a Local Improvement District or similar financing mechanism for the primary purpose of constructing a public road or right-of-way providing access to the arterial or collector road;
5. such access shall meet the minimum applicable County standard.
6. The property owner records an agreement to participate in any project that would consolidate access points where such project would not result in new or more severe traffic operation or safety problems.
7. The property owner records an agreement to abandon use of the existing private access way when an adequate alternative access becomes available.

H. Conditions Requiring Variance Application. In the case of transportation improvement plans that do not meet the above minimum standards, the Morrow County Public Works Department may work with the applicant to determine whether an alternate design standard is appropriate (design modification). Design modifications are reviewed and approved by Morrow County Public Works Department staff. If upon mutual agreement it is determined that an alternate design standard cannot be met, an application for a design variance will be required, subject to review and approval by the Morrow County Planning Commission.

7-8.

SECTION 4.020. SIGHT DISTANCE.

...

B. Accesses Exempt from Sight Distance Requirements. Accesses for the following development actions are exempt from the Sight Distance standards (Section 4.020.A), but are subject to improvements to maximize sight distance to the extent practicable by the Morrow County Public Works Department County Operations Division through an Access Permit or Right-of-way Permit:

1. Replacement dwellings;
2. Nonbuildable parcels;
3. Applications for one dwelling on an existing vacant parcel;
4. Home Occupation applications that don't include the construction or placement of new structures. in the EFU, FU, SF-40, FR-2 and RR-1 zones; or
5. Applications which will not add additional vehicle trips to an existing access which does not meet the sight distance standards.

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SECTION 4.035 PERMIT REQUIREMENTS FOR LAND USE DEVELOPMENT. Except where otherwise noted, all proposed projects should meet the following Plot Plan Site Plan Requirements as described in Table 4.035-1 below. A common threshold for a TIA (traffic impact analysis) applying to all types of development is 400 daily trips (e.g., 40 houses). Trip generation should be estimated using the current edition of **Trip Generation** by the Institute of Transportation Engineers, other similar published resources, or actual driveway counts of similar land uses. The County Planning Commission, County Planning Director or County Public Works Director or designee may require a TIA for any level of development. TIA requirements are described in the Transportation System Plan Appendix C.

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Table 4.035-1
PERMIT REQUIREMENTS BY TYPE OF LAND USE DEVELOPMENT

<u>Application</u>	<u>Permit Type</u>	<u>Review Authority</u>
<u>Code/Plan Amendment</u>	<u>Legislative</u>	<u>Board of Commissioners</u>
<u>Conditional Use Permit</u>	<u>Quasi-Judicial</u>	<u>Planning Commission</u>
<u>Major Variance</u>	<u>Quasi-Judicial</u>	<u>Planning Commission</u>
<u>Subdivision Tentative Plan</u>	<u>Quasi-Judicial</u>	<u>Planning Commission</u>
<u>Administrative Review</u>	<u>Administrative</u>	<u>Staff</u>
<u>Land Partition/Replat</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Property Line Adjustment</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Minor Variance</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Site Plan Review</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Temporary Use Permit</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Temporary Hardship Variance</u>	<u>Administrative</u>	<u>Staff, with notice provided</u>
<u>Zoning Permit</u>	<u>Ministerial</u>	<u>Staff</u>
<u>Occupancy Permit</u>	<u>Ministerial</u>	<u>Staff</u>
<u>Land Use Compatibility Statement</u>	<u>Ministerial</u>	<u>Staff</u>
<u>Final Plat</u>	<u>Ministerial</u>	<u>Staff</u>

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SECTION 4.045. BICYCLE PARKING REQUIREMENT.
 This chapter also provides standards for bicycle parking, because children as well as adults need safe and adequate spaces to park their bicycles throughout the community. All uses subject to Design-Site Plan Review that are located within an Urban Growth Boundary shall provide bicycle parking in conformance with the following guidelines. Uses outside an Urban Growth Boundary are encouraged to provide bicycle parking based on these guidelines.

SECTION 4.070. SIGN LIMITATIONS AND REGULATIONS.

...

I. Residents may request specific cautionary signage for individual resident(s) to be installed within County right-of-way. All costs including materials, installation, maintenance, and removal, shall be borne by the requestor, and shall otherwise conform with Morrow County Policy M-43674.

SECTION 4.110. MINIMUM STANDARDS FOR A MANUFACTURED HOME ON INDIVIDUAL LOTS OR PARCELS AS A SINGLE-FAMILY DWELLING.

...

A(5). When removing a manufactured home the owner of the property shall remove the foundation and all accessory structures and additions to the manufactured home and permanently disconnect sewer, water and other utilities if the manufactured home is removed from its foundation unless otherwise authorized by the County. In the event the owner fails to accomplish said work within 30-days from the day on which the manufactured home is moved from its foundation, the County may perform such work and place a lien against the property for the cost of such work. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, or on the original foundation as modified, or by another approved manufactured home within 30-days of the original unit's removal. Said lien may be initiated by the County ~~Court~~ Board of Commissioners.

B(8). When removing a manufactured home the owner of the property shall remove the foundation and all accessory structures and additions to the manufactured home and permanently disconnect sewer, water and other utilities if the manufactured home is removed from its foundation unless otherwise authorized by the County. In the event the owner fails to accomplish said work within 30-days from the day on which the manufactured home is moved from its foundation, the County may perform such work and place a lien against the property for the cost of such work. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, or on the original foundation as modified, or by another approved manufactured home within 30-days of the original unit's removal. Said lien may be initiated by the County ~~Court~~ Board of Commissioners.

SECTION 4.120 ACCESSORY STRUCTURES.

- A. Accessory structures greater than 100 square feet must receive Zoning Permit approval prior to construction or placement.
- B. Shipping Containers. Shipping Containers may be used as accessory structures for on-site storage where they would otherwise comply with the applicable development standards identified in the underlying zone, subject to the following requirements:
 - 1. No more than two (2) shipping containers may be allowed on a single lot.
 - 2. Shipping containers shall not be used for human or animal habitation.
 - 3. Shipping containers shall be painted to visually conform with the surrounding local environment, including the concealment of any company logos and/or container nomenclature.
 - 4. Any improvements or modifications made to these containers must conform to all local and state building codes.

SECTION 4.160 STANDARDS FOR TRANSPORTATION IMPROVEMENTS. The intent of these provisions is to provide clear directions and guidelines when considering installation of transportation facilities in Morrow County.

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A. Although some zone designations may address certain uses listed below, these provisions generally apply to all zones in the County. Thus, except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright:

1. Normal operation, maintenance, repair, and preservation of existing transportation facilities (roadways, bridges, etc.) including the use of stockpile sites in support of operation, maintenance, repair and preservation. (MC OR-1-2013)
2. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
3. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
4. Landscaping as part of a transportation facility.
5. Emergency measures necessary for the safety and protection of property.
6. Acquisition of the right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except those that are located in exclusive farm use or forest zones.
7. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
8. Establishment or continuation of no spray zones on private property.
9. Cattle guards to be installed per Morrow County Court Policy M-43673.
10. Pavement aprons to be installed at intersections of gravel roads or driveways with paved roads per Morrow County Court Resolution R-29-2000.
11. Any excavation within Morrow County right-of-way shall conform to Morrow County Ordinance MC-PW-1-81, the Road and Street Excavation Ordinance.

B. Uses Permitted by Conditional Use Permit.

1. Construction, major reconstruction, or widening of highways, roads, bridges, or other transportation projects that are not designed and constructed as part of a subdivision or planned development shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - a. The project is designed to be compatible with existing land use patterns, noise generation, safety, and zoning.

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- b. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - c. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - d. The project includes provision for bicycle and pedestrian circulation as consistent with the Transportation Element of the Comprehensive Plan and other requirements of this Ordinance.
2. Construction of rest areas, weigh stations, temporary aggregate storage, and aggregate processing sites.
 3. If review under this Section indicates that the use or activity is inconsistent with the Transportation Element of the Comprehensive Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review.
- C. Private Streets Outside an Urban Growth Boundary. All private streets providing access from a public roadway to a proposed land division shall meet the following standards:
1. Have a minimum sight distance in compliance with adopted County Standards at any intersection with a public road. Additional sight distance or advance warning signage or other devices may be required where known safety hazards exist.
 2. For each private street, there shall be a legal recorded document which includes:
 - a. A legal description of the proposed easement;
 - b. Ownership of the street;
 - c. Use rights; and
 - d. A maintenance and construction agreement which includes Fire Marshal approved street specifications and turn around area (if required) and the allocation and/or method of determining liability for maintenance.
 3. Where drainage conditions require it, a private street shall be ditched in conformance with the County Road Standards.
 4. Private streets which access public or County roads shall be located, designed and constructed (within the public right-of-way) in accordance with adopted standards for County roads.
 5. Prior to establishing a private driveway or a private street, the owner shall obtain an access permit for access to the intersecting public road. As a condition of granting access to a public road, the County may require the applicant to clean the ditch serving the parcel and remove sight obstructing vegetation in the vicinity of the access.

ARTICLE 5 DEVELOPMENT PERMITS

SECTION 5.0104.165- ZONING PERMIT SITE PLAN REVIEW

~~Site Plan Review~~ A Zoning Permit is a non-discretionary or "ministerial" review conducted without public notice or a public hearing by the County Planning Director or designee. ~~Site Plan Review is for less complex developments and land uses that do not require site development or conditional use review and approval through a public hearing. A Zoning Permit is 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. A zoning permit shall become void after 1 year unless the associated building permit has been approved or, if a building permit is not required, the approved development action has commenced. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period. Zoning Permits are intended to implement the clear and objective standards of the MCZO. A Zoning Permit is not intended to be a Land Use Decision as defined in ORS 197.015. Where subjective analysis is required, the Director may elect to process any Zoning Permit application through the Administrative Review process provided in MCZO Article 9.~~

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A. ~~Purpose. The purpose of Site Plan Review (ministerial review) is based on The purpose of Zoning Permit review is to clear and objective standards and ensures compliance with the basic development clear and objective standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions, and to verify that conditions of approval have been met for development that has received prior land use approval. Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.~~

B. ~~Pre-application review.~~ Prior to filing a Zoning Permit its application ~~for site plan review,~~ the applicant shall ~~may~~ confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

C. ~~Applicability. Site Plan Review Zoning Permit Approval shall be required for all 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, land use actions requiring a Zoning Permit as defined in Section 1.050 of this Ordinance. 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.~~ The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of ~~Site Review Zoning Permit approval,~~ or if development of the site is in violation of the approved plan or other applicable codes.

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~~D. Review- Standards Criteria.~~

~~4. The lot area shall be adequate to meet the needs of the establishment.~~

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1. The proposed land use is ~~permitted by the~~ allowed in the underlying land use district.

1. ~~If a Site Plan Review, Conditional Use Permit, or other land use decision is required for the proposed development, the land use decision has been granted and all applicable conditions of approval have been met.~~
2. The ~~land use~~, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable ~~development~~ standards of the underlying ~~land use district/zone~~ and any ~~sub-district(s)/overlay zone(s)~~ are met. ~~Development in flood plains shall comply with Section 3.100 Flood Hazard Overlay Zone of the Ordnce.~~
3. ~~Development in hazard areas identified in the Morrow County Comprehensive Plan shall safely accommodate and not exacerbate the hazard and shall not create new hazards.~~
- 4.3. Off-street parking and loading-unloading facilities shall be provided as required in Section 4.040 and 4.050 of the Morrow County Zoning Ordinance. ~~Safe and convenient p~~ Pedestrian access to off-street parking areas ~~also~~ shall be provided ~~as applicable.~~
5. ~~County transportation facilities shall be located, designed and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.~~
6. ~~Site planning, including the siting of structures, roadways and utility easements, shall provide, wherever practicable, for the protection of trees eight inch caliper or greater measured four feet from ground level, with the exception of noxious or invasive species, such as Russian olive trees.~~
7. ~~Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources.~~
- 8.4. The applicant shall ~~determine if compliance is required with~~ have received all necessary permits or authorizations required by Oregon Water Resources Department ~~water quantity~~ and/or Oregon Department of Environmental Quality ~~water quality designations pertaining to the provision of water, septic, and wastewater disposal, if applicable.~~
- 9.5. The applicant ~~site~~ shall ~~determine if previous~~ not be the subject of outstanding Code Enforcement ~~violations unless the purpose of the application is to rectify an outstanding violation.~~ ~~have been cleared as applicable.~~
10. ~~The applicant shall determine the method of disposal for solid waste, with staff providing information to the applicant about recycling opportunities.~~
6. The applicant shall obtain ~~the necessary any required~~ access permit(s) ~~from through~~ the Morrow County Public Works Department as required by Morrow County Resolution R 29-2000 ~~and/or Oregon Department of Transportation.~~
- 2.7. ~~Permits for the necessary water, sanitary sewer, wastewater, and electric service facilities required to serve the proposed development have been granted.~~

E. Submittal Requirements. A Zoning Permit application site plan shall be submitted including all of the following information except for specific items determined at the pre-application review not to be applicable. All zoning permit plans site plans shall

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have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

- 1. North arrow and scale.
- 2. Location of property boundaries, including adjacent public or private streets and rights of way.
- 3. Location of existing structures and natural features.
- 4. Areas affected by the proposed development with slopes in excess of 10 percent.

~~6. 5-~~ Location of existing utilities and facilities, or proposed locations (sewer, water, fire hydrants, electricity, septic system, storm water facilities, etc.).

6. Proposed landscaping.

7. Exterior lighting.

8. ~~Proposed~~ Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.

9. Parking lot layout, with circulation plan and striping details.

~~10. 40-~~ Sign location and details.

~~11. Evidence 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 required to permit the construction of such facilities.~~

F. Application Completeness/Request for Additional Information. The County Planning Director or designee shall determine the application to be complete based on the above ~~standard criteria~~ submittal requirements within ~~44-14~~ days of the application submittal. If the application is found to be incomplete or additional information is needed it may be requested from the applicant. A request for additional information beyond the standard review ~~standards criteria~~ cannot be used to rule an application incomplete.

~~C. Minimum Standards for Roadway Design Plans Submitted for County Review. Any transportation facility or transportation improvement to be constructed as part of a private development and subsequently dedicated to the County must first receive design approval by the Morrow County Public Works Department, based on applicable design criteria and the rationale for establishing the criteria to be provided by the County. Design approval shall also include all other pertinent issues related to roadway construction and operations, including but not limited to drainage, maintenance, serviceability, and pavement design. Street design plans submitted for County approval shall be stamped by a registered~~

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~~professional engineer with appropriate experience.~~

~~H. **Conditions Requiring Variance Application.** In the case of transportation improvement plans that do not meet the above minimum standards, the Morrow County Public Works Department may work with the applicant to determine whether an alternate design standard is appropriate (design modification). Design modifications are reviewed and approved by Morrow County Public Works Department staff. If upon mutual agreement it is determined that an alternate design standard cannot be met, an application for a design variance will be required, subject to review and approval by the Morrow County Planning Commission.~~

SECTION 5.020 SITE PLAN REVIEW

A. **Purpose.** Site Plan Review is an administrative review process intended to review development proposals described in subsection D of this section that are allowed outright in the underlying zone.

B. **Administrative Review.** Applications processed under this section are subject to the Administrative Review process described in Section 9.046.

C. **Pre-application review.** Prior to filing its application for Site Plan Review, the applicant may confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

D. **Applicability.** Applications that require Administrative Review include:

1. Applications for uses that are identified in Article 3, Zones as requiring Site Plan Review.
2. Applications anticipated to generate 400 passenger car equivalent trips per day, which require a Traffic Impact Analysis (TIA).
3. Applications that require water service other than an exempt onsite well (not exceeding 15,000 gallons per day) or an existing water right.
4. Applications that require a DEQ permit for the proposed sewer and/or wastewater systems.
5. Applications 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 urban utility facilities for connection.
6. Applications for development within the Airport Safety and Compatibility Overlay Zone (ASC).
7. Applications for development within the Significant Resource Overlay Zone (SRO)
8. Applications that include a variance request.

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E. Review Criteria. Applications processed under this section shall comply with the following criteria, as applicable:

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1. The standards listed in MCZO 5.010(D) are, or can be, met.
2. Water is or will be available to the site at a quantity and quality adequate for the proposed use, as demonstrated by complying with submittal requirements in Section F.
3. 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.
4. Development in hazard areas identified in the Morrow County Comprehensive Plan, Natural Hazard Mitigation Plan, or Community Wildfire Protection Plan shall comply with all applicable requirements.
5. Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources, if applicable.
6. Development in flood plains shall comply with MCZO Section 3.100 Flood Hazard Overlay Zone.
7. Development in the Airport Safety and Compatibility Overlay Zone (ASC) is compliant with the standards and notice requirements identified in Section 3.092.
8. The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately to achieve consistency with adopted County standards. County transportation facilities shall be located, designed, and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.

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F. Submittal Requirements. In addition to the applicable submittal requirements identified in Section 5.010, applications requiring Site Plan Review must include the following, as applicable:

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1. Project information including: name of project, company, and/or property owner.
2. A Trip Generation Estimate identifying the number of anticipated passenger car equivalent trips per day expected to access the site during construction and during regular operations.
3. Proposed road improvement plans and/or road use agreement, as applicable.

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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.

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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.

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6. Parking plans during construction and permanent parking plan with layout.

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7. A Traffic Impact Analysis consistent with the requirements of Section 4.035 if traffic impacts are anticipated to exceed the thresholds identified in MCZO Section 4.035.

G. Conditions of Approval. Site Plan Review approval may include conditions necessary to ensure compliance with the applicable review criteria. The Planning Director may require an applicant to provide traffic mitigation (or a fee-in-lieu of mitigation) as identified in or supported by the Traffic Impacts Analysis and/or County Transportation System Plan. Mitigation shall only be required to address level-of-service failures or safety concerns and must be proportionate to the anticipated traffic impact from the proposed development being reviewed. Traffic mitigation may include improvements to on- or off-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, street crossing improvements, and transit improvement plans. Required improvements (if any) shall be permitted and constructed prior to the issuance of a certificate of occupancy.

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H. Minimum Standards for Roadway Design Plans Submitted for County Review. Any transportation facility or transportation improvement to be constructed as part of a private development and subsequently dedicated to the County or the Public must first receive design approval by the Morrow County Public Works Department, based on applicable design criteria. Design approval may also include all other pertinent issues related to roadway construction and operations, including but not limited to drainage, maintenance, serviceability, and pavement design. Street design plans submitted for County approval shall be stamped by a registered professional engineer with appropriate experience.

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ARTICLE 5. RESERVED

ARTICLE 6. CONDITIONAL USES

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SECTION 6.010. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this ordinance and this article by action of the Planning Commission unless exempted by Section 6.015. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change

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in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

SECTION 6.015. REQUIREMENTS UNDER A STATE ENERGY FACILITY SITE CERTIFICATE.

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

SECTION 6.020. GENERAL CRITERIA.

In judging whether ~~or not~~ a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

SECTION 6.025. RESOURCE ZONE STANDARDS FOR APPROVAL.

A. In the Exclusive Farm Use zone, a conditional use may be approved only when the County finds that the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

B. In the Forest Use Zone, a conditional use permit may be approved only when requirements that are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands are met. A conditional use permit may be approved only when the County finds that the use will not:

1. Force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; or
2. Significantly increase fire hazard or ~~significantly increase~~ fire suppression costs or ~~significantly increase~~ risks to fire suppression personnel; and
3. A written statement recorded with the deed or written contract with the County is obtained from the land-owner that recognizes the rights of adjacent and nearby land-owners to conduct forest operations consistent with the Forest Practices Act and Rules. (MC OR-1-2013)

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SECTION 6.030. GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or ~~the-an~~ alteration ~~toef~~ an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

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A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size or location of a building or other structure.

D. Designating the size, number, location and nature of vehicle access points.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.(MC-C-8-98)

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

1. It is the responsibility of the land-owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

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

G. Limiting ~~or otherwise designating~~ the number, size, location, height, and lighting of signs.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

J. Designating the size, height, location and materials for a fence.

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

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

SECTION 6.040. PERMIT AND IMPROVEMENTS ASSURANCE.

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

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SECTION 6.050. STANDARDS GOVERNING CONDITIONAL USES.

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

A. Airports, aircraft landing fields, aircraft charter, rental, service and maintenance facilities not located in an Aircraft Approach Zone: The Planning Commission shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties, nor that the location will unnecessarily restrict existing and future development of surrounding lands as designated by the Comprehensive Plan.

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B. Automobile wrecking yard or junk yard: In considering a conditional use application for an automobile wrecking yard or junk yard, the Commission shall require that it be enclosed and screened from public view by a sight-obscuring fence not less than six feet in height. If applicable, the Commission shall be assured that the proposal is in conformance with applicable State regulations.

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C. Cemeteries: The Commission shall require evidence and shall find that the terrain and soil types of a proposed location are suitable for interment, and that the nature of the subsoil and drainage will not have a detrimental effect on ground water sources or domestic water supplies in the area of the proposed use.

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D. Church, hospital, nursing home, convalescent home, retirement home:

- 1. Such uses may be authorized as a conditional use only after consideration of the following factors:
 - a. Sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school, or parish house are considered separate principal uses and additional lot areas shall be required therefore).
 - b. Location of the site relative to the service area.
 - c. Probable growth and needs therefore.
 - d. Site location relative to land uses in the vicinity.
 - e. Adequacy of access to and from principal streets together with the probable effects on the traffic volumes of abutting and nearby streets.

2. Such uses or related buildings shall be at least 30 feet from a side or rear lot line.

3. Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

E. Clinics, clubs, lodges, fraternal organizations, community centers and grange halls, golf courses, grounds and buildings for games or sports, country clubs, swimming, boating, tennis clubs, and similar activities, governmental structures and land uses, parks, playgrounds. In considering the above, the Planning Commission may authorize the conditional use after assurance that the following are to be provided:

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- 1. Adequate access from principal streets.
- 2. Adequate off-street parking.
- 3. Adequate building and site design provisions to minimize noise and glare from the building and site.

F. Dog Pounds and Kennels: The Planning Commission may authorize a dog pound or kennel as a conditional use provided that building and site design provisions are adequate to minimize noise and odor. When necessary to protect surrounding properties, the Planning Commission may require a sight-obscuring fence or hedge, and may restrict vehicular access and loading facilities, especially those required by trucks transporting large animals.

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G. Home Occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:

- 1. 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.
- 2. No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alteration have been reviewed and approved. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.
- 3. One non-illuminated sign not to exceed 200 square inches and bearing only the name and occupation of the resident shall be permitted. Applicant must show consistency with applicable sign provisions in Article 4 of this Ordinance.
- 4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interferences with radio or television reception, or other factors.

5. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or a trailer or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or ~~so as to~~ necessitate off-street parking.
6. Retail sales shall be limited or accessory to a service.
7. Be operated by a resident or employee of a resident of the property on which the business is located.
8. The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.
9. Employ on the site no more than five full-time or part-time persons.
10. Not unreasonably interfere with other uses permitted in the zone in which the property is located.
11. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established pursuant to Section 3.010 and is operated in association with the winery:
 - a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - b. The meals may be served at the bed and breakfast facility or at the winery.

H. Landfill, solid waste disposal site: The Planning Commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:

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1. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.
2. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest, and grazing dwellings or a residential zone.
3. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone, and landscaping, buffering, and/or screening shall be provided.
4. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, including but not limited to requiring that the area surrounding the facility is kept free from litter and debris.
5. Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the

Public Works Director.

6. The county may limit hours of operation for the facility to be compatible with adjacent uses.

7. Comply with other conditions deemed necessary.

I. Mining, or other extraction activity: The following uses shall be permitted subject to the review standards of this Ordinance: mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre on land zoned for Farm Use (EFU and RRI) and 5000 cubic yards in other zones (i.e. PI, MG, SAI and FU) of material, stockpiling and processing of mineral and aggregate materials. Temporary use of offices, shops or other accessory structures used for the management and maintenance of mining and processing equipment; sale of mining products extracted and processed on-site; storage of transportation equipment or storage of machinery or equipment used in conjunction with on-site mining or processing; other activities including buildings and structures necessary and accessory to development or reclamation of a mineral or aggregate resource should be part of the overall conditional permit application. (MC OR-1-2013)

General Permitting Provisions:

1. New Permit: For an application for mining to be complete an applicant must provide a map and other documentation to show the permit area boundary, property lines and other pertinent information that will address the requirements of the Approval Criteria.
2. Continuation: When a mine has been lawfully permitted in the County and the owner or operator was issued and continuously renewed a State permit, the permit will remain valid as long as the operation still conforms to the Conditions of the local and State permits. After a period of inactivity of 12 years, and the owner or operator wishes to renew mine activity, a new Zoning Permit ~~re-validation letter~~ (along with the usual Zoning Permit fee) must be submitted to the Planning Department in order to review the Conditions of Approval. Approval of this type of request is not a land use decision and shall be an administrative action by the Planning Director without a public hearing but shall be subject to an at least a minimum 14-day notice to affected landowners.
3. Alteration: Requests for permit alteration shall be made when the operator or owner proposes changes to the mining activity that no longer conform to the requirements of the original permit. For alterations if the decision does not involve an amendment to the Comprehensive Plan, it shall be an administrative decision by the Planning Director without a public hearing but shall be subject to an at least a minimum 14-day public notice period to provide an opportunity for any person adversely affected, or who is entitled to notice, to file an appeal.
4. Emergency Permits. In concurrence with a DOGAMI emergency operating permit, the Planning Director may issue an emergency aggregate mining approval in response to a natural disaster with the intent to abate the imminent threat. The permit will be valid for the duration of the concurrent DOGAMI

permit. If after termination of the emergency operating permit the operator wishes to continue the mining operation, the operator shall follow the procedures for an aggregate mine approval as required in the use zone the mining operation is located in. (MC OR-1-2013)

Local Permit Approval Criteria: An application for mineral or aggregate mining must address provisions found in Article 6 Conditional Uses Section 6.020 General Criteria, Section 6.025 Resource Zone Standards for Approval when in a Farm or Forest Zone, and the following: Proposed hours and/or days of operation. The conditions as to when the mining and processing would be restricted to specific hours of operation or days when mining operations would be limited. For operations conducted after dark, limiting the location and intensity of outdoor lighting and requiring its shielding.

1. Limiting or otherwise designating the number, size, location, height, and lighting of signs. Signs other than safety signs must comply with the sign requirements in Section 4 of the Zoning Ordinance.
2. A rock crusher, washer or sorter shall not be located within 500 feet from a residential or commercial use unless it can be established that the use will meet DEQ performance standards for noise and not be expected to cause a noise nuisance at nearby residential or commercial uses. In farm or forest use zones the processing of rock, aggregate or minerals shall not be within one-half mile of a noise sensitive area if the operation operates more than nine hours per day or for more than five days per week. (ORS 467.120(2)).
3. All water necessary for the proposed operation shall be appropriated and legally available to the site.
4. The discharge of airborne contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.
5. A Reclamation Plan approved by DOGAMI will be required for mining operations. When reviewing an applicant's submittal regarding a proposed reclamation plan, Morrow County will review the plan against the following criteria:
 - a. A description of the present land use and planned beneficial use of the site following the mining activity. The applicant must demonstrate that the planned beneficial use is compatible with the Comprehensive Plan and Zoning Ordinance.
 - b. Provisions for the backfilling, recontouring, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding or planting rates, and schedules;
 - c. Provisions for adequate setbacks and slopes to protect adjacent property and public safety;
 - d. A proposed time schedule for surface mining and reclamation procedures for the removal or disposal of all equipment, refuse, structures, and foundations from the permit area except permanent

structures that are part of an approved Reclamation Plan.

6. In accordance with the Transportation System Plan, the requirements of the Public Works Department or the Oregon Department of Transportation shall be complied with regarding the minimization of potential conflicts to local roads used for access and egress to the mining site.
7. Designating the size, number, location and nature of vehicle access points.
 - a. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.
 - b. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.(MC-C-8-98)
8. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way. It is the responsibility of the land-owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8- 98)
9. An application for a mining operation contiguous to an existing operation approved under this section shall be evaluated in conjunction with the existing site when it appears the sites will be managed and operated as one.
10. Ensuring adequate space for parking and loading.
11. Approvals for or that include operations that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.(one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed).
12. A plan for the control of noxious weeds. (MC OR-1-2013)

J. Commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot in a residential zone. In any zone, permitting a commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot abutting or across the street from a lot in a residential zone may be permitted as a conditional use subject to the following standards:

1. A sight-obscuring fence or evergreen hedge may be required by the Planning Commission when, in its judgment, such a fence or hedge or combination thereof is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

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2. In addition to the requirements of the applicable zone, the Planning Commission may further regulate the placement and design of signs and lights in order to preserve the values of nearby properties; to protect them from glare, noise, or other distractions; or to protect the aesthetic character of the neighborhood or vicinity.

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3. In order to avoid unnecessary traffic congestion and hazards, the Planning Commission may limit access to the property.

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K. Commercial amusement establishment. A commercial amusement establishment may be authorized after consideration of the following factors:

1. Adequacy of access from principal streets together with the probable effect of traffic volumes of abutting and nearby streets.

2. Adequacy of off-street parking.

3. Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

L. Mobile Home Park. A mobile home park shall be built to state standards in effect at the time of construction, the following provisions, and any additional conditions set forth in the Commission's approval prior to occupancy.

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1. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

2. The space provided for each mobile home shall be provided with piped potable water and electrical and sewerage connections and shall not be less than 30 feet in width nor less than 40 feet in length.

3. The number of spaces for mobile homes shall not exceed 12 for each acre of the total area in the mobile home park. Except that the Commission may vary this density as follows:

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a. If dedicated open space equals 50% or more of the total area of the park, a maximum 10% increase in units per acre may be granted.

b. If in addition to (a) a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the maximum increase in units per acre may be increased an additional 5%.

c. If in addition to (a) and (b) an approved recreation/community building is provided, an additional 10% increase of units/acre may be allowed (maximum total increase possible - 25%).

4. A mobile home shall occupy not more than 40 percent of the contiguous space provided for the exclusive use of the occupants of the mobile homes and exclusive of space provided for the common use of tenants, such as roadways, general use structures, parking spaces, walkways, and areas for recreation and landscaping.
5. No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park. No mobile home accessory building or other building or structure on a mobile home space shall be closer than 10 feet from a mobile home accessory building or other building or structure on another mobile home space. No mobile home or other building or structure shall be within 25 feet of a public street property boundary or 10 feet of another property boundary.
6. A mobile home permitted in the park shall meet the following standards as determined by an inspection by the building official:
 - a. It shall have a state insignia indicating compliance with Oregon State Home Construction Standards in effect at the time of manufacture and including compliance for reconstruction or equipment installation made after manufacture.
 - b. Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the state standards for mobile home construction evidenced by the insignia.
 - c. It shall contain not less than 225 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.
 - d. It shall contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.
7. A mobile home permitted in the park shall be provided with a continuous skirting, and if a single-wide unit, shall be tied down with devices that meet state standards for tie down devices.
8. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the park.
9. The land which is used for park purposes shall be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than six feet in height. The fence or hedge shall be maintained in a neat appearance.
10. If the park provides spaces for 50 or more mobile home units, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the appropriate fire department.
11. If a mobile home space or permanent structure in a park within the Urban Growth Boundary of a city is more than 500 feet from a public fire hydrant, the park shall have

water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of such space or structure. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the affected city.

12. Open Space. A minimum of at least 2,500 square feet plus 100 square feet per mobile home space shall be provided for a recreational play area group or community activities. (No play area is required if the individual mobile home spaces contain in excess of 4,000 square feet). The Planning Commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent, that conforms to fence regulations, but at least 30 inches in height where allowed by fence ordinances. Unless otherwise approved, no required open space area shall contain less than 2,500 square feet. Recreation areas shall be improved with grass, plantings, surfacing or buildings suitable for recreational use.

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No recreation facility created within a mobile home park wholly to satisfy the requirements of this section shall be open to, or offered in itself to, the general public.

13. Parking space requirement. A parking space shall be provided for each mobile home space on the site. In addition, guest parking spaces shall also be provided in every mobile home park within 200 feet of the mobile home spaces and at a ratio of one parking space for each two mobile home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

14. All mobile home parks over 10 acres in size shall be located so as to have access on a street designated as a collector street.

15. All trailer parks containing a total site area of 20 acres or more shall provide a secondary access to the trailer park. Such secondary access shall enter the public street system at least 150 feet from the primary access.

16. Lighting shall be installed along the access ways of the trailer park and the recreation area with lights of 100 watts or better not over 100 feet apart. Wire for service to light poles and trailer spaces shall be underground.

17. Roadways within the park shall be improved with an all-weather dustless surface and shall not be less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway and an adequate designated area is provided and improved for guest parking and tenant recreational vehicles (such area shall be designed and improved to provide not less than one parking space per each two spaces in the park).

18. No mobile home park shall be created on a site less than one acre.

M. Multi-Family Dwelling Complex. A multi-family dwelling complex shall comply with the following provisions, and any additional conditions set forth in the Commission's approval, and shall be constructed pursuant thereto prior to occupancy.

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1. The number of units permitted by the applicable zone per gross square footage of a site may be increased as follows:

a. If dedicated open space which is developed and landscaped equals 50% or more of the total area of the site, a maximum 10% increase in the number of units may be granted.

b. If in addition to (a) a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the number of units permitted may be increased 5%.

c. If in addition to (a) and (b) an approved recreational community building is provided, an additional 10% increase of units may be granted. (Maximum total increase possible is 25%).

2. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.

3. If such a complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the affected way.

4. A minimum of at least 2,500 square feet plus 100 square feet per dwelling unit shall be provided for a recreational play area, group or community activities. Such area shall be improved with grass, plantings, surfacing, equipment or buildings suitable for recreational use. The Commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent. (No play area is required if more than 70% of the area is preserved as open space and is sufficiently developed and landscaped, or the development is to be occupied solely by the elderly.

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5. All such complexes with more than 20 dwelling units shall be located so as to have access on a street designated as a collector unless otherwise approved by the Commission.

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6. All such complexes shall provide both an ingress and egress.

7. All roadways and parking areas shall be paved, and roadways shall not be less than 20 feet in width, except as approved by the Commission.

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8. A sight-obscuring fence or evergreen hedge may be required by the Commission when, in its judgment, such screening is necessary to preserve the values of nearby properties, protect the aesthetic character of the neighborhood or vicinity, and to provide security for occupants of the subject complex.

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9. All accessory structures associated with such a complex shall be set back 50 feet from the property line of an abutting single-family residential lot or use.

N. Recreational Vehicle Park (RV Park). A recreational vehicle park shall be built to state building code and public health standards in effect at the time of construction, with the

following provisions and any additional conditions set forth in the Commission's approval prior to occupancy. RV Parks constructed or operated on resource land to address temporary workforce housing needs shall conform with Oregon Administrative Rule.

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1. Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway.
2. Roadways shall be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each RV space.
3. Trash receptacles for the disposal of solid waste materials shall be provided at a rate of one 30 gallon container for each four RV spaces and be located within 300 feet of each RV space.
4. Recreational Vehicles may be permitted to stay in RV Parks indefinitely provided that the following conditions are met:
 - a. It is lawfully connected to water and electrical supply systems and a sewage disposal system.
 - b. Winterizing and skirting shall be required.
 - c. There shall be no outdoor storage.
 - d. Occupancy of each RV shall not exceed the number of persons for which the RV was designed and manufactured.
 - e. A copy of the park rules shall be submitted by the park owner and kept on file in the Planning Department. (MC-C-1-01)
5. The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park shall be equal to one space per RV space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.

O. Radio, television tower, utility station or substation:

1. In a residential zone, all equipment storage on the site may be required to be within an enclosed building.
2. The use may be required to be fenced and provided with landscaping.
3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effects to adjacent property.
4. Transmission towers, hoses, overhead wires, plumbing stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

P. Vehicle Repair, Truck Stop, Truck Depot

Q. Venue for events or activities

SECTION 6.060. PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use application shall follow the procedures outlined in Article 9 and as further defined below:

A. A property owner may initiate a request for a conditional use by filing an application with the Planning Department, using forms prescribed pursuant to Article 9. Applications shall be filed with the Planning Department at least 35 days prior to the Planning Commission meeting of submittal thereto.

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B. If an application for a conditional use involves property and a use located within the Urban Growth Boundary of an incorporated city the Joint Management Agreement in place with that city will govern. (MC OR-1-2013)

SECTION 6.070. TIME LIMIT TO INITIATE A CONDITIONAL USE.

A. On land zoned for Farm Use or Forest Use a conditional use permit is valid for two years from the date of the final decision. The County may grant ministerially where applicable criteria for the decision have not changed an extension period of up to 12 months on land zoned for Farm Use or Forest Use if:

1. An applicant makes a written request for an extension of the development approval period;
2. The request is submitted to the county prior to the expiration of the approval period;
- ~~2-3. Provisions of the County Code applicable to the original approval have not changed.~~
- ~~3. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~
- ~~4. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

B. Non-Farm Dwelling and Forest Template Dwelling permits are valid for four years and an extension, when requested using the provisions above, is valid for two years.

C. On land zoned other than Farm or Forest Use, a conditional use is valid for two years. In the case of appeals, the two-year permit period shall be tolled until a decision by a review authority with final jurisdiction is made that is not appealed.

~~An additional one-year extensions~~ may be authorized by county staff without providing notice and opportunity for a hearing under the following conditions:

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1. An applicant makes a written request for an extension of the development approval period;
2. The request is submitted to the county prior to the expiration of the approval

period, excepting any request under consideration on the date of adoption of this amendment;

- ~~2.3. Provisions of the County Code applicable to the original approval have not changed.~~
- ~~3. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~
- ~~4. The county finds that any of the following conditions occurred within the approval period:~~
- ~~a. State or Federal permits were applied for, but not issued within the approval period.~~
- ~~b. At least 10 percent of the cost of development, based on estimated or actual expenditures, has been expended to develop plans, file for permits, and complete other preliminary designs such as sewage disposal, provision of potable water, storm water management and other engineering designs necessary for the development.~~
- ~~c. Provisions of the County Code applicable to the original approval have not changed.~~

D. Approval of an extension granted under this Section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

~~E.~~ The time periods described above do not take effect until all appeals are complete. (MC OR-1-2013)

~~E.F.~~ A Zoning Permit is required prior to building permit approval for all structures approved through the Conditional Use Permit process. A Conditional Use Permit is vested when an associated Zoning Permit has been approved for the development.

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SECTION 6.075. LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION.

A. Length of Permit and Permit Holder: The County may evaluate how long a particular conditional use is expected to remain valid. Some conditional uses may be considered "permanent" as a fully developed use that "runs with the land" and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original conditional use permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.

A conditional use permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the conditional use permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a conditional use permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a Conditional Use Permit will be reviewed or renewable after a stated time period.

B. Reviews and Renewals. If a review or renewal date is included as a condition by which a conditional use permit is granted, initial review would be ministerial and

completed by the Planning Director. The holder of the conditional use permit will be required to make application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns arise further review will take place at a public hearing with notice. If no concerns arise the permit will be renewed.

For conditional use permits without a review or renewal condition, or if complaints are received concerning a conditional use permit, the County may review any valid conditional use permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

- C. Revocation or Vacation. Any conditional use permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:
 - The use has been terminated and there is no expectation by the land owner and the County that the use will continue;
 - The use is not being conducted in compliance with the stated conditions of the permit, or
 - The County finds that the use jeopardizes the public health, safety and welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances. (MC OR-1-2013)

SECTION 6.080. OCCUPANCY PERMIT.

The Commission may require an occupancy permit for any conditional use permitted and approved pursuant to the provisions of this Ordinance. The Commission shall consider such a requirement for any use authorized by a conditional use permit for which the conditions have been established by the Commission upon approval of such use. The requirement of an Occupancy Permit shall be for the intent of insuring permit compliance and said permit shall not be issued except as set forth by the Commission. The authority to issue an Occupancy Permit upon compliance with the requirements and conditions of a conditional use permit may be delegated by the Commission at the time of approval of a specific conditional use permit to the Secretary of the Commission, the Planning Director, and/or the Building Official.

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ARTICLE 7. DIMENSIONAL ADJUSTMENTS, VARIANCES, SPECIAL-OR TEMPORARY USE PERMITS, AND NON-CONFORMING USES

SECTION 7.010 PURPOSE

Article 7 provides standards and procedures for adjustments, variances, and special-or temporary use permits, which are modifications to development standards that are not otherwise permitted elsewhere in the Morrow County Zoning Ordinance or are development standards for certain uses that would be reviewed outside of a particular use zone's criteria.

The Planning Director or the Planning Commission, dependent upon the criteria

identified below, may authorize dimensional adjustments or variances from the requirements of this ordinance, or authorize special or temporary use permits, where it can be shown that owing to special and unusual circumstances related to a specific lot or desired activity, strict application of the ordinance would cause an undue or unnecessary hardship. In granting these permits, Planning Director decisions would be done either under clear and objective standards; or when discretion is applied by providing notice as required by law. Those decisions identified to be approved by the Planning Commission, conditions may be attached when the Planning Commission finds it necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.

SECTION 7.020 INTENT

Adjustments and variances are intended to provide relief to code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

DIMENSIONAL ADJUSTMENTS. Dimensional adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements.

VARIANCES. Variances provide greater flexibility to code standards than dimensional adjustments where special circumstances exist or the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard.

~~Special or Temporary Use Permits are available to meet needs that may not be available within the use zone, or for certain limited duration or special need identified by the land owner or user.~~

~~**SPECIAL USE PERMITS.** Special use permits are generally defined by their unique characteristics. Characteristics of special use permits could be that the use is incompatible with other uses of the land on the subject property or in the vicinity, permanent improvements may be required to the site or buildings, there could be significant impact on the surrounding area, and conditions may be warranted.~~

TEMPORARY USE PERMITS. Temporary permits tend to be short term or seasonal in nature and may be for a special event or an emergent need. They are generally defined by limited or no adverse impact on the surrounding area.

SECTION 7.100 DIMENSIONAL ADJUSTMENTS

The following define those instances that a Dimensional Adjustment may be appropriate:

- That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit. An unnecessary hardship will be found when the site cannot be put to any beneficial use under the terms of the applicable ordinance.
- That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.
- That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.

A. GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS.

1. The following lot size exceptions shall only apply to lots within the Rural Service Center, Rural Residential, Farm Residential and Suburban Residential Zones.

Any parcel of land or portion thereof which is to be dedicated to a public or semi-public entity for a road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements set forth by this Ordinance, excepting that the area available for development must be able to support the development and necessary infrastructure.

2. The following lot size exceptions shall only apply to lots within the Exclusive Farm Use, Small Farm 40, and Forest Use Zones.

Whereas land sections in the county are affected by survey adjustments, minimum requirements relative to lot sizes where applicable shall be considered as standard metes and bounds land section divisions; i.e., 160, 80, 40, 20, etc. Lot sizes therefore, may be reasonably smaller than set forth by this Ordinance if a total section acreage reduction is due to a survey adjustment or other man-made barriers over which the applicant has had no control. Applicability would be that a 158 acre parcel in the Exclusive Farm Use zone would be eligible for a farm dwelling under the acreage test if the parcel adjustment was created by such a survey adjustment, or road or other dedicated rights-of-way.

B. GENERAL EXCEPTIONS TO YARD REQUIREMENTS. The following exceptions to yard requirements are authorized for a lot in any zone.

1. Average Front Yard Setback: If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
2. Non Building Features: Steps, terraces, platforms, and porches having no roof covering, and fences not interfering with the vision clearance requirements (see Article 4 of this Ordinance) may occupy a yard and not impact setback requirements.
3. Signs: Signs conforming to the requirements of this Ordinance (see Article 4) and all other applicable Ordinances may be permitted in required yards.
4. Canopies: A canopy installed as a temporary structure is allowable within the setback requirement. Should a canopy become a permanent attachment to the structure, necessary setback requirements will be required.
5. A side yard or rear yard may be reduced to three feet for an accessory structure erected more than 65 feet from a front lot line, provided the structure is detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 450 square feet.

C. NONCONFORMING LOTS OF RECORD. Any lot which is smaller than the minimum area required in any zone may be occupied by an allowed use in the zone provided that:

1. The lot was a lot in a duly platted and recorded subdivision on or before the date of this Ordinance, was a parcel created by an approved land partitioning prior to such date, or was held in a single ownership on a deed as recorded in the office of the County Clerk at the time of the passage of this Ordinance.
2. The use conforms to all other requirements of that zone.
3. If there is an area deficiency, residential use shall be limited to a single dwelling unit.
4. Approval for sewage disposal is obtained and the approval has provisions for any needed future replacement.

D. EXCEPTION TO BUILDING HEIGHT LIMITATIONS. The following types of structures or structural parts are not subject to the building height limitations of this Ordinance: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, cooling towers, elevator shafts, and other similar projections. This exception does not apply within the Airport Approach, ~~or Airport, Airport Safety and Compatibility Overlay, or Airport~~ Hazard Zones.

E. PROJECTIONS FROM BUILDINGS. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than three (3) feet into a required yard. Any projection beyond three (3) feet would require additional setback to meet the setback requirements required within the subject Use Zone.

F. PLANNED UNIT DEVELOPMENT. In any residential zone, the stated minimum lot area for residential purposes may be amended by ruling of the Planning Commission, provided that it is replaced by a Planned Unit Development with approval under Article 6 Planned Unit Development of the Subdivision Ordinance.

G. APPROVAL CRITERIA: The Planning Director, or their designee, may grant a Dimensional Adjustment upon finding that the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. Approval of the Dimensional Adjustment does not create a violation(s) of any other adopted ordinance or code standard;
2. An application for a Dimensional Adjustment is limited to one (1) lot or parcel per application;
3. Requests for more than one Dimensional Adjustment on the same lot or parcel shall be consolidated on one application and reviewed concurrently by the County;
4. Not more than three (3) Dimensional Adjustments may be approved for one lot or parcel in a continuous 12-month period; and
5. All applicable building code requirements and engineering design standards shall be met.

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SECTION 7.200 VARIANCES

A Variance can serve multiple purposes and is designed to provide relief from the literal requirements of a regulation found within this Zoning Ordinance. The result of approving a Variance should result in improved planning that would benefit the applicant and the broader community, and it may be the first step in reevaluating requirements or allowed uses within a use zone.

- A. **MINOR VARIANCE.** For the purposes of this Ordinance, a "Minor Variance" is an "Area or Dimensional" Variance that meets one of the following conditions.
1. A request involving a deviation from a minimum lot size requirement of not more than 10%; or
 2. A request involving a deviation from a yard or setback requirement of not more than 25%; or
 3. A request for the expansion of a nonconforming use by not more than 10%.

A minor variance may be granted when the Planning Director, or designee, provides notice to adjoining and affected landowners, offers the opportunity to provide comment and request a hearing, and determines the following:

1. Granting the minor variance will equally or better meet the purpose of the regulation to be modified, and
2. If in a rural zone, that farm and forest uses or practices will not be significantly affected; if in a residential zone, that the proposal will not significantly detract from the livability or appearance of the residential area; or if in a commercial or industrial zone, that the proposal will be consistent with the desired character of the area, and
3. Any identified impacts resulting from the minor variance are mitigated to the extent practical, and
4. Granting the minor variance is the minimum necessary deviation from the requirement to satisfy the identified problem.

- B. **MAJOR VARIANCE.** The following are examples of Variances that could be considered: siting a manufactured home that is not in compliance with current manufactured home requirements, allowing for less frontage than required, allowing for a smaller lot size than required, approve a variance when a dimensional adjustment does not accomplish the needs of the property owner, and other similar or related instances. Use Variances amend or change the use of a property or structure. Area Variances tend to amend or change the area needed to validate a lot or parcel, or reduce necessary setbacks. Financial hardship does not qualify for a use or area Variance.

APPROVAL CRITERIA. The Planning Commission may grant a Major Variance upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The variance relates to a specific lot or parcel of land.
2. The Variance can be granted without substantial detriment to the public good. It would allow for a building or site plan that is more compatible with adjacent land and land uses, or it does not create a conflict with adjacent uses.
3. The Variance does not hinder compliance with applicable building code

requirements or engineering design standards.

4. Approval of the Variance does not create a violation of this or any other adopted ordinance or code standard.

4.5. ~~Applicant shall provide proof from the providing fire district that services can be provided in the event of an emergency.~~

5.6. Application for a Variance should include all necessary Variances anticipated for the proposed development.

6.7. Application for a Variance is limited to one per year.

SECTION 7.300 SPECIAL USE TEMPORARY HARDSHIP VARIANCES

~~Morrow County may allow the following land uses that may or may not be specifically listed as an allowed use in a designated zone. When considering a request for a Special Use the Planning Commission will use the specific criteria to balance whether the detriment to the local community caused by granting a Special Use is outweighed by the benefit to the property owner and/or the larger community. Any change in use, relocation or expansion would require a new or amended use authorization.~~

MEDICAL HARDSHIP. A medical hardship is a ~~Special Use of permit to use~~ a manufactured home, recreational vehicle or an existing building necessary for a relative or other designated caregiver to care for or provide custody for an elderly, mentally handicapped, or infirm person whom a medical professional certifies needs this kind of care or custody. This certification will be on the medical professional's stationery or stamped by the medical professional's office, and will indicate that the patient is not physically or mentally capable of maintaining himself/herself in a residence on a separate property and is dependent on someone being close by for assistance. As an alternative, the medical professional can stamp and sign the application form available through the Planning Department for a medical hardship. Financial hardship conditions, child care, and other convenience arrangements not relating to physical and/or mental impairment are not considered an infirm condition.

The provisions of this section are to apply when the proposed use does not qualify as a continuation of a nonconforming use, not permitted by right, nor permitted through the operations of other more pertinent procedures and provisions of this zoning ordinance. Medical hardship ~~Special Use permit variances~~ for dwellings are not to be construed, permitted nor utilized as a means to abrogate the intent, purpose or procedures of the County's Comprehensive Plan or Zoning Ordinance regulations. A medical hardship variance shall be approved by the Planning Director as an Administrative decision.

No medical hardship ~~Special Use permit variance~~ shall be granted that would have the effect of creating a permanent zone change or result in a hardship when the use is not permitted to continue at the expiration of the permit periods. Further, no medical hardship ~~Special Use permit variance~~ will be granted which has the effect of conferring a special privilege for which other property within the same zone would not be equally eligible.

A. As a medical hardship ~~Special Use variance~~ in any zone that allows dwellings, the ~~Planning Director Commission~~ may allow ~~as a Special Use~~ the use of one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110, as applicable, and

providing that no additions, except approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

1. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm person who a medical professional certifies needs this kind of care or custody as required in A. above.
2. Electric, water and sewer utility connections shall be made to the temporary residence. If the medical hardship dwelling will not use a public sanitary sewer system, the dwelling shall use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling or as otherwise allowed and conditioned by the ~~Planning Director~~Commission.
3. Within 90 days of the end of the medical hardship, the manufactured dwelling or recreational vehicle shall be removed, ~~or,~~ in the case of an existing building, the building shall be removed, demolished, or returned to an allowed ~~non-residential use~~.

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B. As a medical hardship Special Use in a resource zone, the following are also applicable:

1. That the medical hardship dwelling use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
2. The medical hardship dwelling use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. Department of Environmental Quality review and removal requirements also apply.
3. The landowner for the hardship dwelling shall sign and record in the deed records for the County a Right-to-Farm or a Right-to-Forest Statement binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from customary farm or forest practices.
4. A temporary residence approved under this sub-section is not eligible for replacement under Section 3.010 or 3.020.

C. A medical hardship ~~Special Use permit~~variance granted under this section is void when the elderly, mentally handicapped, or infirm existing resident or other person who is the subject of the permit no longer needs care, moves to another residence, is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning for continued residency of at least 30 days. Exception to the 120-day limit can be provided for in the case of extraordinary circumstances such as extended hospitalization. These extensions can be approved by the Planning Director for up to an additional 60 days without Planning Commission approval. Additional extensions will require Planning Commission review and approval.

D. The County Planning Director or designee shall review permits issued under this section every two years and may revoke permits when they are found to be out of compliance. After the initial approval by the Planning ~~Commission~~Director any required renewal shall be applied for as a medical hardship extension. The decision to approve a medical hardship extension shall be an administrative decision of the Planning Director.

- E. Any dwelling authorized by a medical hardship Special Use permit variance must be located as close as possible to the primary dwelling. Unless there are physical limitations of the land this should be within 100 feet of the primary dwelling.
- F. County Zoning and Building Permits will be required. A Rural Address will also be required to facilitate emergency response.
- G. A medical hardship Special Use permit variance is valid for up to 2 years from the date of initial issuance, i.e., permits issued in an odd-numbered year will expire in the next odd-numbered year. All permits will have an expiration date of January 31. The County will process all medical hardship Special Use permit variance renewal requests once per year in January. The County will give permittees not less than 30 calendar days written notice of the pending expiration of their Special Use permits, advising that a renewal will be required. Failure to receive notification of pending expiration does not constitute an extension of time for the permit. The Planning Director shall not renew the medical hardship Special Use permit variance until the permittee has shown compliance with the conditions for issuance specified in this Section at the time of renewal and the County has received evidence of the continued validity of the medical hardship.

SECTION 7.400 TEMPORARY USES

A Temporary Use Permit may be approved to allow the limited use of structures or activities which are short term or seasonal in nature and do not conflict with the zoning designation in which they are located. No Temporary Use Permit shall be issued that would have the effect of permanently re-zoning or granting a special use privilege not shared by other properties in the same zoning designation. Examples of a temporary use may be special events or an emergent need. Permanent improvements to the site or structures are not allowed with a temporary permit. Reasonable conditions may be imposed.

- A. **TEMPORARY STORAGE OF A MANUFACTURED HOME.** The Planning Director or their designee can authorize storage of a manufactured or mobile home on an individual bare lot or parcel for not more than six months. Authorization for the storage of a manufactured home shall be obtained through application for a Zoning Permit and must meet the following conditions:
1. It will not be used for residential or other purposes.
 2. There will be no electrical, plumbing or sewer connections to the stored manufactured or mobile dwelling.
 3. All normal setback standards of the zone will be met.
 4. The manufactured dwelling will not be located in a Floodplain or other natural hazard area.
 5. Only one manufactured dwelling storage permit may be issued to a property owner for a specific lot or parcel within any five-year period.
- B. **TEMPORARY USE OF A RECREATIONAL VEHICLE.** The Planning Director or their designee can authorize the following uses of a Recreational Vehicle, which are not designed for residential purposes according to standards and specifications of the Uniform Building Code which has been established to protect public health, safety and welfare. Recreational vehicles shall not be used for housing or residential purposes except:

1. When the recreational vehicle is located on an individual lot or parcel during the construction of a dwelling. The Zoning Authorization for the approved dwelling must also authorize this temporary use.
2. For temporary housing to accommodate visitors of the primary residence in a residential or farm use zone not to exceed 30 days in any 12 month period. Property owners found in violation of this requirement will be subject to enforcement action.
3. For seasonal recreational (i.e. summer camping or hunting season) use by the land owner or lessee in the Forest Use Zone after obtaining a Zoning Permit and Rural Address.

C. TEMPORARY USES GENERALLY. Temporary Uses, other than those outlined above, can be considered under this provision. To be eligible the Temporary Use needs to be for a limited duration not to exceed 12 months, not addressed in other portions of this Zoning Ordinance, be able to meet the limited or expanded approval criteria below, and not involve the construction or alternation of any permanent building or structure.

D. APPROVAL CRITERIA: The Planning Director, or their designee, may grant a Temporary Use upon finding that the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The proposed Temporary Use is not specified in this Ordinance and is not so recurrent as to require a specific or general regulation to control it.
2. The proposed Temporary Use will not become permanent.
3. Approval of the Temporary Use does not create a violation(s) of any other adopted ordinance or code standard;
4. An application for a Temporary Use is limited to one (1) lot or parcel per application;
5. Requests for more than one Temporary Use on the same lot or parcel shall be consolidated on one application and reviewed concurrently by the County;
6. Not more than three (3) Temporary Uses may be approved for one lot or parcel in a continuous 12-month period;
7. Temporary uses will not exceed 12 months, can be renewed up to two times, but will not exceed a total of 36 months; and
8. All applicable building code requirements and engineering design standards shall be met.
9. Any Temporary Use permit shall clearly set forth the purpose for which the permit is granted and shall clearly indicate the time period for which the permit is issued. No temporary permit shall be transferable to any other owner or occupant.

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E. Should the proposed Temporary Use not meet the above standards, or should the Planning Director determine a public hearing is warranted, the Planning Commission will further consider the Temporary Use and the additional Approval Criteria below:

- ~~10.~~ 1. Reasonable conditions may be imposed by the Planning Commission to minimize the potential impact of the proposed use to other uses in the vicinity, such as special yards and spaces; control of points of vehicular

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ingress/egress; landscaping and maintenance thereof; control of noise, odors, or other nuisances; and limitation of certain activities.

- 41.2. All structures and uses for which a Temporary Use permit is issued shall meet all other requirements of the zoning district in which they are located and shall:
- a. meet all applicable health and sanitation requirements;
 - b. meet all applicable building code requirements; and
 - c. be removed upon expiration of the temporary permit.

SECTION 7.500 NONCONFORMING USES

A use or activity that was lawful prior to the adoption, revision, or amendment of this Zoning Ordinance, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning district.

Subject to the provisions of this section, a nonconforming use or structure may be continued, but may not be altered or ~~expanded~~~~tended~~. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or ~~expantened~~ if the alteration or ~~expatension~~ does not cause the structure to deviate further from the standards of this Ordinance.

If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.

If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance.

Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued by the county and construction has commenced prior to the adoption of this Ordinance provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use w-ithin two years from the time the permit is issued.

SECTION 7.600 PROCEDURE FOR TAKING ACTION ON AN APPLICATION.

The procedure for taking action on an application shall follow the procedures outlined in Article 9 and as further defined below:

- A. A property owner may initiate a request for a dimensional adjustment, variance, ~~special use~~ or temporary ~~use~~ permit by filing an application with the Planning Department, using forms prescribed pursuant to this Article and Article 9 where applicable. Applications shall be filed with the Planning Department ~~in a~~ timely ~~manner~~, and at least 35 days prior to a Planning Commission meeting should Planning Commission action be required.

- B. If an application ~~is for a property for a use~~ located within the Urban Growth Boundary of an incorporated city the Joint Management Agreement in place with that city will govern.

SECTION 7.700 TIME LIMIT TO INITIATE A PERMIT

- A. On land zoned for Farm Use or Forest Use a permit may be valid for two years from the date of the final decision. The County may grant ministerially where applicable criteria for the decision have not changed an extension period of up to 12 months on land zoned for Farm Use or Forest Use if:

1. An applicant makes a written request for an extension of the development approval period;
2. The request is submitted to the county prior to the expiration of the approval period;
- 2-3. ~~Provisions of the County Code applicable to the original approval have not changed.~~
3. ~~The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~
4. ~~The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

- B. On land zoned other than Farm or Forest Use, a permit may be valid for two years. In the case of appeals, the two year permit period shall be tolled until a decision by a review authority with final jurisdiction is made that is not appealed.

~~An additional one-year extensions~~ may be authorized by county staff without providing notice and opportunity for a hearing under the following conditions:

1. An applicant makes a written request for an extension of the development approval period;
2. The request is submitted to the county prior to the expiration of the approval period, excepting any request under consideration on the date of adoption of this amendment;
- 2-3. ~~Provisions of the County Code applicable to the original approval have not changed.~~
3. ~~The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~
4. ~~The county finds that any of the following conditions occurred within the approval period:~~
 - a. ~~State or Federal permits were applied for, but not issued within the approval period.~~
 - b. ~~At least 10 percent of the cost of development, based on estimated or actual expenditures, has been expended to develop plans, file for permits, and complete other preliminary designs such as sewage disposal, provision of potable water, storm water management and other engineering designs necessary for the development.~~
 - c. ~~Provisions of the County Code applicable to the original approval have not changed.~~

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C. Approval of an extension granted under this Section is ~~an administrative ministerial~~ decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

D. The time periods described above do not take effect until all appeals are complete.

SECTION 7.800 LENGTH OF PERMITS, PERMIT HOLDER, RENEWAL AND REVOCATION

A. Length of Permit and Permit Holder: The County may evaluate how long a particular permit is expected to remain valid. Some uses may be considered “permanent” as a fully developed use that “runs with the land” and it attaches to and benefits the land and is not limited to a particular landowner. The County may require the owner of the original permit to record the permitted use on the deed record. The permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.

A permit may allow a use that would benefit the permit owner on a sporadic or temporary basis until the purpose for the permit no longer exists. Upon termination of the use, the land must be in a condition that it may be re-developed in compliance with its current zoning designation. The County may authorize a permit until a particular date, for a stated period of time, or until the occurrence of a particular event. Additionally, the County may stipulate that a permit will be reviewed or renewable after a stated time period.

B. Reviews and Renewals. If a review or renewal date is included as a condition by which a permit is granted, initial review would be ministerial and completed by the Planning Director. The holder of the permit will be required to make application and pay the requisite fee for review. The review would evaluate the permit conditions and adherence to them, determine if any changes had taken place with the uses allowed in the zone, and determine whether any complaints had been logged concerning the property or the conditional use. If any concerns arise further review will take place at a public hearing with notice. If no concerns arise the permit will be renewed.

For permits without a review or renewal condition, or if complaints are received concerning a permit, the County may review any valid permit for compliance with the conditions of the permit. This review would be a ministerial review done by the Planning Director. If it is deemed necessary by the Planning Director to amend or revoke the permit, a public hearing with notice must be held before the Planning Commission. If action is based on a complaint the complainant may be required to pay any permit review or renewal application fees.

C. Revocation or Vacation. Any permit may be vacated by the current landowner or by the County after appropriate notice and hearing when:

- The use has been terminated and there is no expectation by the land owner and the County that the use will continue;
- The use is not being conducted in compliance with the stated conditions of the permit, or
- The County finds that the use jeopardizes the public health, safety and

welfare of Morrow County and the use does not conform to the Morrow County Code Enforcement Ordinance or other adopted ordinances.

SECTION 7.900 OCCUPANCY PERMIT

The County may require an occupancy permit for any permitted and approved use pursuant to the provisions of this Ordinance. The County shall consider such a requirement for any use authorized by a permit for which conditions have been established upon approval of such use. The requirement of an Occupancy Permit shall be for the intent of insuring permit compliance and said permit shall not be issued except as set forth by the County. The authority to issue an Occupancy Permit upon compliance with the requirements and conditions of a permit may be delegated by the County at the time of approval of a specific permit to the Planning Commission, the Planning Director, and/or the Building Official.

ARTICLE 8. AMENDMENTS

SECTION 8.010. AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of this Ordinance or to a zoning map may be initiated by the County ~~Court Board~~ Board of Commissioners, the County Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Department using forms prescribed pursuant to Article 9.

SECTION 8.020. PUBLIC HEARINGS ON AMENDMENTS. The Planning Commission shall conduct at least one public hearing on the proposed amendment within 60 days after the amendment is proposed and shall recommend to the County ~~Court Board~~ Board of Commissioners approval, disapproval or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the County ~~Court~~ Board of Commissioners shall hold at least one public hearing on the proposed amendment.

SECTION 8.030. NOTICE. Notice will be provided according to Article 9 of this Ordinance. -It will be reasonably calculated to give actual notice to interested persons, including news media as required, and to those which have requested notice, of the time and place for any and all hearings.

SECTION 8.040. CRITERIA. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County ~~Court Board~~ Board of Commissioners in reaching their decision.

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).

B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.

1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

2. A plan or land use regulation amendment significantly affects a transportation facility if it:

- a. Changes the functional classification of an existing or planned transportation facility;
- b. Changes standards implementing a functional classification;
- c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
- d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)

C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.

D. The request addresses issues concerned with public health and welfare, if any.

SECTION 8.050. LIMITATIONS ON REAPPLICATIONS. No application of a property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the six (6) month period immediately following denial of a previous application; if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it, however, the Planning Commission may permit a new application.

SECTION 8.060. FINAL DECISION. The decision of the County ~~Court Board of Commissioners~~ will be final unless appealed. Eligibility to appeal is governed by Oregon Revised Statute and Oregon Administrative Rule.

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ARTICLE 9. ADMINISTRATIVE PROVISIONS

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SECTION 9.010. ADMINISTRATION. The ~~Secretary of the~~ Planning Commission and the County Planning Director have the power and the duty to enforce the provisions of this Ordinance. The Board of Commissioners may appoint agents to issue zoning permits and to otherwise assist the ~~Secretary or~~ Planning Director in the processing of applications.

SECTION 9.020. Approval or denial of an application for a use permitted by this Ordinance shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

SECTION 9.030. APPEALS. A person may appeal to the Board of Commissioners ~~from~~ a decision or requirement made by the Planning Commission. A person may appeal to the Planning Commission ~~from~~ a decision or requirement made pursuant to this Ordinance by the ~~Commission~~ Secretary, Planning Director or other county official. Written notice of the appeal must be filed with the county within 15 days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirement and the grounds for appeal.

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A. An appeal or review proceeding shall be based upon, ~~but not limited to,~~ the record of the decision being appealed or reviewed.

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B. Following the hearing, the Board of Commissioners or Planning Commission may overrule or modify any decision or requirement and shall set forth findings for such decision.

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C. The procedure, public notice and type of hearing for an appeal or review shall be in the same manner as for any application under this Ordinance.

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SECTION 9.040. FORM OF PETITIONS, APPLICATIONS AND APPEALS. Petitions, application, and appeals provided for in this Ordinance shall be made on forms prescribed by the county. Applications shall be accompanied by plans and specifications, drawn to scale, showing the information listed in this Section and such other information as is needed to determine conformance with this Ordinance.

- A. One copy of a completed application form that includes the following information:
 - 1. An accurate legal description, tax account number(s), map and location of all

properties that are the subject of the application.

2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s). If the applicant is an entity with the power of eminent domain for the purpose of the application, the applicant may provide a resolution of public necessity indicating an intention to exercise their statutory authority to condemn the property in lieu of property owner signatures.

Commented [DG24]: Requested language developed in coordination with UEC and Morrow Co. Land Use Counsel.

B. A complete list of the permit approvals sought by the applicant.

C. A current preliminary title report for the subject property(ies).

D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by the County-City as being required.

E. Up to 20 copies of all reports, plans, site plans and other documents required by the section of the code corresponding to the specific approval(s) sought. At least one copy of the site plan and all related drawings shall be in a readable/legible 8-1/2 by 11 inch format for inclusion into the city's-County's bound record of the application.

F. A site plan shall include the following information. All site plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

1. North arrow and scale

2. Location of property boundaries, including adjacent public or private streets and rights of way

3. Location of existing structures and natural features

4. Topography, with contours at no greater than 10 foot intervals, preferably less

Commented [DG25]: We don't require topographical contours

5. Location of utilities and facilities, or proposed locations (sewer, water, fire, electricity, hydrants, septic system, storm water facilities, etc.)

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6. Proposed landscaping

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7. Exterior lighting.

8. Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.

9. Parking lot layout, with circulation plan and striping details.

10. Sign location and details

~~G.~~ All required application fees, including a deposit for costs of consultant review when required.

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SECTION 9.045. COMPLETENESS REVIEW.

A. Upon submission, the County Planning Department shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director shall review the application and all information submitted with it and evaluate whether the application is complete pursuant to the requirements in Section 9.040(A) enough to process. Within 30 days of receipt of the application, the Planning Director shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete ~~enough to process~~, and, if not, what information must be submitted to make the application complete.

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B. Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the date the application was filed within which to submit the missing information, or provide written notice to the county that only some of the missing information or none of the information will be provided (see ORS 215.427(2)), or the application shall be rejected, and all materials and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the 180-day period, the County shall again verify whether the application, as augmented, is complete. An application shall be rejected if it has not been made complete within the 180-day time period, unless the applicant refuses in writing to submit additional information.

C. Once the County determines the application is complete enough to process, or the applicant provides written notice that some or all of the missing information will not be provided, fails to submit additional information, the County shall declare the application complete and take final action on the application within 150 days of that date unless the applicant waives or extends the 150-day period. The 150-day period, however, does not apply in the following situations:

1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 150-day period.
2. The 150-day period does not apply to any application for a permit that is not wholly within the County's authority and control.
3. The 150-day period does not apply to any application for an amendment to the County's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.

D. The approval standards which control the County's review and decision on a complete application are those which were in effect on the date the application was

first submitted.

SECTION 9.046. ADMINISTRATIVE REVIEW.

- A. Uses allowed with standards that are authorized by this Ordinance are identified as administrative land use decisions and shall be processed in the manner described in ORS 215.416.
- B. The Planning Director may approve or deny an application for a permit without a hearing if the Planning Director or designee gives notice of ~~such final~~ decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (C(1)) of this subsection, to ~~request a hearing before~~ file an appeal to the Planning Commission.
- C. A tentative decision by the Planning Director to approve, modify, or deny a land use request shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationship between the proposal and the applicable criteria for approval listed elsewhere in this chapter.
1. In addition:
- a. Written notice of the ~~tentative-final~~ decision by the Planning Director shall be mailed to those persons described in paragraph (i) of this subsection. The notice shall inform the applicant and the surrounding property owners that the decision of the Planning Director will ~~issue a final decision, be final,~~ with or without modifications and/or conditions, ~~or denial of the land use request~~ 21 calendar days from the date of the mailing of the notice of decision; unless an appeal public hearing is requested ~~filed~~.
- (i) Notice of a decision of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:
- (a) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;
- (b) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest use zone; or
- (c) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.
- b. Notice shall also be provided via email to any identified affected agencies of the proposal, per ORS 197.180.

Commented [DG26]: May be as brief as 12 days. Appeal period is currently 15 days- option to increase to 21 to allow more time with the elimination of the 21-day comment period.

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- c. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide written or email notification to ODOT prior to the decision.
 - d. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site (see ORS 215.716).
 - e. Notice shall be provided to the Department of Land Conservation and Development for lands within the farm or forest use zone.
- D. The purpose of the notice is to provide affected property owners and agencies the opportunity to review the decision request and the ~~tentative~~ findings and conclusions of the Planning Department, and to allow an opportunity for appeal. ~~either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.~~
- E. The notice shall include the following information:
1. The nature of the application and the proposed use or uses which could be authorized;
 2. Street address or other easily understood location of the subject property and County-assigned planning file number;
 3. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, at the Planning Department during normal business hours; and
 4. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.
 5. A statement that any person who is adversely affected or aggrieved or who is entitle to notice under paragraph (C)(1) of this subsection may appeal the decision by filing a written appeal consistent with the requirements of subsection (C).
 6. A statement that the decision will not become final until the appeal period has expired.
 7. A statement that a person who receives notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 157.830 (see ORS 215.416(11)(C).
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F. If no ~~request for a public hearing appeal~~ is received within 21 days, then the Planning Director's tentative decision shall become the final decision, ~~although conditions of approval may be added, modified, or deleted based on information received subsequent to notification.~~

G. Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the mailing affidavit demonstrates that the notice was mailed to the address listed on the County Assessor's tax records.

~~H. Notice of the final decision shall be sent to the applicant and any property owner, person, or agency which commented on the request, and to any other persons who requested such notice.~~

~~I. If the proposed final decision is significantly different from that which was proposed in the tentative findings and conclusions that were sent out per this Section, then the process outlined in Paragraph C of this Section will be repeated.~~

~~J. The final decision of the Planning Department on a land use request may be appealed within 15 days to the Planning Commission.~~

K. Within the Planning Director's sole discretion, or at the applicant's request, the Director may refer any application to the Planning Commission for consideration and decision, following notice and a public hearing consistent with the public hearing procedures in Section 9.050. Considerations the Director may base such a referral upon include, without limitation, the following:

1. The application warrants evaluation and comment by an outside agency such as the Fire Marshal's Office, Oregon Department of Transportation, a city, etc.
2. The application presents impacts to public facilities, systems or services that are difficult to quantify or evaluate or which may exceed current or planned system capacities and would benefit from public testimony, agency comment, or the development of a more detailed factual record.
3. The application presents impacts to, or conflicts with, other properties, property owners and users that are difficult to evaluate without public testimony, the development of a more detailed factual record, and the formulation of conditions to mitigate, reduce or eliminate anticipated impacts.
4. The application presents impacts to protected resources or lands with special status with which the proposal may conflict, and which would benefit from public testimony, the development of a more detailed factual record, and the formulation of conditions to mitigate, reduce or eliminate anticipated impacts.

- 5. The application involves the interpretation of ambiguous terms of the Morrow County Development Code, the Morrow County Comprehensive Plan, state law, conflicting regulations, or otherwise requires the exercise of legal or policy judgment in evaluating the proposal.
- 6. Any other factor or consideration that, in the Director's opinion, warrants broader public comment or review.

SECTION 9.050. PUBLIC HEARINGS.

A. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County at least 20 days prior to the date of hearing, except that a notice for a hearing before the Planning Commission on an amendment that requires two public hearings as specified in Article 8, may be given no less than 10 days in advance of the first public hearing.

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B. In addition:

1. A notice of hearing shall be ~~provided at least twenty (20) days prior to the date of the hearing to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located; mailed to all owners of property within 250 feet of the property for which has been requested in the application. The notice of hearing shall be mailed at least twenty (20) days prior to the date of hearing;~~

- a. ~~Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;~~
- b. ~~Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or~~
- c. ~~Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone~~

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2. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide ~~written~~ notification to ODOT at least twenty (20) days prior to the date of hearing.

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~~a.~~ 3. Notice shall also be provided to any identified affected agencies of the proposal, per ORS 197.180.

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C. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

D. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, email, the posting of property, or the use of radio and television.

E. The notice shall include the following information:

- 1. The time, date and location of the public hearing;

2. Street address or other easily understood location of the subject property and County-assigned planning file number;

3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the County will use to evaluate the proposal;

4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing;

5. A statement that any issue which is intended to provide a basis for an appeal to the Land Use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue;

6. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at cost, at the Planning Department during normal business hours; and

7. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

F. The Planning Commission and the Board of Commissioners may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

G. General rules for hearing.

1. The Hearing Body conducts the hearing in a quasi-judicial capacity; there shall be no audience demonstration or other conduct which would disrupt the hearing.

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2. Persons may speak only after being recognized by the Chair and must state their full name and address for the record.

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3. The Hearing Body considers only testimony and information that is relevant to the issue of the requested change, and will not allow immaterial or repetitious testimony.

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H. Order of Procedure.

1. Call for abstentions.

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2. Staff report and summary.

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3. Proponent's case. The proponent and those favoring the proposal will be heard first.

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4. Cross-examination of each proponent by the Hearing Body.

5. Opponent's case. Those opposed shall be heard next. Groups who are represented by a spokesperson or who were entitled to receive notice of the hearing are requested to proceed first. Opponents may submit questions of the proponent to the Chair.

6. Cross-examination of each opponent by the Hearing Body.

7. Rebuttal. Both the proponents and opponents may submit rebuttal testimony; the proponent shall have final opportunity.

8. Close the hearing.

I. Decision of the Hearing Body. Upon closing the hearing, the Hearing body will deliberate the question and reach a decision or continue the matter for further study or decision, to a time and place then announced.

J. Recess of Hearing. The Hearing Body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

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1. If a hearing is recessed, the record shall be left open in accordance with the time frames identified in ORS 197.797.

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K. Notice of Decision. The County shall send, by first class mail, a notice of all decisions rendered under this Ordinance to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

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1. The file number and date of decision;

2. The name of the applicant, owner and appellant (if different);

3. The street address or other easily understood location of the subject property;

4. A brief summary of the decision, and if an approval, a description of the permit authorized or approval granted;

5. A statement that the decision is final unless appealed, and description of the requirements for perfecting an appeal;

6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

SECTION 9.060. SEWAGE DISPOSAL APPROVAL. No zoning permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system.

SECTION 9.070. FILING FEES. An application required by this Ordinance shall be accompanied by a filing fee in the amount as set forth by the Board of Commissioners in a County Fee ordinance. Said permit fees may be amended by the Board of Commissioners order after conducting a hearing thereon.

A. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.

B. At its sole discretion, the County may contract for review of an application by appropriate professionals, including but not limited to a civil engineer, planner, traffic engineer, wildlife biologist, or other specialist, and may require an applicant to reimburse the County for costs of such services. The County may require a deposit from the applicant, to cover estimated costs of consulting services.

~~C. Application Withdrawal.~~

~~1. If an applicant elects to withdraw an application prior to a final decision on the action, the Planning Director may issue a refund at the applicant's written request of the unused portion of the application fee(s), not to exceed the following amounts:~~

~~a. If the application is withdrawn within 30 days of submittal, prior to the County's issuance of a completeness determination, up to 100% of the application fee.~~

~~b. If the application is withdrawn after the County has issued a completeness determination, but prior to providing public notice, up to 75% of the application fee.~~

~~c. If the application is withdrawn after public notice has been provided, but prior to the first hearing, up to 50% of the application fee.~~

~~d. If the application is withdrawn after the first hearing, but prior to a decision on the application, up to 25% of the application fee.~~

~~e. If the application is withdrawn after a final decision is made, no refund is available.~~

~~2. If an application is re-submitted after it has been withdrawn, the standards and criteria in place at the time of the most recent submittal will govern the review of the application.~~

SECTION 9.075. PERMIT EXPIRATION AND EXTENSIONS.

A. In accordance with OAR 660-033-0140, the following permit expiration dates shall apply in the Exclusive Farm Use and Forest Use zones:

- 1. A discretionary decision, except land divisions and those residential developments listed below in 9.075(A)(4) approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS

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215.210 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

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2. An extension of up to one year may be granted if:

a. The applicant makes a written request for an extension of the development approval period;

b. The request is submitted to the county prior to the expiration of the approval period;

~~b. Provisions of the County Code applicable to the original approval have not changed.~~

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~~c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~

~~d. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

~~3. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.~~

4.3. Permits approved for a proposed residential development on resource land outside of an urban growth boundary shall be valid for four years. An extension of two years may be granted subject to the provisions of 9.075 (2) (a-d).

~~a. No more than five additional one-year extensions may be authorized under this subsection.~~

B. For all permits not in the Farm or Forest zones, the following permit expirations shall apply:

1. A zoning permit shall become void after 1 year unless the building permit has been issued, or, if no building permit is required, if the development action has commenced.

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a. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period.

2. A conditional use or an administrative land use decision is valid for two years. An additional one-year extensions may be authorized by county staff without providing notice and opportunity for a hearing under the following conditions:

a. An applicant makes a written request for an extension of the development approval period;

~~b.~~ The request is submitted to the county prior to the expiration of the approval period, excepting any request under consideration on the date of adoption of this amendment;

~~b.—c. Provisions of the County Code applicable to the original approval have not changed.~~

~~c.—The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~

~~d.—The county finds that any of the following conditions occurred within the approval period:~~

~~(i) State or Federal permits were applied for, but not issued within the approval period.~~

~~(ii) At least 10 percent of the cost of development, based on estimated or actual expenditures, has been expended to develop plans, file for permits, and complete other preliminary designs such as sewage disposal, provision of potable water, storm water management and other engineering designs necessary for the development.~~

~~(iii) Provisions of the County Code applicable to the original approval have not changed.~~

3. Final Plats for partitioning will be completed within two years from the date of the Commission action or the approval of the partitioning will expire and said approval will be declared null and void. A one-year extension may be granted when a written request is made prior to the expiration of the permit ~~with stated reasons for the request for which the applicant was not responsible.~~

C. Approval of an extension granted under this Section is an ~~administrative ministerial~~ decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

D. The time periods described above do not take effect until all appeals are complete. (MC OR-1-2013)

SECTION 9.080. REVOCATION. The Planning Commission may revoke or modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

A. A permit may be revoked on the basis of fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or wrong information given to the Commission at a public hearing.

B. A permit may be revoked on the basis that the use for which such permit was granted is not being exercised within the time limit set forth by the Commission or

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this Ordinance.

C. A permit may be revoked on the basis that the use for which such permit was granted has ceased to exist or has been suspended for one year or more.

D. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, code, resolution, law or regulation.

E. A permit may be revoked or modified on the basis that the use for which the permit was granted was so exercised as to be detrimental to the public health, safety or welfare, or in such a manner to constitute a nuisance.

F. Any permit granted pursuant to this Ordinance shall become null and void if not exercised within the time period specified in such permit, or if no time period is specified in the permit, within one year from the date of approval of said permit.

G. The Commission shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons as set forth in this Ordinance. The Commission shall render its decision within 45 days after the conclusion of the hearing. In the case where the permittee is not satisfied with the action of the Commission, he/she may appeal the Commission's decision to the Board of Commissioners in the manner provided in section 9.030 of this Ordinance.

ARTICLE 10. GENERAL PROVISIONS

SECTION 10.010. INTERPRETATION. Where the conditions imposed by a provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions which are more restrictive, the more restrictive shall govern.

SECTION 10.020. SEVERABILITY. The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not eaffect the validity of the remaining portions of the Ordinance.

SECTION 10.030. REMEDIES. Violations of the Morrow County Zoning Ordinance are subject to the provisions set forth in the Morrow County Code Enforcement Ordinance (ORD-2021-4)

~~In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is or is proposed to be used in violation of this Ordinance, the County Court or a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under state law, the person shall furnish undertaking as provided in ORS 32.010 to 32.060.~~

~~**SECTION 10.040. VIOLATION DECLARED A NUISANCE.** The location, erection, construction, maintenance, repair, alteration or use of a building or structure or the subdivision, other partitioning, or other use of land, in violation of this Ordinance is declared a nuisance.~~

~~**SECTION 10.050. CRIMINAL PENALTIES.**~~

~~A. The location, erection, construction, maintenance, repair, alteration or use of a building or structure or the subdivision, other partitioning or other use of land, in violation of this Ordinance is punishable upon conviction by a fine of not more than \$500 for a noncontinuing offence and a fine of not more than \$1,000 for a continuing offence.~~

~~B. Each and every day in which a location, erection, maintenance, repair, alteration or use of a building or structure or the subdivision, other partitioning or other use of land, in violation of this Ordinance continues is a separate offence.~~

SECTION 10.060. REPEAL. All previous Morrow County Zoning Ordinances, whether permanent, interim or special purpose, and all amendments thereto are hereby repealed.

SECTION 10.070. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal of any ordinance shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such ordinance, unless a provision of this ordinance shall so expressly provide, and such ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability, and for the purpose of a person or persons who violated this repealed ordinance or a part thereof prior to the effective date of this Ordinance.

SECTION 10.080. ENACTMENT This Ordinance was adopted by the Morrow County Court on November 7, 2001. This Ordinance shall become effective 90 days after the date of its adoption by the Morrow County Court. (MC-C-3-01)

PUBLIC COMMENTS FOR
5d. LESLATIVE CODE UPDATES
AZ-154-24



July 19, 2024

Via Electronic Mail
Morrow County Planning Commission
c/o Tamra Mabbott, Morrow County Planning Director
PO Box 40
Irrigon, OR 97844

RE: Morrow County Zoning Ordinance Updates

Dear Chair Ekstrom & Members of the Planning Commission,

Thank you again for the opportunity to address this commission in the upcoming public session on July 30th, 2024 regarding the proposed changes to the Morrow County Zoning Ordinance ("MCZO"). Amazon Web Services ("AWS") has actively worked with the Planning Staff in the two months since the last Planning Commission working session to incorporate the commission's feedback into the MCZO draft which we're attaching to this letter.

In the last working session with the Planning Commission, we heard the commission state their objectives with regard to industrial development and the MCZO update:

1. To minimize negative impacts to existing residents and the environment specifically from water usage, water disposal, and traffic.
2. To use language that is highly readable and understandable to the average person.

In order to accomplish the commission's objectives, AWS has submitted the following recommendations to the Planning Staff:

1. Water Usage

AWS is proposing that all industrial developments which rely on ground water (that is, wells) must have all necessary authorizations from the Oregon Water Resources Department prior to being granted permanent certificate of occupancy. This will allow the Planning Staff to ensure that a development's groundwater usage is consistent with state standards for approval.

AWS is committed to responsible and sustainable water usage in our data center operations. In Morrow County, we are actively working with the Port of Morrow to leverage sustainable water resources that will not affect local aquifers (e.g. surface water rights such as reservoirs, canals, rivers, etc.).

Further, AWS is supporting two local aquifer recharge projects in this region.

2. Non-Contact Cooling Water and Domestic Wastewater Disposal

AWS is proposing that all industrial developments which do not rely on third-party providers (e.g. a municipal sewage treatment plant) would require a certified engineer to design the systems in conformance with the applicable Oregon Department of Environmental Quality ("ODEQ") standards. The development would have fully approved ODEQ permits, as required by the state regulations, prior to permanent certificate of occupancy being granted. This would ensure that State agencies responsible for setting groundwater safety standards have approved plans for wastewater disposal prior to commencement of the proposed use.

AWS is committed to compliance with all relevant local, State, and Federal environmental regulations.

3. Traffic

AWS has suggested that industrial developments have the option of following a proactive process in which 1) traffic estimates are generated in accordance with accepted traffic engineering standards (a "traffic impact analysis"), 2) the industrial developer and the County's Public Works Department review the traffic impact analysis for potential negative impacts, and 3) the developer enters into a Road Use Agreement contract with



the County to formally obligate the developer to mitigate significant negative impacts, and 4) finally the developer would submit this signed Agreement with the County as part of their permit application.

In a recent AWS development (the "Bombing Range Road" development), which was approved by the Planning Commission in 2022, the commission chose this exact method for ensuring that AWS was addressing our traffic impacts by making a Road Use Agreement one of the conditions of approval for that development. In discussions with the County Director of Public Works, Eric Imes, he has been receptive to proactively negotiating these Road Use Agreements. Further, these Agreements would still be subject to public notice and public comment prior to being signed by the Board of Commissioners.

4. Code Readability

AWS has drafted requirements with the intent of being "clear & objective" meaning that there is no ambiguity to the standards. To paraphrase Planning Staff, "ten reasonable people attempting to apply the standard would all come to the same conclusion".

This means that the Planning Staff could process permits for industrial developments through a "ministerial process" which would reduce the administrative cost and burdens of processing permits while still addressing all concerns of the Planning Commission as outlined above.

Thank you for your consideration of our inputs. We believe that these updates will allow the Planning Staff to effectively implement the commission's policies on thoughtful growth which will provide economic opportunities for the residents of the County while safeguarding the lifestyle enjoyed by existing local residents.

We look forward to presenting our draft requirements to you in Public Session on July 30th and having the opportunity to address your questions. We'd also like to thank the Planning Director and Planning Staff for the opportunities to discuss these issues over the course of the last several months.

Sincerely,

DocuSigned by:

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Keith Klein, Director of AMER Data Center Supply Solutions

Enclosures

AWS Draft and Comments to MCZO: Zoning Permit & Site Plan Review

SECTION 5.010 ZONING PERMIT

A Zoning Permit is a non-discretionary or “ministerial” review conducted without public notice or a public hearing by the County Planning Director or designee. A Zoning Permit is 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. A zoning permit shall become void after 1 year unless the associated building permit has been approved or, if a building permit is not required, the approved development action has commenced. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period. Zoning Permits are intended to implement the clear and objective standards of the MCZO. A Zoning Permit is not intended to be a Land Use Decision as defined in ORS 197.015 [nor a permit as defined in ORS 215.402](#). Where subjective analysis is required, the Director may elect to process any Zoning Permit application through the Administrative Review process provided in MCZO Article 9.

- A. Purpose. 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 to verify that [relevant](#) conditions of approval have been met for development that has received prior land use approval [or will be met prior to occupancy or commencement of the proposed development](#).
- B. Pre-application review. Prior to filing a Zoning Permit application, the applicant may confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.
- C. Applicability. Zoning Permit Approval 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. When Site Plan Review or Conditional Use Permit approval has been granted, a subsequent Zoning Permit [subject to review for compliance with Standard D\(1\) is required to confirm that the following standards, and any conditions of approval, are met prior to building permit approval](#). The [Zoning Permit](#) 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, or if development of the site is in violation of the approved plan or other applicable codes.
- D. Review Standards.
 1. If a Site Plan Review, Conditional Use Permit, or other land use decision is required for the proposed development, the land use decision has been granted, [and the proposed development is consistent with that land use decision and all applicable conditions of approval have been met](#).
 2. The proposed land use is a use allowed outright in underlying land use district.
 3. The building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable development standards of the underlying zone and any overlay zone(s) are met.
 4. Off-street parking and loading-unloading facilities shall be provided as required in Section 4.040 and 4.050 of the Morrow County Zoning Ordinance. Pedestrian access to off-street parking areas shall be provided.

5. ~~The applicant shall have received all necessary permits or authorizations required by Oregon Water Resources Department and/or Oregon Department of Environmental Quality water pertaining to the provision of water, septic, and wastewater disposal, if applicable.~~
6. The site shall not be the subject of outstanding Code Enforcement violations unless the purpose of the application is to rectify an outstanding violation.
7. The applicant shall obtain any required access permit(s) from the Morrow County Public Works Department and/or Oregon Department of Transportation.
8. Permits for ~~the necessary~~ water, sanitary sewer, wastewater, and electricity service facilities required to serve the proposed development have been granted, or the service provider has confirmed that such services will be provided to the site.

E. Submittal Requirements. Except as provided under criterion E(13) below, Aa Zoning Permit application shall be submitted including all of the following information except for specific items determined at the pre-application review not to be applicable. All zoning permit plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

1. North arrow and scale.
2. Location of property boundaries, including adjacent public or private streets and rights of way.
3. Location of existing structures and natural features.
4. Areas affected by the proposed development with slopes in excess of 10 percent.
5. Location of utilities and facilities, or proposed locations (sewer, water, fire hydrants, electricity, septic system, storm water facilities, etc.).
6. Proposed landscaping.
7. Exterior lighting.
8. Proposed circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.
9. Parking lot layout, with circulation plan and striping details.
10. Sign location and details.
11. Trip Generation Estimate identifying the number of anticipated passenger car equivalent trips per day expected to access the site during regular operations.
- ~~12. Evidence 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 required to permit the construction of such~~

~~facilities-13. If a Site Plan Review, Conditional Use Permit, or other land use decision has already been approved for the proposed development, instead of the above submittal requirements, the applicant must submit narrative demonstrating that (i) the approval has been granted, and (ii) the improvement for which a Zoning Permit is sought is consistent with that approval.~~

E. Application Completeness/Request for Additional Information.

1. The County Planning Director or designee shall determine the application to be complete based on the above submittal requirements within 14 days of the application submittal. If the application is found to be incomplete or additional information is needed it may be requested from the applicant. A request for additional information beyond the standard review standards cannot be used to rule an application incomplete.
2. ~~If a Site Plan Review, Conditional Use Permit, or other land use decision has already been approved for the proposed development, the Planning Director or designee shall determine the application to be complete based on the relevant submittal requirements within 10 days of the application submittal. Once complete, the Planning Director shall review the application within 14 days and issue a decision.~~

SECTION 5.020 SITE PLAN REVIEW

A. **Purpose.** Site Plan Review is ~~subject to administrative or ministerial review, depending on the degree of subjectivity required in applying the relevant review criteria. This process is an administrative review process~~ intended to review development proposals described in subsection D of this section that would otherwise be allowed outright in the underlying zone.

~~B. **Administrative Review.** Applications processed under this section are subject to the Administrative Review process described in Section 9.046.~~

~~C.~~**B. Pre-application review.** Prior to filing its application for Site Plan Review, the applicant may confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

~~D.~~**C. Applicability.** Applications that require ~~Administrative Site Plan~~ Review include:

1. Applications for uses that are identified in Article 3, Zones as requiring Site Plan Review.
2. Applications anticipated to generate 400 passenger car equivalent trips per day, which require a Traffic Impact Analysis (TIA) ~~or an approved Development Agreement with the Public Works Department that addresses traffic impacts from the proposed development.~~
3. Applications that require water service other than an exempt onsite well (not exceeding 15,000 gallons per day) or an existing water right.
4. Applications that require a DEQ permit for the proposed sewer and/or wastewater systems.
5. Applications 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.~~

6. Applications for development within the Airport Safety and Compatibility Overlay Zone (ASC).
7. Applications for development within the Significant Resource Overlay Zone (SRO).
8. Applications that include a variance request.

E.D. Review Criteria. Applications processed under this section shall comply with follow criteria, as applicable:

1. The standards listed in MCZO 5.010(D) are, or can be, met.
2. Water is or will be available to the site at a quantity and quality adequate for the proposed use. New developments that will rely on groundwater must (1) provide an estimated annual water usage, and (2) demonstrate that all OWRD authorization have been received, or the application will be subject to a condition requiring necessary OWRD authorization(s) prior to commencement of the proposed use. All other developments that do not rely on groundwater as a source of water may satisfy this review criteria by ~~as demonstrated by~~ submitting a letter, notice, or memorandum of understanding from the service provider evidencing a commitment to serve the site, which shall indicate the source of the water (e.g., surface water) and a targeted delivery for water to the site complying with submittal requirements in Section F.
3. Adequate sewage disposal, wastewater management, can be provided for the proposed use as determined by the service provider or by demonstrating compliance with applicable review authority standards, as set forth below. For new developments that will rely on third-party service providers for sewer and/or wastewater disposal, the applicant may satisfy this criteria by submitting a letter, notice, or memorandum of understanding from the service provider evidencing a commitment to serve the site. For new developments that will rely on on-site septic and/or industrial wastewater and/ or non-contact cooling water disposal and/or treatment, the applicant may satisfy this criteria by (1) conceptual design plans prepared by a certified engineer, in conformance with applicable ODEQ standards or (2) agreeing to a condition of approval requiring necessary ODEQ permits, as required by the state regulations, to be obtained prior to commencement of the proposed use or certificate of occupancy being granted.
4. Development in hazard areas identified in the Morrow County Comprehensive Plan, Natural Hazard Mitigation Plan, or Community Wildfire Protection Plan shall comply with all applicable requirements.
5. Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources, if applicable.
6. Development in flood plains shall comply with MCZO Section 3.100 Flood

Hazard Overlay Zone.

7. Development in the Airport Safety and Compatibility Overlay Zone (ASC) is compliant with the standards and notice requirements identified in Section 3.092
8. The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately to achieve consistency with adopted County standards. County transportation facilities shall be located, designed, and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan. These review criterion are satisfied if the applicant has entered into a road use and/or mitigation agreement(s) with the County Public Works Director under which applicant agrees to (i) provide mitigation (if any) proportional and reasonably related to the traffic impacts caused by the proposed development or (ii) pay a fee-in-lieu of mitigation, equal to the estimated cost of designing and constructing the identified mitigation (if any).

F.E. Submittal Requirements. In addition to the submittal requirements identified in Section 5.010, applications requiring Site Plan Review must include the following, as applicable:

1. Project information including: name of project, company, and/or property owner.
2. A Trip Generation Estimate identifying the number of anticipated passenger car equivalent trips per day expected to access the site during construction and during regular operations.
3. Proposed road improvement plans and/or road use agreement, as applicable.
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.
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.
6. Parking plans during construction and permanent parking plan with layout.
7. A Traffic Impact Analysis consistent with the requirements of Section 4.035 if traffic impacts are anticipated to exceed the thresholds identified in MCZO Section 4.035.

F. Conditions of Approval.

1. Site Plan Review approval may include conditions necessary to ensure compliance with the applicable review criteria. All ~~Required~~ improvements (if any) shall be permitted and constructed prior to the issuance of a certificate of occupancy.

~~8.2.~~ The Planning Director may require an applicant to provide traffic mitigation (or a fee-in-lieu of mitigation) as identified in or supported by the Traffic Impacts Analysis and/or County Transportation System Plan. Mitigation shall only be required to address level-of-service failures or safety concerns and must be proportionate to the anticipated traffic impact from the proposed development being reviewed. Traffic mitigation may include improvements to on- or off-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, street crossing improvements, and transit improvement plans. ~~Required improvements (if any) shall be permitted and constructed prior to the issuance of a certificate of occupancy.~~

- G. **Minimum Standards for Roadway Design Plans Submitted for County Review.** Any transportation facility or transportation improvement to be constructed as part of a private development and subsequently dedicated to the County or the Public must first receive design approval by the Morrow County Public Works Department, based on applicable design criteria. Design approval may also include all other pertinent issues related to roadway construction and operations, including but not limited to drainage, maintenance, serviceability, and pavement design. Street design plans submitted for County approval shall be stamped by a registered professional engineer with appropriate experience.

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To: Morrow County Board of Commissioners
 From: Tamra Mabbott, Planning Director
 CC: Planning Commission
 BOC Date: July 17, 2024
 RE: Monthly Planning Update

Mission Statement

Morrow County Planning Department provides guidance and support to citizens for short term and long-range planning in land use, to sustain and improve the county's lands for future generations. Our goal is to foster development where people can live, work & play.

June 25, 2024 Planning Commission Meeting

At their June 25th monthly meeting held in Heppner, the Planning Commission approved two conditional Use Permits. The July 30th meeting will be in Irrigon. Included in the agenda is a first legislative hearing on our upcoming Zoning Code Amendment. The amendment includes several substantive changes, the most significant being procedural changes affecting how large developments are processed. The office has a higher than average number of permit applications, both in volume and complexity.

Energy Projects

Numerous large projects are under review by the state Energy Facility Siting Council (EFSC) including new applications and amendments to approved projects. Staff met with development teams and EFSC staff to review projects. Summary of energy projects in Morrow County is found here: <https://www.co.morrow.or.us/planning/page/renewable-energy-1>

A recurring concern with the increasing number and size of permitted renewable energy projects relates to the availability of housing for significant numbers of workers anticipated to be employed for the construction of large wind and solar projects. We expect that as many as 1,000 additional residents will require housing for anywhere from six months to several years for the larger EFSC-approved projects. It is of increasing concern that several of the larger projects may have overlapping construction timelines. Given the existing housing constraints throughout the county, Staff have raised the issue of the cumulative housing impacts. One potential solution is the provision of short-term workforce housing in the form of temporary RV parking on property within or adjacent to the site boundaries of the approved renewable energy facilities. One temporary workforce RV site application is in process for review at the July 30 planning commission meeting,

and more are expected in the future. While this isn't a perfect solution, it allows a path forward for addressing one aspect of the anticipated cumulative impacts.

Morrow County Heritage Trail Update

County has made the decision of contracting with J-U-B Engineers, Inc. for the Columbia River Heritage Trail Master Plan Update. Staff has already been working with J-U-B to discuss the scope of work and determine a workflow that is best for the County and J-U-B. Staff anticipates a kickoff meeting in August with the goal of identifying a full inventory analysis and stakeholders for the project. Anyone interested in being involved in the trail plan update please contact Landon Jones, Planning Tech, ljones@co.morrow.or.us or (541) 922-4624. The department is looking for people with a general interest in the trail or people who have a project in mind or members of groups who use the trail.

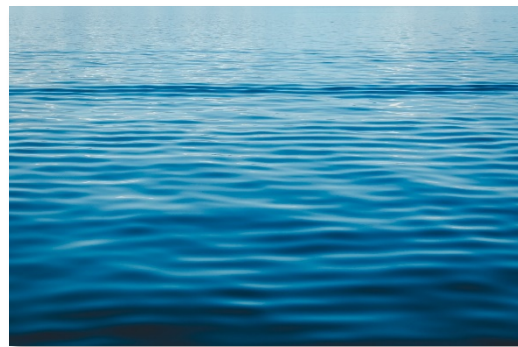
Interpretive Panel Update

Production of the newly redesigned Interpretive Panels has been completed, and they are out for delivery within the week. Staff is working with Irrigon and Boardman Parks, the Port of Morrow, United States Army Corps of Engineering, and USFW. Staff anticipate the installation of the new panels and support structures to be completed early this fall. The final drafts can be viewed at the link below. <https://www.co.morrow.or.us/planning/page/heritage-trail-panels>

WATER AND PLANNING ACTIVITIES

Water Advisory Committee

The July 8th meeting of the Water Advisory Committee included reports from each of the cities in Morrow County and the Port of Morrow. The next WAC meeting is scheduled for September 9, 2024, 4-6 pm at the North Morrow County Government Center, Irrigon. The September meeting will include more presentations and will also include time for the committee to discuss draft policy and projects which will be presented to the Board of Commissioners in the Fall. Agenda and meeting information is posted on county webpage here: <https://www.co.morrow.or.us/meetings> Agendas are posted a week prior to the meeting and includes a link for virtual participation. Anyone with difficulty connecting to the meeting please contact Michaela Ramirez, Office Assistant, (541)922-4624.



LUBGWMA

LUBGWMA Committee did not meet in June. Commissioner Drago and Planning Director Mabbott met with staff with Oregon Consensus, an affiliate of the National Policy Consensus Center, to share ideas about next steps for the LUBGWMA which has paused pending evaluation and recommendation of Oregon DEQ and other state agencies. Oregon Consensus is writing a report independent of the state agencies. The meeting was a good opportunity to advocate for better collaboration and resources.

EPA Grant - Morrow Umatilla County Drinking Water Investigation

Notes from the “Morrow and Umatilla County Drinking Water Investigation” aka the EPA grant, workshops in May, are now on the county webpage.

<https://www.co.morrow.or.us/planning/page/dwi-workshops>

The next step is to develop a communication plan and a data plan. The consultant, GSI Water Solutions, Inc., continues to identify and secure existing data from public agencies, a precursor to development of a Quality Assurance Protocol Plan (QAPP) which will need to be approved by the Environmental Protection Agency. The workshop participants acknowledged the multiple efforts and messaging about the nitrate issues in the basin. The communication plan will include material that will illustrate those various efforts and programs as well as recommendations to provide outreach for the EPA-funded research project.

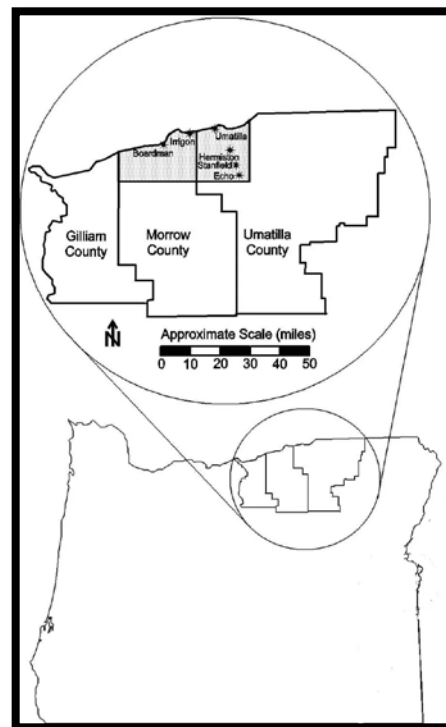
Staff have put on hold work on another EPA grant application based on a Congressionally Directed Spending (CDS) allocation. During this pause, staff are seeking clarification on whether the funding could be used to construct projects rather than continue to study. This funding is for Morrow County only.

With the Board of Commissioners' support, Planning and Administration are working on outreach to the West Glen neighborhood about possible solutions to water quality problems in that area. The Governors Regional Solutions Team has been a supportive partner and is helping to identify an independent third-party public engagement group to help with communications. Staff are waiting for review and feedback of the grant applications submitted to Biz Oregon, funds which would pay for a preliminary engineering feasibility study.

Water Data and Mapping

County Planning and GIS staff are working with GSI Water Solutions Inc. to create a map using data recently received from a GIS data set from the Oregon Health Authority (OHA).

For more information about the Drinking Water Investigation, the Water Advisory Committee (WAC), and other water information please click on the water tab on the Planning Department web page. <https://www.co.morrow.or.us/planning/page/water>



Board of Commissioners Work Session on Water Staff participated in a work session with Board of Commissioners on July 3rd to explore long term funding for water projects. As part of that discussion, Legal Counsel gave a report and Planning staff shared a graphic that illustrates Morrow County involvement in various water quality and nitrate projects. A copy of the two graphics is attached.

CODE COMPLIANCE

Kaitlin Kennedy started work as the new Compliance Planner and has been busy learning about the department and code enforcement. Kaitlin has been following up and updating current code complaints with violation notices and letters to property owners.

Natural Hazards

State of Oregon, Office of Emergency Management (OEM) has reviewed and accepted the updated Mitigation Plan (NHMP). The NHMP is now under review at the federal level with the Federal Emergency Management Agency (FEMA). Staff set up a meeting with state and local agencies and county Emergency Manager, Steve Freeland, to begin discussion about the next natural hazard planning effort, an update to the Community Wildfire Protection Plan (CWPP) that will be initiated later this year.

Eastern Oregon Economic Summit

Planning Director, Tamra Mabbott and Principal Planner, Daisy Goebel, helped with the economic tour on Thursday, June 20th, a part of the annual Eastern Oregon Economic Summit. The tour ended with a dinner in the middle of a Morrow County dryland wheat farm parcel owned by the Heideman Family, adjacent to a wind turbine. Over 200 people from across the state of Oregon attended. On Friday, the Economic Summit was attended by approximately 300 people. Panels featured many topics about rural Eastern Oregon. Director Mabbott moderated a panel on water.

Director Mabbott and Emergency Manager Steve Freeland are looking in to the new Oregon Department of Energy County Resiliency Grant Program.

Transportation Planning

Principal Planner Daisy Goebel is working on a grant application to update the county Transportation System Plan (TSP). The grant program is part of the Oregon Department of Transportation (ODOT) and Department of Land Conservation and Development (DLCD) Transportation Growth Management (TGM) Program. County has made minor amendments to the TSP but the last major update was in 2012. Eric Imes, Public Works Director, is helping to scope the update project.

All Morrow County transportation plans are on the Planning Department webpage here:

<https://www.co.morrow.or.us/planning/page/transportation-system-plan-0>

Efforts are underway to begin a new Interchange Area Management Plan (IAMP) project to study the capacity, safety, functionality of the Interstate 84 and Tower Road Intersection. Oregon Department of Transportation (ODOT) will be the lead agency. Landowners adjacent to the intersection and others who rely on that busy intersection for access to their land will be invited to participate. Anyone interested in the intersection or the planning effort please contact the Planning Department. ODOT is finalizing the Memorandum of Agreement with Morrow County which will be ready for signature soon.



Field trips Two planners were invited to a field trip to see major farm projects. On Monday, June 17th, Tamra Mabbott and Landon Jones toured the Beef Northwest feedlot. A very impressive facility. There was also a discussion with Beef NW employees about water quality. Both were also invited to meet staff at Threemile Canyon Farms Dairy facility to discuss plans for a new milk parlor. The tour highlighted the state of the art facility.

Special Recognition

The Rural Engagement and Vitality (REV) Center and Euvalcree were recognized for their community engagement work they did for the Morrow County Rural Transit Equity (RTE) Plan. Both were acknowledged for their work using demographics to understand community needs, for “meeting community members where they were,” for the survey development and analysis developed by faculty at Eastern Oregon University (EOU) and for consideration of adapting the materials for use in the forthcoming Morrow County Goal 1 Comprehensive Plan update. Morrow County Transit was also involved in the planning effort and has implemented many of the recommendations from the report. The award was for Most Outstanding Project – Small Jurisdiction: Achievement in Community Engagement Award. Well done EOU, REV and Euvalcree. It was wonderful to partner with these organizations. The final report is on the website here: <https://www.co.morrow.or.us/planning/page/rural-transportation-equity-morrow-county-2023>