

Before the Planning Commission

Planning Department File No. 2021-09-012

**CONDITIONAL USE APPLICATION
FOR
Commercial Activity in a Rural Service Center Zone**

Planning Commission Meeting Date: October 28, 2021

- 1. APPLICANT:** A4 Quality Property, LLC
14406 NE 7th Ave
Vancouver, WA 98685
- 2. PROPOSED ACTION:** Conditional Use for the installation of fueling station with four multi-product dispensers (MPD) and a 2-compartment 15,000-gallon underground storage tank in a Rural Service Center zone.
- 3. PROPERTY IDENTIFICATION:** Tax Lot 900, T15S, R45E, Sec. 04; Assessors Map 15S45E04; Malheur County Reference #19457.
- 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 29.47 acres.
- 7. PARCEL USE:** The property is currently vacant, with no improvements.
- 8. SURROUNDING USE:** The property is adjacent to I-84 on the west, and C-RSC on the east and south and some range land properties to the north
- 9. ACCESS:** US Highway 30.
- 10. SANITATION REQUIREMENTS:** No sewage or liquid waste will be generated at the fueling facility.
- 11. FIRE PROTECTION:** A September 28, 2021 letter from Huntington Fire Department indicates they will provide services to the new infrastructure if manpower is available (Exhibit 1).
- 12. NATURAL HAZARDS:** No natural hazards identified.

13. ZONING HISTORY: In 2018, the subject parcel was subject to a re-platting (Partition Plat #2018-08, Malheur County Recorded Instrument #2018-3035) of the Huntington Travel Plaza properties, known as tax lot 700 (Malheur County Ref#14781), tax lot 800 (Malheur County Ref#20761) and tax lot 900 (Malheur County Ref#19457). See exhibit #2.

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.

FINDING: Proposal falls within the Rural Service Center zone and the designated uses.

B. Specific Plans: Specific plan recommendations.

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

FINDINGS: Property is currently vacant and the proposed development will be an extension of the approved use on the adjacent properties, known as Huntington Travel Plaza.

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

FINDINGS:

Roads: Current roads and services in use by same customer base. See letter from ODOT (Exhibit 3)

Fire & Police Protection: Area is patrolled by Malheur County Sheriff's Office and Oregon State Police.

Sewer & Water: No sewage or liquid waste will be generated at the fueling facility. In the event of a spill, fuel will enter catch basins under the canopy which will flow to an oil/water separator prior to discharge. The catch basins, underground piping and oil/water separator will prevent a release of petroleum to the environment. Applicant is required to meet all Department of Environmental Quality permitting requirements.

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

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

FINDINGS: The proposed facility will provide a new card-lock facility to service trucks passing through Malheur County. This will have the potential of drawing more traffic

from the freeway and will have a positive economical impact on the truck plaza and therefore Malheur County. 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

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)

FINDINGS: Project involves installation of a 32' x 48' fueling canopy, 4 multi-product dispensers, concrete island and concrete drive slabs. A 15,000-gallon underground storage tank will be installed and topped with a concrete slab. Asphalt will be placed from the driveway to the canopy and 25 ft around the canopy.

- 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.

FINDINGS: No hazardous material will be used in the proposed project, though unleaded fuel will be stored in a vented 15,000-gallon underground storage tank with product piping to fueling dispensers. Fueling system will be installed in accordance to local, state and federal regulations.

- 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.

FINDINGS: 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.

FINDINGS: No sewage or liquid waste will be generated at the fueling facility. In the event of a spill, fuel will enter catch basins under the canopy which will flow to an oil/water separator prior to discharge. The catch basins, underground piping and oil/water separator will prevent a release of petroleum to the environment. Applicant is required to meet all Department of Environmental Quality permitting requirements.

- 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.

FINDINGS: 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.

FINDINGS: No obnoxious gases or odors are to be generated by the proposals 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.

FINDINGS: No vibratory equipment will be in operation onsite.

- 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.

FINDINGS: 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.

FINDINGS: 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)

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

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 application for State Highway Approach for the road connection to US Hwy 30, must be obtained from ODOT.
3. All applicable permit applications must be submitted, reviewed, and issued prior to construction.
4. No occupancy of any building is allowed prior to issuance of the Certificate of Occupancy.
5. Applicant is required to meet all Department of Environmental Quality permitting requirements, including but not limited to stormwater permitting.
6. Applicant is required to submit a letter from the irrigation/drainage district approving the drainage into the existing ditch.

CONCLUSION

Based upon the foregoing finding of fact, the Malheur County Planning Commission makes the following conclusion and decision:

Substantial evidence exists in the record to support the conclusion that the application meets the general and specific criteria established in the Malheur County Code and Oregon Revised Statutes for a non-farm dwelling and non-farm partition in an exclusive farm use zone.

ORDER

This application for a conditional use permit is approved.

APPEALS

The appellate body for appeals from the final decision of the Planning Commission is the County Court. To file an appeal an appellant must file a completed notice of appeal on a form prescribed by the Planning Department with a \$200.00 appeal fee with the Planning Department not later than 5:00pm on the tenth day following the mailing of written notice of the decision. Notice of appeals may not be received by fax or email. The notice must include a statement raising any issue relied upon for the appeal with sufficient specificity to afford the County Court an adequate opportunity to respond to and resolve each issue. All appeals from the Planning Commission's final decision shall be based on the record of the hearing made before the Commission. Therefore, no additional information or testimony not included in the record of the hearing before the Planning Commission may be brought before the appellate body. The appellant must pay for the transcription of the hearing appealed from and submit the transcript to the Planning Department within ten (10) days after the date of notice of appeal is filed or ten days after the hearing tape is mailed or given to the appellant, whichever is later.



Planning Commission Chair
Kathy Clarich

10-28-2021
Date