

STAFF REPORT

Planning Department File No. 2020-08-016

**CONDITIONAL USE APPLICATION
FOR
Conditional Use Permit for Commercial Activity in a Rural Service Center Zone**

Planning Commission Meeting Date: September 24, 2020

- 1. OWNER OF RECORD:** **Robert & Cheryl Mitchell**
PO Box 65
McDermitt, NV 89421
- 2. APPLICANT:** Ashley Buckingham / Somewhere Out West LLC
9689 S US Hwy 95
McDermitt NV 89421
- 3. PROPOSED ACTION:** Conditional use approval for commercial activity in a Rural Service Center zone.
- 4. PROPERTY IDENTIFICATION:** Tax Lot 400, T41S, R43E, Sec. 18; Assessors Map 41S43E18; Malheur County Reference #12806.
- 5. PROPERTY LOCATION AND DIRECTIONS:** The property is located northwest of the intersection of Ion Hwy (S US Hwy 95) and McDermitt Rd in McDermitt, OR.
- 6. ZONING:** C-RSC (Rural Service Center).
- 7. PARCEL SIZE:** The parcel is 3.69 acres.
- 8. PARCEL USE:** Commercial.
- 9. SURROUNDING USE:** Exclusive Range Use to the north and the properties to the south are residential (zoned rural service center).
- 10. ACCESS:** Via S US Hwy 95.
- 11. SANITATION REQUIREMENTS:** The existing customer restrooms will be utilizing the existing private septic system. A DEQ sanitation permit will be required to assess the capacity of the proposed use.
- 12. FIRE PROTECTION:** No objections were reported by the McDermitt Fire District.
- 13. NATURAL HAZARDS:** There are no natural fire hazards.

14. ZONING HISTORY: Prior to 2000, the property consisted of a total of 8.67 acres and the 4.98 acres east of the Highway were segregated and formed a new tax lot.

I. MALHEUR COUNTY CODE 6-3F-3 (F): Commercial Activity in a Rural Service Center Zone

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: The proposal is for the permitting of a coffee shop to operate in the existing old building that had previously operated as a coffee shop. The proposal includes 4 indoor seats and bar seating. There are 2 separate bathrooms with outside entrance. The structures will not impact the surrounding neighborhood and is in keeping with the majority of the structures in the McDermitt area and will provide a marketplace for local artisans/makers.

- 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: All remodels will be in compliance with Oregon Building Code and all kitchen appliances will be operated in compliance with the licensing measures outlined by the Oregon Health Authority. No hazardous or noxious materials will be used or stored on the premises.

- 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: The proposed use will be conducted during normal business hours and noise levels will be kept to a minimal.

- 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: The proposal will use the existing septic system. A DEQ permit will be required to ensure that it fits the proposed capacity of the use.

- 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: Air quality should not be impacted.

- 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 objectionable odor will be created, other than the odor the items being prepared in the facility.

- 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: Vibration will not be created.

- 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: Neither glare nor heat producing operations will exist from the operation of the proposed coffee shop.

- 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: The area surrounding the building in all directions (about 40 yards) is covered with high quality gravel. There is also a 2 ft cement walkway from the bathrooms to front entry way.

- 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. A DEQ septic permit must be obtained to be able to use the existing septic system on site.
3. An operating license for the facility must be obtained from the Oregon Health Authority.

EXHIBITS

1. Letter from Fire Chief