

STAFF REPORT

Planning Department File No. 2019-09-014

CONDITIONAL USE APPLICATION FOR

Amendment to an Existing Conditional Use Permit in a Rural Service Center Zone

Planning Commission Meeting Date: November 19, 2019

1. **APPLICANT:** Joseph Alee
486 NW 9th Street
Ontario OR 97914
2. **PROPOSED ACTION:** Amendment to Conditional use permits 2018-05-002 & 2018-05-003 for the construction and operation of two additional commercial activities (truck repair shop/truck wash and restaurant) in a Rural Service Center zone.
3. **PROPERTY IDENTIFICATION:** Tax Lot 700, T15S, R45E, Sec. 04; Assessors Map 15S45E04; Malheur County Reference #14781.
4. **PROPERTY LOCATION AND DIRECTIONS:** The parcel is located at the intersection of I-84 and US Hwy 30 at Farewell Bend. Leaving the freeway to the north, the parcel is on the west side of US Hwy 30.
5. **ZONING:** C-RSC (Rural Service Center).
6. **PARCEL SIZE:** The parcel is 20.14 acres.
7. **PARCEL USE:** Currently has been approved for a convenience store/restaurant and a hotel. These building are currently under construction.
8. **SURROUNDING USE:** The property is adjacent to I-84 on the west and south, and C-RSC on the east and north.
9. **ACCESS:** Old Highway 30.
10. **SANITATION REQUIREMENTS:** At this time, the Applicant has not submitted a completed application to the Oregon Department of Environmental Quality (DEQ) (Exhibit 1). Also see Exhibit 2 for the application submitted and Exhibit 3 for a letter dated October 2 from the Applicant's engineer outlining the wastewater system.
11. **FIRE PROTECTION:** A May 11, 2018 letter from Huntington Fire and Medical Department indicates they will provide services to the new infrastructure if manpower is available (Exhibit 4).

12. NATURAL HAZARDS: No natural hazards identified.

13. ZONING HISTORY: Two conditional use permits were granted on May 24, 2018 for a hotel and convenience store. Two zoning permits were issued on May 31, 2018.

I. GENERAL CRITERIA TO EVALUATE SUITABILITY

In considering the suitability of proposed conditional uses, the planning commission shall base its decision upon the following criteria:

A. Comprehensive Plan Goals: Comprehensive plan goals and policies, as applicable.

PROPOSED FINDING: Proposal falls within the Rural Service Center zone and the designated uses and/or previous uses.

B. Specific Plans: Specific plan recommendations.

C. Developments and Viewpoints: Existing development and viewpoints of property owners in the surrounding area.

PROPOSED FINDING: Property is a rebuild and upgrade from historical use with better site controls. Property is across from the ODOT weigh station and I-84 offramp. New services include a 24 hour/day truck service and repair and a new IHOP restaurant open 24 hours per day. Operations are inside building enclosures.

D. Services and Utilities: Availability of services and utilities.

PROPOSED FINDING:

Roads: Current roads and services in use by same customer base. See letter from ODOT (Exhibit 5, 6, &7)

Fire & Police Protection: Both buildings are to be sprinkled and multiple hydrants will be provided across the property. Area is patrolled by Malheur County Sheriff's Office and Oregon State Police (see Exhibit 4).

Sewer & Water: Sewer service is using existing ponds and water is by groundwater well. See permit for water and operational letter from Anderson Perry (Exhibits 8 and 3).

Electrical & Telephone: Electrical power by Idaho Power Company and telephone service by Century Link. Both providers already onsite.

Solid Waste Disposal: Disposal of refuse by Ontario Sanitary Services. Lubricants to be recycled.

E. Effect: The effect of the proposed use on the stability of the community's social and economic characteristics.

PROPOSED FINDINGS: The facilities will employ approximately 25 employees per day over 3 shifts at both the truck service and IHOP restaurant. There is no anticipated

commercial traffic for the site. Passenger traffic will increase due to the restaurant. The new facilities are visual upgrades using earth tones from previously operated facilities. This proposal also provides services to the Farewell Bend area that have been lost for numerous years.

F. Fish and Wildlife: It does not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the fish and wildlife habitat protection plan for Malheur County

PROPOSED FINDINGS: No live water streams exist onsite. Disturbed soils will be protected by best management practices for erosion control including silt fence and wattles.

G. General Criteria:

- a. Increasing setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances.
- b. Landscaping improvement for the visual benefit of the subject site and for the improved appearance of the neighborhood and county.
- c. Location and size of driveway access points and right of way widening and improvement for present and future traffic circulation consistent with the adopted county road standards or the standards of the appropriate road district and the access management standards of the Malheur County transportation system plan.
- d. Visual screening of outdoor waste and storage areas.
- e. Control and focusing of outdoor lighting to avoid glare being directed beyond property limits.

II. MALHEUR COUNTY CODE 6-3F-5: PERFORMANCE STANDARDS

In all RSC zones the performance standards contained in section 6-3G-4 of this chapter shall apply to all nonresidential and all nonagricultural activities. (Ord. 86, 12-7-1993)

MCC 6-3G-4: PERFORMANCE STANDARDS

Each structure of use permitted or conditionally permitted in a commercial zone shall meet the following performance standards: (Ord. 86, 12-7-1993)

- A. Physical Appearance: With the exception of gasoline pumps, all operations other than pick-ups and deliveries shall be carried on within an enclosed building: provided, that new materials or equipment in operable condition may be stored in the open, such as a sales lot. Normal daily wastes may be stored in containers outside of a building when such containers are not readily visible from beyond the property line. The provisions of this subsection shall not be construed to prohibit the display of merchandise or vehicles for sale or rental, or the storage of automobiles, farm machinery, trailers, manufactured

dwellings or similar equipment in operable condition when in association with a permitted use. This required yard areas other than driveway openings shall be landscaped. (Ord. 147, 4-14-2004)

PROPOSED FINDING: Operations in both the IHOP restaurant and truck service shop will be conducted inside the building envelope. Daily waste will be kept in an enclosure and then taken to the landfill by Ontario Sanitary Service. Driveways and parking will be paved. Arid climate landscaping will be provided along highway frontage in landscaping area designated by the final engineered site plan (Exhibit 9).

- B. Hazard: No operation shall be established which fails to meet the state fire and electrical codes and any other applicable state or federal codes related to safety. This provision shall not be construed to prohibit the use of normal heating fuels, and other volatile materials when handled in accordance with applicable codes.

PROPOSED FINDING: Operations of both facilities will comply with the State Fire Marshal's requirements and local jurisdictions. Daily operations will meet federal and state safety requirements such as OSHA compliance. MSDS sheets will be available in each office with a written compliance program in place.

- C. Noise: No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

PROPOSED FINDING: No operation on site is anticipated which would increase off-site noise levels.

- D. Sewage And Liquid Waste: All operations shall comply with any applicable regulations of the county, state or federal agencies responsible for pollution control. NO wastes of a chemical, organic or radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers.

PROPOSED FINDING: Sewer will be piped to the sewer lagoons on the adjacent parcel owned by owner. Any chemical/petroleum wastes generated will be stored onsite only temporarily until transported to a licensed disposal facility.

- E. Smoke, Particulate Matter And Gases: No use shall be established which fails to meet the air quality regulations of the Oregon department of environmental quality pertaining to emissions of smoke, particulate matter, fugitive dust, gases and other air contaminants.

PROPOSED FINDING: No smoke or gases will be generated that require emissions permitting.

- F. Odor: The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odor. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious.

PROPOSED FINDING: No obnoxious gases or odors are to be generated by either the restaurant or the truck service center on site.

- G. Vibration: All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line.

PROPOSED FINDING: No vibratory equipment will be in operation onsite after construction. Use of vibratory rollers will be used in the construction phase, but should not resonate offsite and be noticeable to the human ear or touch.

- H. Glare And Heat: Any glare producing operations, such as welding arcs, shall be shielded so that they are not visible from the property line. Surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line.

PROPOSED FINDING: Almost all construction material will be non-reflective and non-glare other than windows and doors which could cause minor glare and reflection from vehicles lights and sun at certain times of the day.

- I. Dust: All surfaces used in the operation of the use shall be graveled or paved with a dust free surface. Gravel surfaces shall be watered down when conditions of use or weather cause dust to travel toward structures on adjacent properties.

PROPOSED FINDING: No dust should be generated during normal operations on paved surfaces or in building enclosures.

- J. Interpretation: Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments. Until such evidence or engineering data is supplied and proves to be convincing, the judgment of the planning director shall be the determining factor. (Ord. 86, 12-7-1993)

PROPOSED FINDING: The applicants have stated that they have a clear understanding of the standard requirements and adherence.

PROPOSED CONDITIONS OF APPROVAL

1. The conditional use permit granted by the County is valid for a period of two years

- from the date the permit becomes effective, which is 10 days after the notice of decision is sent provided there is no appeal.
2. An approved application with the Oregon Department of Environmental Quality, must be submitted and plan review must be completed prior to construction.
 3. All applicable building permit applications must be submitted, reviewed, and issued prior to construction.
 4. No occupancy of the building is allowed prior to issuance of the Certificate of Occupancy.

EXHIBITS

1. Email from Larry Brown – Oregon DEQ
2. Application for New WPCF Permit
3. Letter from Anderson Perry
4. Letter from Huntington Fire and Medical Department (5-11-2018)
5. ODOT State Highway Approach Application
6. Letter from ODOT (5-11-2018)
7. State Highway Approach Approval (6-17-2018)
8. Oregon Water Resources Proposed Final Order
9. Final Engineered Setback and Site Layout