

**Before the Planning Commission**

**Planning Department File No. 2021-05-001**

**CONDITIONAL USE APPLICATION  
FOR  
Variance from Setback Requirements**

**Planning Commission Meeting Date: May 27, 2021**

- 1. OWNER OF RECORD:** Rural Road Assessment Dist. #4  
PO Box 248  
Juntura, OR 97911
- 2. APPLICANT:** Rural Road Assessment Dist. #4  
PO Box 248  
Juntura, OR 97911
- 3. PROPOSED ACTION:** Applicants request variance approval to setback requirements on the southwesterly property line which abuts 5<sup>th</sup> Street.
- 4. PROPERTY IDENTIFICATION:** Tax Lot 1700, T21, R38E, Sec. 17DC, Map 21S38E17DC, Malheur County Reference Number 17004. Aka 5833 4<sup>th</sup> Street, Juntura, OR 97911.
- 5. PROPERTY LOCATION AND DIRECTIONS:** From Vale, head west on Hwy 20 for 55 miles. Property is on the left after Edith Street.
- 6. ZONING:** Rural Service Center (C-RSC).
- 7. PARCEL SIZE:** 1.26 acres.
- 8. PARCEL USE:** The parcel has an existing shop and office.
- 9. SURROUNDING USE:** The surrounding area is rangeland and rural service center.
- 10. ACCESS:** Off Edith Street.
- 11. SANITATION REQUIREMENTS:** No sanitation is required.
- 12. FIRE PROTECTION:** The proposed shop is not within a fire district.
- 13. NATURAL HAZARDS:** None known.

14. **WATER RIGHTS:** N/A.

15. **ZONING HISTORY:** A new machinery storage shed was approved in 2015. No other known zoning history.

## **I. VARIANCE CRITERIA**

**MCC 6-8-2: CIRCUMSTANCES FOR GRANTING VARIANCES:** A variance may be granted only in the event that the circumstances in subsections A through D below have clearly been met.

- A. Exceptional or extraordinary circumstances apply to the property that do not generally apply to other properties in the same zone or vicinity, resulting from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Title have had no control; or

**Finding: The parcel is exceptional in that the road ROW is so large in this very rural unincorporated town of Juntura. Typically, the road width in these areas are 60 feet wide. When the town of Juntura was platted, they were mapped at 80 foot wide. The applicant is asking for a variance to build a shop within setback, but not within the 80 foot right of way, and would meet the criteria as if the right of way was 60 feet.**

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess; and

**Finding: As you can see in Exhibit 1, the ODOT complex already extends into the ROW setback. The applicant's proposal would not extend any farther in the ROW than ODOT.**

- C. The variance would not be materially detrimental to the purpose of this Title, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives on any County plan or policy; and

**Finding: Juntura is an extremely rural area. An 80-foot ROW is unreasonable to the current and future uses in Juntura. Granting this variance will not be detrimental to any property in Juntura.**

- D. The variance requested is the minimum variance that would alleviate the hardship.

**Finding: The applicant is asking for a variance which would accommodate a 60-foot ROW, which is typical in Rural Service Centers within the County.**

## **II. APPLICANT'S FINDINGS OF FACT**

The Applicant has submitted additional proposed findings of fact in the conditional use application.

### **III. STAFF RECOMMENDATION:**

The Malheur County Planning Department finds that the Applicant has met all applicable zoning rules and requirements and respectfully recommends that the Planning Commission approve the variance request 2021-05-001.

### **IV. CONDITIONS OF APPROVAL**

1. No construction can occur within the current right of way.

### **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 affording a variance from setback requirements in a rural service center 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.

  
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Planning Commission Chair  
Kathy Clarich

  
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Date