

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, April 27, 2023 6:30PM

Justice Center Media Room, Pendleton, Oregon

To participate in the hearing please submit comments before 4PM, April 27th to planning@umatillacounty.gov or contact the Planning Department at 541-278-6252

Planning Commission

Suni Danforth, Chair
Don Wysocki, Vice-Chair
Tammie Williams
Tami Green

Sam Tucker
John Standley
Jodi Hinsley
Emery Gentry

Planning Staff

Bob Waldher, Planning Director
Megan Davchevski, Planning Manager
Carol Johnson, Senior Planner
Tierney Cimmiyotti, Planner II/GIS
Bailey Dazo, Administrative Assistant

1. Call to Order

2. New Hearing

LAND DIVISION REQUEST #LD-2N-208-23: JEREMY PARKER, APPLICANT/ JEREMY PARKER & DANIELLE SACKETT, OWNERS. The applicant requests to replat Lots 6 and 7, Block 2 of Stewart's Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant's proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

3. New Hearing

LAND USE DECISION REQUEST #LUD-293-23: DAN & TONJA PEARSON, APPLICANT/ OWNER. The applicant requests to convert an existing temporary hardship dwelling to a farm-relative dwelling. The subject property is zoned Exclusive Farm Use. The property is located at 79089 S Cold Springs Road, Pendleton, OR, in Township 4N, Range 31E; Tax Lot 2201. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.059(K)(7) which codified OAR 660-033-0130(9)(a).

4. Minutes Approval; January 26, 2023 meeting

5. Other Business

6. Adjournment

COMMUNITY &
BUSINESS
DEVELOPMENT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND MAPPING

RURAL ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

PUBLIC TRANSIT

MEMO

TO: Umatilla County Planning Commission
FROM: Megan Davchevski, Planning Division Manager
DATE: April 20, 2023

RE: April 27, 2023 Planning Commission Hearing
Type III (Replat) Land Division, #LD-2N-208-23
Map 2N 32 34CA, Tax Lots 1800 and 1900

Request

The request is to Replat Lots 6 and 7, Block 2, of Stewart's Addition to vacate the shared property line for a home site. Resulting Lot 1 of the Sackett-Parker Replat would be 1.01 acres in size.

Location

The subject property is located in Stewart's Addition Subdivision, south of Pendleton, just north-west of McKay Reservoir and Dam.

Notice

Notice of the applicant's request and the public hearing was mailed on April 7, 2023 to the owners of properties located within 250-feet of the perimeter of Lots 6 and 7. Notice was also published in the East Oregonian on April 15, 2023 notifying the public of the applicants request before the Planning Commission on April 27, 2023.

Criteria of Approval

The Criteria of Approval are found in the Umatilla County Development Code Section 152.697(C), Type III Land Divisions. Standards for reviewing a Replat generally consist of complying with development standards and survey plat requirements.

Conclusion

The Planning Commission is tasked with determining if the application satisfies all of the criteria of approval based on the facts in the record. The proposed Conditions of Approval address the survey and recording requirements with final approval accomplished through the recording of the final survey plat.

Decision

The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING – APRIL 27, 2023
TYPE III LAND DIVISION, REPLAT SUBDIVISION REQUEST #LD-2N-208-23
JEREMY PARKER, APPLICANT
JEREMY PARKER & DANIELLE SACKET, OWNERS
PACKET CONTENT LIST**

- | | | |
|----|---------------------------------------|-----------|
| 1. | Staff Memo to Planning Commission | Pages 1-2 |
| 2. | Vicinity and Notice Map | Page 3 |
| 3. | Preliminary Subdivision Replat Survey | Pages 4-5 |
| 4. | Staff Report & Preliminary Findings | Pages 6-9 |

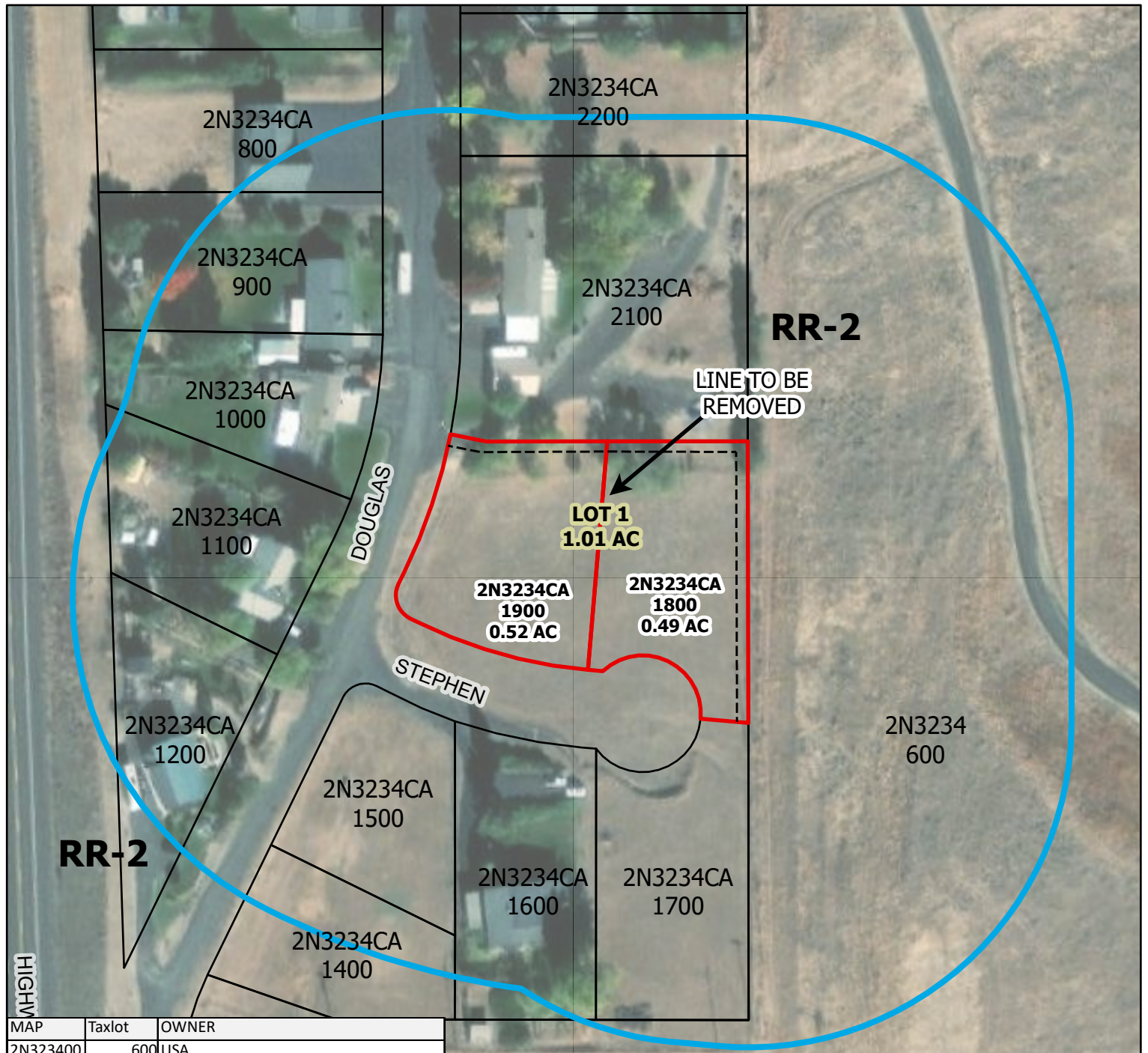
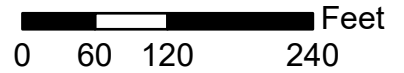
APPLICANT: JEREMY PARKER

OWNERS: JEREMY PARKER & DANIELLE SACKETT

#LD-2N-208-23

MAP: 2N 32 34CA TAX LOTS: 1800 & 1900

Notified Property Owners with 250 feet of Subject Parcel



MAP	Taxlot	OWNER
2N323400	600	USA
2N3234CA	800	OCCUPANT
2N3234CA	900	FISHER CURTIS J & FISHER TEDDI JO
2N3234CA	1000	CURTISS THOMAS & VIVIAN J
2N3234CA	1100	RITTENBACH RUDY R & PATRICIA
2N3234CA	1200	ADAIR SHAWN S & LINDSEY D
2N3234CA	1400	LYDA RICHARD & LAURIE
2N3234CA	1500	LYDA RICHARD & LAURIE
2N3234CA	1600	NORTON DAVID T & KATY A
2N3234CA	1700	PARKER JEREMY S & SACKETT DANIELLE
2N3234CA	1800	PARKER JEREMY S & SACKETT DANIELLE
2N3234CA	1900	PARKER JEREMY S & SACKETT DANIELLE
2N3234CA	2100	DERRICK DONALD R & GAYLE J (TRS)
2N3234CA	2200	DERRICK DONALD R & GAYLE J (TRS)

Legend

- Existing Easements
- Property Boundary
- ▭ Subject Lots
- 250 ft Notice Boundary

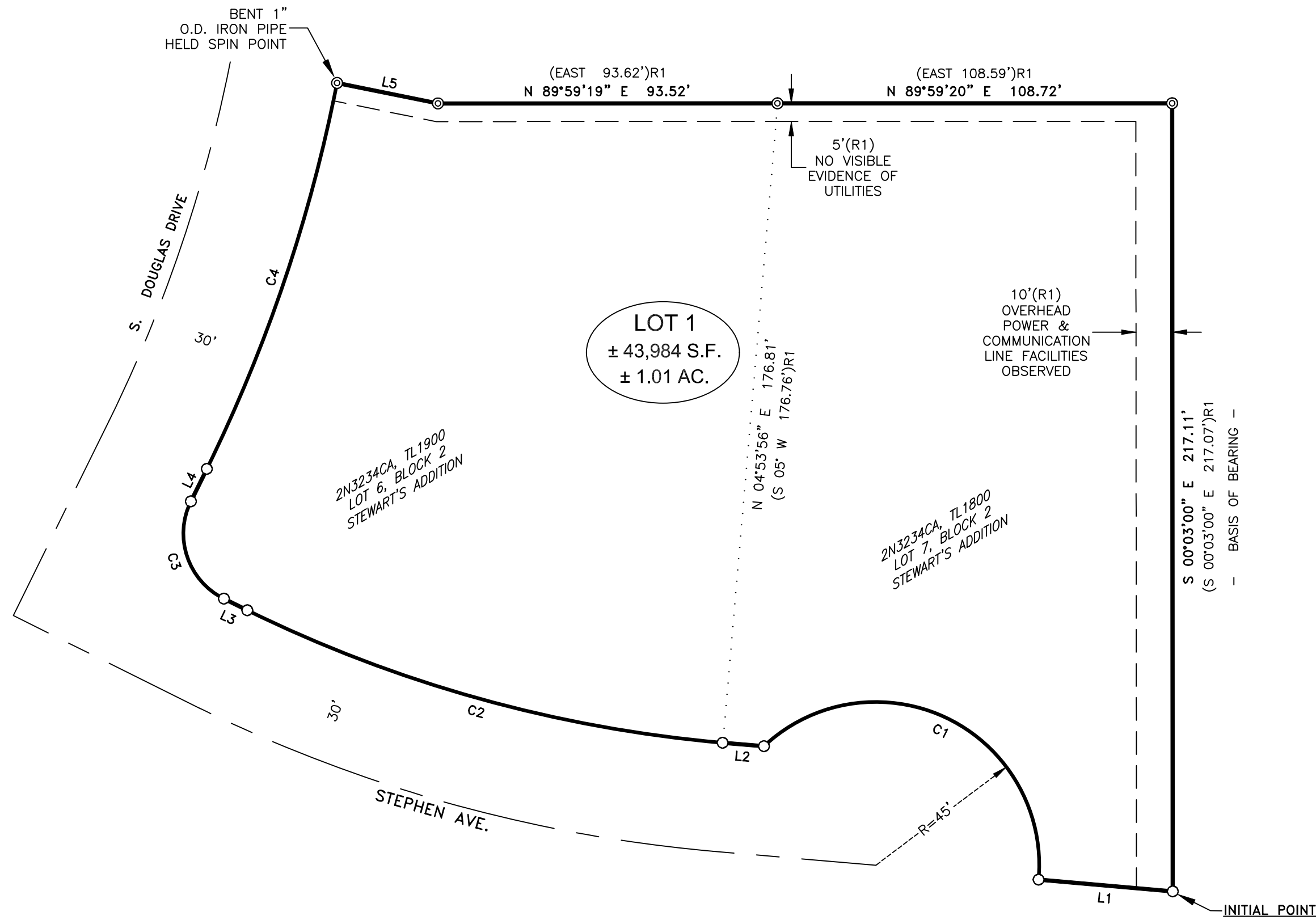


Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department Date: 4/3/2023

TENTATIVE PLAT

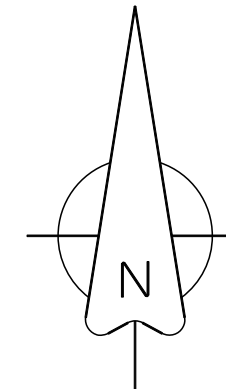
LEGEND

- FOUND 5/8" REBAR AS REPORTED IN THE PLAT OF STEWART'S ADDITION (R1).
- ⊙ FOUND 1/2" REBAR AS REPORTED IN THE PLAT OF STEWART'S ADDITION (R1), UNLESS NOTED OTHERWISE.
- REPLAT BOUNDARY
- LOT LINE BEING REMOVED BY THIS PLAT
- - - - RECORD UTILITY EASEMENT PER STEWART'S ADDITION (R1).
- ()R1 RECORD DATA PER STEWART'S ADDITION (R1).
- S.F. SQUARE FEET
- AC. ACRES



SACKETT-PARKER REPLAT

LOCATED IN THE NE1/4, SW1/4 OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OR



SURVEY NARRATIVE

THIS REPLAT HAS BEEN PREPARED AT THE REQUEST OF JEREMY PARKER. THE PURPOSE IS TO REMOVE THE LOT LINE BETWEEN LOTS 6 AND 7, BLOCK 2 OF STEWART'S ADDITION.

ALL RECORD MONUMENTATION FOR AFOREMENTIONED LOTS 6 AND 7 HAS BEEN FOUND AND HELD AS SHOWN HEREON

THIS SURVEY WAS PERFORMED USING TWO TOPCON HIPER LITE+ GNSS UNITS OPERATED USING RTK METHODS, AND A TOPCON GT-603 ROBOTIC TOTAL STATION. THE BASIS OF BEARING IS THE THE EAST LINE OF LOT 7, BLOCK 2, PER STEWART'S ADDITION (R1). DISTANCES ARE GROUND, INTERNATIONAL FEET.

TENTATIVE PLAT NOTES

- 1) NO STRUCTURES OR BUILDINGS EXIST ON THIS PROPERTY.
- 2) NO IDENTIFIABLE NATURAL FEATURES ARE PRESENT.
- 3) EXISTING UTILITY EASEMENTS AND ASSOCIATED UTILITY FACILITIES HAVE BEEN IDENTIFIED HEREON. UTILITIES REPORTED ARE BASED UPON VISIBLE INSPECTION ONLY. THIS SURVEY DOES NOT IDENTIFY THE LOCATION OF UNDERGROUND UTILITY LOCATIONS. THERE ARE NO IRRIGATION FACILITIES IN THIS AREA.
- 4) NO DRIVEWAYS ARE CURRENTLY PRESENT.
- 5) EXISTING ROAD RIGHTS OF WAY ARE IDENTIFIED HEREON. S. DOUGLAS DRIVE AND STEPHEN AVENUE ARE OF GRAVEL CONSTRUCTION AND NOT CONSTRUCTED TO FULL WIDTH.
- 6) THERE WERE NO OTHER RESTRICTIVE FEATURES IDENTIFIED DURING THE COARSE OF THIS SURVEY.

RECORDS OF REFERENCE

R1: STEWART'S ADDITION, BOOK 8, PAGE 36, TOWN PLATS, UMATILLA COUNTY, OREGON.

OFFICE OF COUNTY RECORDS

LINE	BEARING	DISTANCE
L1	S 85°00'13" E	37.11'
L2	N 85°11'37" W	11.43'
L3	N 63°33'24" W	7.20'
L4	S 26°10'03" W	9.97'
L5	N 78°33'52" W	28.35'

LINE	BEARING	DISTANCE
L1	S 85° E	37.29'
L2	S 85° E	11.46'
L3	S 63°50'40" E	7.20'
L4	S 26°09'20" W	10.00'
L5	S 78°49'10" E	28.48'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	45.00'	108.60'	84.10'	N 64°05'53" W	138°16'13"
C2	370.00'	136.72'	135.94'	S 74°25'14" E	21°10'16"
C3	20.00'	31.44'	28.30'	N 18°45'47" W	90°03'46"
C4	430.00'	112.52'	112.20'	S 18°39'13" W	14°59'34"

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	45.00'	108.53'	84.07'	S 64°05'40" E
C2	370.00'	136.62'	135.84'	S 74°25'20" E
C3	20.00'	31.42'	28.28'	S 18°50'40" E
C4	430.00'	112.40'	112.08'	N 18°40'00" E

I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL

MATTHEW PATRICK KENNY
89374PLS

REGISTERED
PROFESSIONAL
LAND SURVEYOR

FOR REVIEW

OREGON
JAN 12, 2016
MATTHEW PATRICK KENNY
89374PLS

RENEWS: 6-30-23



P.O. BOX 447, HEPPNER, OR 97836
541-379-0242
www.kennylandsurveying.com

REPLAT OF LOTS 6 & 7, BLOCK 2, STEWART'S ADDITION
LOCATED IN THE NE 1/4, SW 1/4 SECTION 34,
T.2N. R.32E., W.M., UMATILLA COUNTY, OREGON.

CLIENT: **JEREMY PARKER**

PROJECT: 23-05 | DR: MPK | CH: MPK | DATE: APRIL 3, 2023 | SHEET 1 OF 2

RECEIVED BY
Umatilla County Surveyor

Date: _____
Rec'd by: _____
No.: _____

TENTATIVE PLAT

SACKETT-PARKER REPLAT

LOCATED IN THE NE1/4, SW1/4 OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OR

OWNER'S DECLARATION

WE, JEREMY S. PARKER AND DANIELLE L. SACKETT, NOT AS TENANTS IN COMMON, BUT WITH THE RIGHT OF SURVIVORSHIP, OWNERS OF THE LAND AS DESCRIBED IN THE LEGAL DESCRIPTION HEREON, DO HEREBY ACKNOWLEDGE THAT WE HAVE CAUSED THIS PLAT TO BE PREPARED AND THE PROPERTY REPLATTED AS SHOWN HEREON AND IN ACCORDANCE WITH THE PROVISIONS OF ORS CHAPTER 92, AS REVISED, AND THE DEVELOPMENT CODE OF UMATILLA COUNTY, OREGON.

JEREMY S. PARKER DATE

DANIELLE L. SACKETT DATE

STATE OF _____

COUNTY OF _____

ON THE _____ DAY OF _____, 2023, THE ABOVE NAMED INDIVIDUALS APPEARED PERSONALLY BEFORE ME AND IS KNOWN TO ME TO BE THE IDENTICAL INDIVIDUALS WHO EXECUTED THE OWNER'S DECLARATION AND ACKNOWLEDGED THAT THEY DID SO FREELY AND VOLUNTARILY.

NOTARY PUBLIC FOR THE STATE OF OREGON

PRINTED NAME: _____

COMMISSION NUMBER: _____

MY COMMISSION EXPIRES: _____

OFFICE OF COUNTY RECORDS

Empty box for Office of County Records stamp.

SURVEYOR'S CERTIFICATE

I, MATTHEW PATRICK KENNY, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS THE LANDS BEING SUBDIVIDED AS SHOWN HEREON IN ACCORDANCE WITH ORS CHAPTER 92, AS REVISED, AND THE UMATILLA COUNTY DEVELOPMENT CODE. I FURTHER CERTIFY THAT THE INITIAL POINT HAS BEEN MARKED AND REFERENCED IN ACCORDANCE WITH ORS 92.060.

MATTHEW P. KENNY, PLS DATE
CERTIFICATE NO. 89374

LEGAL DESCRIPTION

INSTRUMENT NUMBER 2023-XXXXXXX, UMATILLA COUNTY OFFICE OF RECORDS

LOTS 6 AND 7, BLOCK 2, STEWART'S ADDITION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON.

SUBJECT TO:

WATER RIGHTS, CLAIMS TO WATER OR TITLE TO WATER, WHETHER OR NOT SUCH RIGHTS ARE A MATTER OF PUBLIC RECORD.

EASEMENTS AS SHOWN ON THE PLAT OF STEWART'S ADDITION, RECORDED: MAY 4, 1961, BOOK 8, PAGE 36, PLAT RECORDS.

COVENANTS, CONDITIONS AND RESTRICTIONS, INCLUDING THE TERMS AND PROVISIONS THEREOF, CONTAINED IN PLAT AND DEDICATION, RECORDED: MAY 4, 1961, BOOK 8, PAGE 36, PLAT RECORDS.



I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL

MATTHEW PATRICK KENNY
89374PLS

APPROVALS

I HEREBY CERTIFY THAT I APPROVE THIS SUBDIVISION PLAT IN ACCORDANCE WITH ORS CHAPTER 92 AND THE UMATILLA COUNTY SUBDIVISION ORDINANCE ON THIS

____ DAY OF _____, 2023.

UMATILLA COUNTY SURVEYOR

THIS SUBDIVISION PLAT IS HEREBY APPROVED ON THIS

____ DAY OF _____, 2023.

UMATILLA COUNTY PLANNING DIRECTOR

THIS SUBDIVISION PLAT IS HEREBY APPROVED ON THIS

____ DAY OF _____, 2023.

UMATILLA COUNTY ASSESSOR

UMATILLA COUNTY TAX COLLECTOR

UMATILLA COUNTY COMMISSIONERS
THE ACCOMPANYING PLAT IS APPROVED FOR FILING AND RECORDING IN THE RECORD OF PLATS OF UMATILLA COUNTY, OREGON.

THIS ____ DAY OF _____, 2023.

CHAIRPERSON

COMMISSIONER

COMMISSIONER



P.O. BOX 447, HEPPNER, OR 97836
541-379-0242
www.kennylandsurveying.com

REPLAT OF LOTS 6 & 7, BLOCK 2, STEWART'S ADDITION
LOCATED IN THE NE 1/4, SW 1/4 SECTION 34,
T.2N. R.32E., W.M., UMATILLA COUNTY, OREGON.

CLIENT: **JEREMY PARKER**

PROJECT: 23-05 | DR: MPK | CH: MPK | DATE: APRIL 3, 2023 | SHEET 2 OF 2

RECEIVED BY
Umatilla County Surveyor
Date: _____
Rec'd By: _____
No.: _____

**UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
PARKER REPLAT, #LD-2N-208-23
A Replat of Lots 6 and 7, Block 2
of STEWART'S ADDITION,
ASSESSORS MAP #2N 32 34CA, TAX LOTS #1800 & 1900**

1. **APPLICANTS:** Jeremy Parker, 70827 SW Douglas Driver, Pendleton, OR 97801
2. **OWNERSHIP:** Jeremy Parker and Danielle Sackett, 70827 SW Douglas Driver, Pendleton, OR 97801
3. **PROPERTY LOCATION:** The subject property is located in Stewart's Addition Subdivision, south of Pendleton, just north-west of McKay Reservoir and Dam.
4. **REQUEST:** The request is to Replat Lots 6 and 7, Block 2, of Stewart's Addition to vacate the shared property line for a home site.
5. **EXISTING ACREAGE:** Lot 6 (Tax Lot #1900) = 0.49 acres
Lot 7 (Tax Lot #1800) = 0.53 acres
6. **RESULTING ACREAGE:** Lot 1 = 1.01 acres
7. **COMPREHENSIVE PLAN:** Rural Residential
8. **PROPERTY ZONING:** Rural Residential (RR-2), two-acre minimum parcel size
9. **ACCESS:** Access to the subject properties is provided from Stephen Avenue, a platted public road. The applicant provided a copy of the approved Road Approach Permit from County Public Works, AP-23-011.
10. **PROPERTY EASEMENTS:** There are two easements that were created with Stewart's Addition subdivision: one 5-foot wide utility easement located along the north lot line and one 10-foot wide utility easement along the east lot line of Lot 7 (proposed Lot 1).
11. **EXISTING LAND USE:** Both Lots 6 and 7 are currently undeveloped. The applicant provides the reasoning for the replat request is to establish a home site.
12. **UTILITIES:** The area is served by Pacific Power and Century Link. Trash service is through Pendleton Sanitary.
13. **WATER/SEWER:** The subject properties are not located within an irrigation district. The applicant stated that neither property contains groundwater rights. A septic system and well will be required to service the dwelling.
14. **WETLAND RESOURCES:** National Wetlands Inventory Mapping shows there are no

wetlands known to occur on the subject property.

15. **PROPERTY OWNERS & AGENCIES NOTIFIED:** April 7, 2023
16. **PLANNING COMMISSION HEARING DATE:** April 27, 2023
17. **AGENCIES NOTIFIED:** Umatilla County Environmental Health, Umatilla County Assessor, Umatilla County GIS, Pacific Power Co., Pendleton Sanitary, Pendleton Fire District, Oregon Water Resources and Umatilla County Surveyor.
18. **COMMENTS:** None to date.
19. **STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE:**
The criteria for approval contained in Section 152.697(C), Type III Land Divisions, are provided in underlined text. The evaluation responses follow in standard text.

- (1) Complies with applicable elements of the Comprehensive Plan;
- (2) Complies with applicable provisions listed in the zoning regulations of the Umatilla County Development Code Chapter; Umatilla County's state-acknowledged Comprehensive Plan designates and zones the subject property and surrounding properties as Rural Residential (RR-2). Stewart's Addition subdivision was platted prior to the current minimum lot size in the RR-2 zone of two acres. The current lots are each under two acres and the resulting re-platted lot would also be non-conforming, which is consistent with the non-conforming section of the Umatilla County Development Code.

Additionally, the applicant is required to sign and record for future financial participation in the upgrading of Stephens Avenue, a platted public street. The Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property and does not operate as a personal contract of the owner. Therefore, by the Board of Commissioners and the property owner signing the ICA agreement fulfills the County Development Code standard for an improvement agreement for the Type III Land Division.

The Planning Commission finds and concludes the precedent condition of approval requiring an ICA for Stephens Avenue be recorded is imposed. This criterion is pending.

- (3) Conforms and fits into the existing development scheme in the area, including logical extension of existing roads and public facilities within and adjoining the site;
The subject property fits the existing development scheme of the Stewart's Addition subdivision. The applicant plans to conform to the Codes Covenants and Restrictions of Stewart's Addition. Access to the re-platted lot will continue to be from Stephens Avenue. The applicant has provided a copy of the approved Road Approach Permit from County Public Works, AP-23-011. The Planning Commission finds and concludes this criterion is satisfied.

(4) Complies with the standards and criteria of Section 152.667 (Forest/Multiple use Areas), if applicable due to the size, scope, and/or location of the request. The subject property is located in the RR-2 zone. Therefore, the standards found in Section 152.667 for Forest/Multiple Use areas are not applicable.

(D) Decision on a tentative replat plan. The findings and conclusions of the Planning Commission shall include two copies of the tentative plan upon which the decision is noted and any conditions described. One copy shall be returned to the applicant, while the other is retained by the Planning Department. Approval by the Planning Commission shall be final upon signing of the findings, and stands as the County's official action unless appealed. Approval of the tentative plan shall not constitute acceptance of the final replat for recording. However, such approval shall be binding upon the County for purposes of preparation of the replat, and the county may require only such changes in the replat as are necessary for compliance with the terms of its approval of the tentative plan. This criterion is pending.

DECISION: APPROVED

BASED UPON THE ABOVE STATED FINDINGS AND CONCLUSIONS, TYPE III LAND DIVISION REQUEST #LD-2N-208-23 IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

The following precedent conditions must be fulfilled prior to final approval of this request.

1. Pay all notice fees as invoiced by Planning.
2. Sign and record an Irrevocable Consent Agreement for future financial participation in improvements to Stephens Avenue. *Document provided by Planning.*
3. Pay and possibly prepay property taxes to the Umatilla County Tax Department.
4. Submit a Subdivision Replat complying with State and County regulations. The survey shall show all easements, road names and include the Replat name, *Sackett-Parker Replat.*

The following subsequent condition must be fulfilled for final approval of the Replat.

1. Record the Subdivision Replat.

Umatilla County Planning Commission
Preliminary Findings and Conclusions,
Parker Replat, Type III Land Division, #LD-2N-208-23

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 20____

Suni Danforth, *Planning Commission Chair*

Mailed _____ day of _____, 20____

COMMUNITY &
BUSINESS
DEVELOPMENT

LAND USE
PLANNING,
ZONING AND
PERMITTING

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ENVIRONMENT

PUBLIC TRANSIT

MEMO

TO: Umatilla County Planning Commission
FROM: Megan Davchevski, Planning Division Manager
DATE: April 20, 2023

RE: April 27, 2023 Planning Commission Hearing
Land Use Decision Request LUD-293-23

Request

The applicant is requesting approval to convert an existing temporary hardship dwelling to a farm relative dwelling. The property contains an existing single-family dwelling (primary farm dwelling), a 2001 Marlette manufactured home (temporary hardship dwelling), a 3,100 square foot barn and several outbuildings. The applicant, Dan Pearson, is requesting that his son, Tyler Pearson, live in the previously approved temporary hardship dwelling (2001 Marlette) to assist with operating the equine boarding and training facility.

The temporary hardship home was approved in the year 2000. At that time, the property was owned by Monty Hixon (applicant's step-father) and the hardship home was approved for Mr. Hixon's parents, George and Evelyn Hixson who required care provided by Monty.

Background Information

In 2017, Dan and Tonja Pearson purchased the property from Monty Hixson, Dan's step-father, and began living in the primary dwelling while providing care to Evelyn Hixson. Evelyn continued to live in the hardship dwelling until late 2021. Planning was contacted on November 10, 2021 by Dan, who stated that Evelyn would soon need to be moved to assisted living. Planning Staff informed Dan that the temporary hardship home would need to be removed once Evelyn no longer lived in the home, in accordance with the original CUP approval granted in the year 2000.

On December 28, 2021, Dan Pearson contacted Planning Director Robert Waldher and requested information on how to keep the hardship home on the property. Mr. Waldher expressed concerns regarding whether or not there was a commercial farming operation on the property. Since then, Mr. Pearson and his representatives have communicated many times with Planning Staff. Specific concerns of Planning Staff were if a commercial farming operation occurred on the 27.26-acre property, whether or not the farm operator and farm relative spent a majority of their working hours on the commercial farm operation, and whether or not the existing farm operation warranted additional farm help to the level of requiring a farm relative dwelling.

County Planning received the land use decision application from Mr. Pearson on December 30, 2022. Upon request from staff, Mr. Pearson provided additional information and 2021 tax documents on January 11, 2023. The application was processed and administratively

Memo

Planning Commission Public Hearing – April 27, 2023

Land Use Decision LUD-293-23

and the preliminary findings were mailed for a 21-day comment period on January 30, 2023. No comments were received.

On February 17, 2023 Planning accepted a request for a public hearing from the applicant, Dan Pearson. In the request for a public hearing, the applicant provided that he intends to demonstrate at the public hearing that he is operating a commercial farming operation. Applicant also stated the belief that the County is not required to apply the \$40,000 income requirement as a safe harbor for a relative farm help dwelling. Instead, applicant believes the requirement is to demonstrate that there is an “existing farm operation”. Additional documentation regarding the commercial intensity of the farm operation was not included in the request for a public hearing.

On April 14, 2023 the applicant provided four letters to be included in the record and Planning Commission Packets. The letters were from: Pake and Bailey Sorey, Tom and Wendy Sorey, Kelsy and Kristan Garton, and one unknown writer.

Criteria of Approval

The criteria of approval are found in Umatilla County Development Code (UCDC) Section 152.059(K)(7) which codifies Oregon Administrative Rule (OAR) 660-033-0130(9)(a).

During administrative review, Planning Staff found criteria (7)(a) was not met:

(7)(a) A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. A “relative” means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse and is subject to the following criteria:

Commercial farming operation is not defined in Oregon Administrative Rule, Revised Statute or in the County’s Development Code. Therefore, Staff used a combination of Land Use Board of Appeal (LUBA) “safe harbors” for determining if a farm operation qualifies as a “commercial” farm operation. The “safe harbor” used by Staff in the Preliminary Findings of Fact was: the farm operator must devote a majority of his or her working hours to operating a farm on the subject property, *and* that the farm operation meets or exceeds the income threshold to qualify for a primary farm dwelling.

Conclusion

The Planning Commission is tasked with determining if the application satisfies all of the criteria of approval based on the facts in the record. The Planning Commission may agree with Planning Staff’s “safe harbor” determination or may determine a different method for determining how a farm operation qualifies as a “commercial” farm operation.

The process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed. If approved, a set of Precedent and Subsequent Conditions of approval must be imposed. Staff have identified the appropriate conditions of approval in the Preliminary Findings of Fact in the case of an approval.

Memo

Planning Commission Public Hearing – April 27, 2023

Land Use Decision LUD-293-23

PLANNING COMMISSION DECISION OPTIONS

Motion for Approval with Additional Findings

I, Commissioner _____, make a motion to approve the Pearson Land Use Decision, #LUD-293-23, with the following additional Findings of Fact: _____.

Motion for Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to deny of the Pearson Land Use Decision, #LUD-293-23, based on the foregoing Findings of Fact and Conclusions of Law.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING – APRIL 27, 2023
LAND USE DECISION REQUEST #LUD-293-23
DAN & TONJA PEARSON, APPLICANTS / OWNERS
PACKET CONTENT LIST**

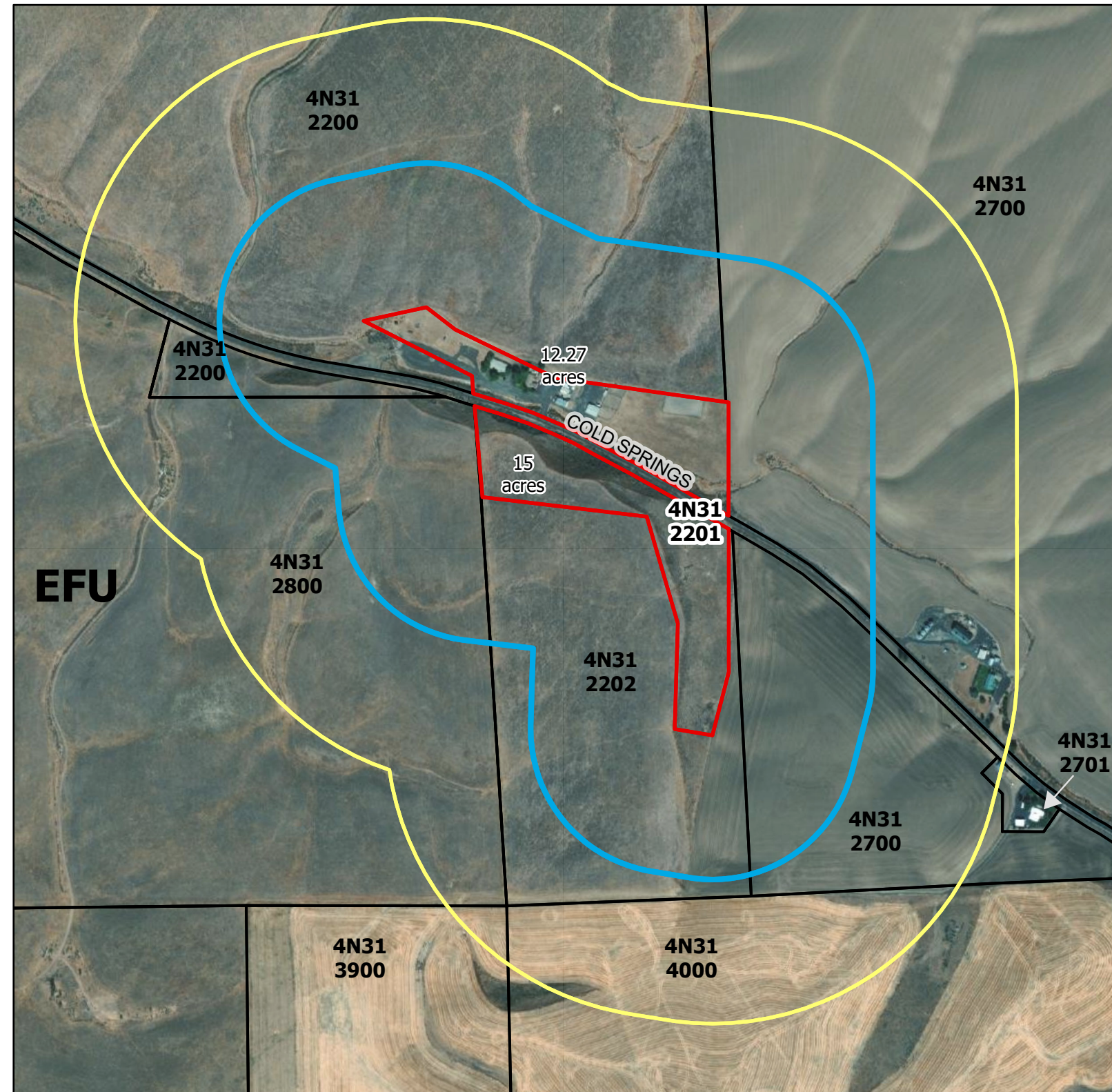
1.	Staff Memo to Planning Commission	Pages 1-3
2.	Vicinity and Notice Map	Page 4
3.	Soil Map	Page 6
4.	Staff Report & Preliminary Findings	Pages 7-16
5.	Emails with Applicant & Representatives <i>Emails dated December 28, 2021, May 11, 2022 and August 29, 2022</i>	Pages 18-22
6.	Temporary Hardship Dwelling Conditional Use Permit Approval	Pages - 24-31
7.	Images of Existing Temporary Hardship Dwelling <i>Obtained via Google Earth by Planning Staff</i>	Pages 33-36
8.	Application Submitted December 30, 2022	Pages 38-60
9.	Images of Existing Temporary Hardship Dwelling <i>Provided by Applicant</i>	Pages 61-62
10.	Staff Request for Additional Information & Applicant Response Emails dated January 6, 2023 and January 11, 2023	Pages 64-65
11.	Staff Request for Additional Information & Applicant Response Emails dated January 12, 2023 and January 13, 2023	Pages 66-67
12.	Redacted IRS Forms (Schedule F and Schedule SE) <i>Note: Forms redacted by Applicant</i>	Pages 69-70
13.	Request for Public Hearing	Pages 72-77
14.	Letters Submitted by Applicant	Pages 79-85

APPLICANT: DAN PEARSON
OWNER: DAN & TONJA PEARSON
MAP: 4N 31 TAX LOT: 2201 #LUD-293-23

Notice boundary extended to 1500 ft per UCDC 152.770(B)



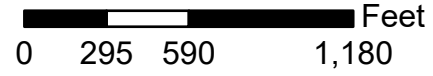
Notified Property Owners with 750 feet of Subject Parcel



Legend

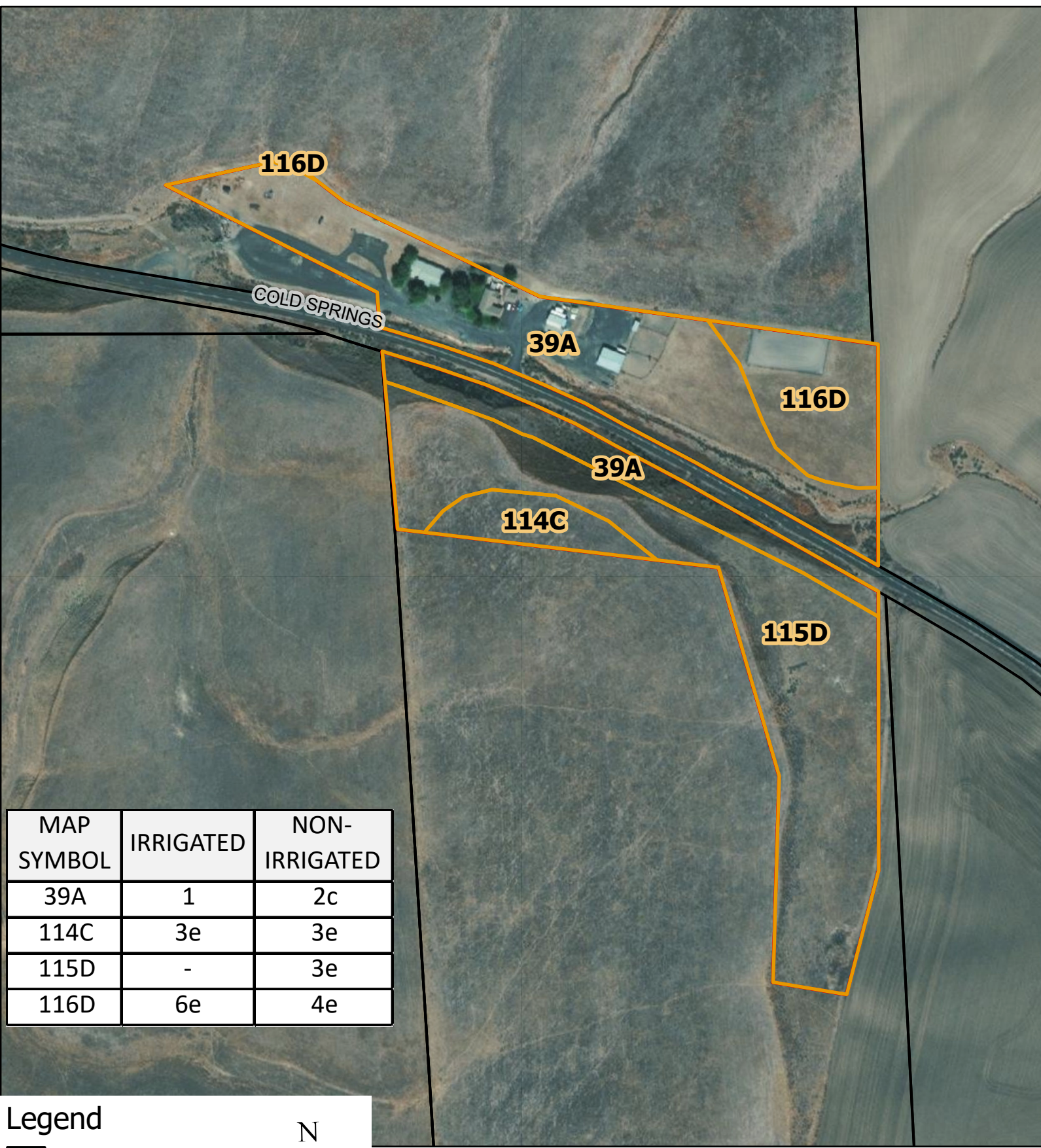
- Property Boundary
- Subject Property
- 750 ft Notice Boundary
- Additional Notice Boundary

MAP	TAX LOT	OWNER
4N31	2200	WEIDERT TIMOTHY S
4N31	2201	PEARSON DANNY & TONJA
4N31	2202	WEIDERT TIMOTHY S
4N31	2700	WATKINS MELINDA J ET AL
4N31	2701	MONTGOMERY KATHRYN
4N31	2800	WEIDERT TIMOTHY S
4N31	3900	WATKINS MELINDA J ET AL
4N31	4000	SOREY O ROBERT & PATRICK (TRS S-7 TRS)



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department Date: 1/23/2023

LUD-293-23 SOIL MAP



COLD SPRINGS

116D

39A

116D




39A

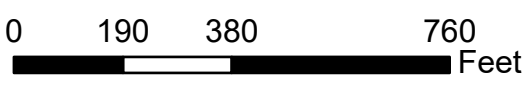
114C

115D

MAP SYMBOL	IRRIGATED	NON-IRRIGATED
39A	1	2c
114C	3e	3e
115D	-	3e
116D	6e	4e

Legend

-  Property Boundary
-  Subject Property
-  Soils



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department Date: 1/23/2023

**UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
PEARSON LAND USE DECISION REQUEST, #LUD-293-23
MAP #4N 31, TAX LOT #2201, Account #116200**

1. **APPLICANT:** Danny Pearson, 79089 S Cold Springs Road, Pendleton, Oregon 97801
2. **OWNER:** Danny and Tonja Pearson, PO Box 433, Pendleton, Oregon 97801
3. **REQUEST:** The applicant is requesting approval to convert an existing temporary hardship dwelling to a farm relative dwelling. The property contains an existing single-family dwelling (primary farm dwelling), a 2001 Marlette manufactured home (temporary hardship dwelling), a 3,100 square feet barn and several outbuildings. The applicant, Dan Pearson, is requesting that his son, Tyler Pearson, live in the previously approved temporary hardship dwelling (2001 Marlette) to assist with operating the equine boarding and training facility.

The temporary hardship home was approved in the year 2000. At that time, the property was owned by Monty Hixon (applicant's step-father) and the hardship home was approved for Mr. Hixon's parents, George and Evelyn Hixson who required care provided by Monty.

4. **BACKGROUND:** At the time of the hardship dwelling approval, the property was owned by Monty Hixson who resided in the primary dwelling. George and Evelyn Hixson resided in the hardship home until recently. In 2017, Dan and Tonja Pearson purchased the property from Monty Hixson, Dan's step-father, and began living in the primary dwelling while providing care to Evelyn Hixson. Evelyn continued to live in the hardship dwelling until late 2021. Planning was contacted on November 10, 2021 by Dan, who stated that Evelyn would soon need to be moved to assisted living. Planning Staff informed Dan that the temporary hardship home would need to be removed once Evelyn no longer lived in the home, in accordance with the original CUP approval granted in 2000.

On December 28, 2021, Dan Pearson contacted Planning Director Robert Waldher and requested information on how to keep the hardship home on the property. Mr. Waldher emailed Mr. Pearson that same day and provided details about the original temporary hardship home approval and the requirements of establishing a farm relative dwelling. Mr. Waldher expressed concerns regarding whether or not there was a commercial farming operation occurring on the property that warranted additional farm help, these concerns were also shared with Mr. Pearson.

Since December 2021, there has been much verbal and written correspondence with both Mr. Pearson, his representatives and planning staff. During discussions, staff concerns were referenced in LUBA case law on EFU farm relative dwellings and staff shared the LUBA cases with Mr. Pearson. Specific concerns were: if a *commercial* farm operation was occurring on the 27.26-acre property, whether or not the farm operator and farm relative spent a majority of their working hours on the commercial farm operation, and whether or not the existing farm operation warranted additional farm help to the level of requiring a farm relative dwelling.

County Planning received the land use decision application to establish a farm relative dwelling from Mr. Pearson on December 30, 2022. In response to questions from staff, Mr. Pearson provided additional information and 2021 tax documents on January 11, 2023.

Staff processed the application administratively and the preliminary findings were mailed for a 21-day comment period on January 30, 2023. Comments and requests for a public hearing were due February 20, 2023. No comments were received.

On February 17, 2023 Planning accepted a request for a public hearing from the applicant, Dan Pearson. In the request for a public hearing, the applicant provided that he intends to demonstrate at the public hearing that he is operating a commercial farming operation. Applicant also stated the belief that the County is not required to apply the \$40,000 income requirement as a safe harbor for a relative farm help dwelling. Instead, applicant believes the requirement is to demonstrate that there is an “existing farm operation”. Additional documentation regarding the commercial intensity of the farm operation was not included in the request for a public hearing.

The Planning Commission hearing was subsequently scheduled for April 27, 2023.

5. **LOCATION:** The property is 27.26 acres in size and bisected by Cold Springs Road. The property is located approximately 8.3 miles north of Pendleton and 16 miles east of Hermiston.
6. **SITUS:** The property has two addresses – one for each existing dwelling.

Primary Farm Dwelling: 79089 S Cold Springs Rd, Pendleton OR 97801
Temporary Hardship Dwelling: 79091 S Cold Springs Rd, Pendleton OR 97801
7. **ACREAGE:** The subject property is assessed as 27.26 acres.
8. **COMP PLAN:** North/South Agriculture
9. **ZONING:** Exclusive Farm Use (EFU)
10. **ACCESS:** The property has access from South Cold Springs Road
11. **ROAD TYPE:** South Cold Springs Road is a two-lane paved County Road, County Road #563.
12. **EASEMENTS:** There is one easement located on the subject property, Umatilla Electric Cooperative Association, recorded in Book 180, Page 283, Deed Records, Umatilla County, Oregon.
13. **LAND USE:** The property is zoned for farm use. The applicant provides that they operate horse boarding and training services. Google Earth imagery shows a large barn and several farm outbuildings along with an arena. The subject property does not appear to be in crop production.
14. **ADJACENT USE:** Properties surrounding the subject property are also zoned for farm use. Most appear to be in wheat production, both dry and irrigated, and some are not currently in crop production, similar to the subject property. The applicant provides that properties to the north, west and south of the subject property are currently enrolled in the Conservation Reserve Program (CRP).

15. **LAND FORM:** Columbia River Plateau
16. **SOIL TYPES:** The subject property contains some High Value soil types. High Value Soils are defined in UCDC 152.003 as Land Capability Class I and II or classified Class II when irrigated. However, the property is not predominantly comprised of high value soils.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
39A: Hermiston silt loam, 0 to 3 percent slopes	IIc	I
114C: Walla Walla silt loam, 7 to 12 percent slopes	IIIe	IIIe
115D: Walla Walla silt loam, 12 to 25 percent north slopes	-	IIIe
116D: Walla Walla silt loam, 12 to 25 percent south slopes	IVe	VIe
<i>Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (Survey, page. 172).</i>		

17. **BUILDINGS:** The subject property contains one single family dwelling, one temporary hardship manufactured home (2000 Marlette doublewide), two barns, two general purpose accessory farm buildings, and two sheds.
18. **UTILITIES:** Umatilla Electric Cooperative and Century Link service the area.
19. **WATER/SEWER:** There is a domestic well and septic system on the property serving both existing dwellings. A condition of the temporary hardship dwelling approval required that the manufactured home be connected to the same septic system as the primary dwelling. Should this request be approved, the farm relative (manufactured) dwelling will need to obtain proper authorization from County Environmental Health. Septic installation permits are obtained from Umatilla County Environmental Health, Environmental Health has been notified of this request and may provide additional comments.
20. **FIRE DISTRICT:** The property is not within a rural fire protection district.
21. **IRRIGATION:** The property is not within an irrigation district. Further groundwater rights information was not provided to Planning.
22. **FLOODPLAIN:** The property is not in a designated Flood Hazard Area.
23. **FIRST NOTICE DATE:** January 30, 2023
24. **FIRST COMMENT DUE DATE:** February 20, 2023
25. **HEARING:** A request for a public hearing was received by Planning Staff on February 17, 2023. The Planning Commission hearing was subsequently scheduled for **Thursday, April 27, 2023 at 6:30 PM** in the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, OR.

Notice for the Planning Commission hearing was sent on April 7, 2023 and was published in the East Oregonian on April 15, 2023.

26. **NOTIFIED AGENCIES:** Department of Land Conservation and Development, State Building Codes, Oregon Water Resources, Umatilla Electric Cooperative, Umatilla County Environmental Health, County Assessor, County Public Works and County Code Enforcement
27. **COMMENTS RECEIVED:** On April 14th, 2023 the applicant provided several letters to be included in the record and Planning Commission Packets. The email included four letters; one letter titled, “Planning Appeal”, was not signed so the writer is unknown, a letter of support from Pake and Bailey Sorey, a letter of support from Tom and Wendy Sorey and a letter of support from Kelsy and Kristan Garton.

Generally, the letter of supports stated that the temporary hardship home (proposed farm relative dwelling) provides additional property tax income, additional security to the area, is well-kept and has not caused issues in the last 22 years. The unsigned letter provides that the proposed farm relative dwelling will not have an impact on water supplies, ingress/egress or public utilities. The letter adds that the applicant and son intend to grow their enterprise before the son ultimately inherits the farm.

28. **STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND USE DECISIONS, Section 152.059 (K) (7), *Relative Farm Help Dwelling*, contains the criteria of approval to establish a farm relative dwelling on property that has an existing farm dwelling and agricultural practices. Also applicable is OAR 660-033-0130 (9) (a) which has been codified in UCDC 152.059(K)(7).** The standards of approval are underlined and the responses are in standard text.

§ 152.059 LAND USE DECISIONS. In an EFU zone the following uses may be permitted through a land use decision via administrative review (§152.769) and subject to the applicable criteria found in §152.059 and OAR 660-033-0130 (9)(a). Once approval is obtained a zoning permit (§152.025) is necessary to finalize the decision.

(K) DWELLINGS

The following permanent, single family dwellings may be authorized in an EFU zone. The dwellings may be conventional “stick built”, modular homes, manufactured homes or mobile homes meeting the definition of a dwelling and the standards in § 152.013(B) (5). All farm dwelling applications are subject to review and comment by the Department of Land Conservation and Development.

Permits for dwellings approved under this section are valid for four years. A permit approval extension for an additional two years may be obtained prior to the expiration of the four year approval date.

(7) *Relative farm help dwelling.*

(a) A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. A “relative” means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm

operator's spouse and is subject to the following criteria:

The Planning Commission finds “commercial farming operation” is not defined in Umatilla County Development Code, nor in Oregon Administrative Rule. In *Richards v. Jefferson County* (2019), LUBA found that “a commercial farming operation is one that is of sufficient scale and intensity that would induce and require a reasonable farmer to devote the majority of his or her working hours to operating a farm on the subject property”. In numerous cases, LUBA has defined “safe harbor” approaches for counties to determine if a farm operation qualifies as a “commercial” farm operation¹. One of the “safe harbor” standards utilizes OAR 660-033-0135 to determine if a farm operation is at a commercial scale (for the purposes of qualifying a relative farm help dwelling), by applying the primary farm dwelling criteria. If the farm operation meets the income threshold for establishing a primary farm dwelling, the farm operation is of a commercial scale for the purposes of establishing a relative farm help dwelling.

The Planning Commission finds, to determine if the equine boarding/training facility qualifies as a “commercial” farming operation, warranting additional farm help, the following must be true: the farm operator must devote a majority of his or her working hours to operating a farm on the subject property, *and* that the farm operation meets or exceeds the income threshold to qualify for a primary farm dwelling. The Planning Commission finds each of the above criteria apply to this request and are evaluated below.

Farm Operator's Working Hours

In the email dated January 11, 2023, Mr. Dan Pearson states that he works 40 hours a week within Pendleton as an equipment operator. Separately, he states that he spends approximately a total of 34-36 hours a week working on the farm operation. The Planning Commission finds the farm operator must devote a majority of the working hours to the farm operation. Yet, by the information provided, the farm operator has 74-76 working hours each week and only 34-36 are spent on the farm operation, less than a majority.

Dan's farm duties include feeding and watering the horses and cleaning the stalls and pens, he provides that these activities take approximately 22 hours a week. He also drags the manure in the pasture and checks fences and gates. He stated that he spends about two hours a week warming up the horses for training. And 10-12 hours a week on additional maintenance work like maintaining fencing, horse panels, barn, horse shelters and shops. Dan stated he also handles the weed control, mowing pastures and facility improvements.

Currently, there are three horses that are boarded on the property. These horses have been boarded for the last 11 months, the operation also boarded a separate horse for one month and

¹ In *Richards v. Jefferson County* (2019), LUBA discusses three safe harbors for the County to determine if the farm operation qualifies as a “commercial” farm operation. They are: (1) determine what minimum parcel size is consistent with continuing the “commercial agricultural enterprise” within a local area, (2) determine if the farm operation is productive enough to qualify for a primary farm dwelling, and (3) determine if the farm operation supporting the primary farm dwelling is sufficient to qualify the property for an accessory farm dwelling under OAR 660-033-0130(24)(b).

Regardless of which “safe harbor” is chosen by the County, LUBA has tasked the County with determining whether the farm operation qualifies as a “commercial farm operation”. Further, in this case, LUBA offered the County to devise its own method to differentiate a “commercial” versus “noncommercial” farming operation.

two other horses for three months within 2022.

On the training side of the operation, Tyler and Dan are currently working with five horses. They work with the three boarded horses for one hour a week each, on the weeks that the owner is out of state. The owner works three weeks, followed by three weeks off. The application did include a letter of support from this client. The client provided that the Pearsons feed and ride his horses. The other two horses average three days a week of training, each session is typically an hour. The current total of hours spent collectively training horses, using the above information, is 9 hours a week. On weeks where the boarded horses are not trained, this drops to approximately 6 hours a week. Other letters of support were submitted from one client who receives mounted shooting lessons and another who had the Pearsons train his horses.

Dan stated he makes the day-to-day decisions. One of these decisions was to purchase two young prospect horses to break, train and sell. Another was to run a waterline to the arena to control dust when riding in the arena.

Dan stated that his son, Tyler, averages 8 hours a week working with the horses. Tyler primarily works in Pendleton as an electrician for 40 hours a week. Tyler also assists Dan with the maintenance duties for 8-10 hours a week, for a total of 16-18 hours working on the farm operation each week. Tyler also takes over the boarding duties when Dan is unable to.

The Planning Commission finds the applicant provided minimal operational details regarding the farm operation. The applicant did not provide information about training or boarding contracts that may or may not be in place. Additionally, the applicant did not submit any plans for horse training or management of a boarding/training facility. It does not appear that an LLC or other business entity has been filed with the State of Oregon. If one has, none of this information was provided in support of the application.

The Planning Commission finds that Mr. Dan Pearson conducts a majority of the horse boarding operations and makes the day-to-day farm operation decisions. Mr. Pearson is and will continue to be the farm operator.

The Planning Commission finds that Mr. Pearson maintains a full-time, 40 hour a week job not related to the farm operation. County Planning finds Mr. Pearson spends about 34-36 hours each week on the farm operation.

The Planning Commission finds the farm operator, Dan Pearson, does not devote a majority of his working hours operating the horse boarding and training facility.

The Planning Commission finds and concludes that because the farm operator does not devote a majority of his working hours operating the equine boarding and training facility, the equine boarding and training facility does not meet the definition of a commercial farming operation. This criterion is not satisfied.

Primary Farm Dwelling Income Requirements

UCDC 152.059(K)(2): Primary Farm Dwelling on Non-High Value Farmland.

A Primary Farm Dwelling customarily provided in conjunction with farm use as the primary

farm dwelling may be allowed on non-high value farmland as defined in § 152.003 if the following standards are met:

(b) Income Test. A dwelling may be considered customarily provided in conjunction with farm use as a primary farm dwelling, if:

(i) The subject tract is currently employed for farm use as defined in §152.003 of this chapter, on which the farm operator earned at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years, or in an average of three of the last five years; and

The Planning Commission finds the subject property is predominately comprised of non-high value soil types. Thus, the applicable gross income requirement is \$40,000/year from the sale of farm products for at least the last two years, or three of the last five years, or in an average of three of the last five years.

On January 11, 2023, Mr. Pearson provided two IRS tax documents to Planning Staff. The first being a Schedule SE (Form 1040), or a Self-Employment Tax form for the year 2021. The submitted document does not identify the source of income. The Planning Commission finds the SE Tax Form does not identify the source of the self-employment income, nor did the applicant provide this information, therefore, the income provided on the Schedule SE cannot be justified as income earned from the farm operation.

The second document provided is a Schedule F (Form 1040), or a Profit of Loss from Farming form. The amount listed on line 9, gross income, is \$3,600. The amount listed on line 33, total expenses is \$2,710. Finally, the amount listed on line 34, Net farm profit is \$890.

The Planning Commission finds the applicant only provided a Farm Profit or Loss statement for the year 2021. The applicant stated they did not operate the equine facility prior to 2021, therefore, only one year of farm income was submitted as evidence. The Planning Commission finds the gross annual income from the sale of farm products was not verified for two years, or three of the last five years, or in an average of three of the last five years. The Planning Commission finds and concludes the subject tract does not satisfy the income requirement for establishing a farm dwelling.

The submitted 2021 Farm Profit or Loss statement indicated a gross income of \$3,600, far less than the required \$40,000 in gross sales of farm products. The Planning Commission finds and concludes the farm operation does not satisfy the income requirement for establishing a farm dwelling.

The Planning Commission finds and concludes the equine boarding and training facility does not satisfy the income requirements for establishing a farm dwelling, therefore, the equine boarding and training facility is not a commercial farm operation. This criterion is not met.

(b) The farm operator shall continue to play the predominant role in the farm management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing:

(i) Provide information on the farm operation, (i.e., size, crops planted, numbers of livestock, etc.) and provide a summary of the farm duties and assistance the relative will provide;

The applicant provides that the farm operation consists of horse boarding, lessons and training of equine. As demonstrated above, Dan is currently and will continue to be the farm operator. The original application stated about 5 to 10 horses are boarded on the property at any given time. Although, the email dated January 11, 2023 states that currently only 3 horses are boarded. In 2022, separately, one other horse was boarded for one month and two horses were boarded for three months. Dan's son, Tyler, trains mounted shooting horses and the request is for Tyler to live in the farm relative dwelling. The applicant provides that the horse boarding/training facility is served by the 3100 square foot barn, three 50'x70' sheltered horse pens, a 100'x 200' arena and approximately 18 acres of pasture.

Although the applicant provides there are 18 acres of pasture, The Planning Commission finds, according to GIS mapping, there are only about 7.5 acres of pasture-type land north of Cold Springs Road. This excludes the land occupied by the two home sites and farm buildings. County Planning finds, according to GIS mapping, there are approximately 15 acres located south of Cold Springs Road that appear to be steep sloped and do not appear to be used as pasture. However, the applicant did not provide information on where the pasture land was located on the property.

The boarding and training facility operations are more specifically detailed above. Dan spends about 34-36 hours a week, feeding, watering, and providing facility and fence maintenance. Tyler spends about 8 hours a week training horses, and another 10-12 hours a week assisting Dan with maintenance duties. Tyler also takes over boarding duties when Dan is out of town or unavailable. Collectively, the two work an average of 50 to 54 hours a week on the farm operation. As detailed above, The Planning Commission finds Dan is farm operator.

The Planning Commission finds and concludes that Dan Pearson is, and will continue to be the farm operator. This criterion is satisfied.

The Planning Commission finds and concludes the relative, Tyler Pearson, will assist with the farm operations for a total of approximately 16-18 hours a week.

(ii) The relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use. Provide the location of the farm operator's dwelling and the location of the proposed relative farm help dwelling.

The Planning Commission finds both the primary farm dwelling and the proposed farm relative dwelling are located on the same lot. The applicant is requesting to convert the existing temporary hardship dwelling to the farm relative dwelling. The Planning Commission finds and concludes this criterion is satisfied.

(c) Sign and record a Covenant Not to Sue as provided in §152.059 (K) (11).

The applicant indicated a willingness to sign a Covenant Not to Sue. The Planning Commission finds a Covenant Not to Sue shall be signed and recorded prior to issuance of

final approval.

The Planning Commission finds and concludes a precedent condition of approval is imposed, requiring the property owners to sign and record a Covenant Not to Sue.

(d) Farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling.

The application provides that the applicant is relying on the commercial horse boarding and training to comply with the criteria. The Planning Commission finds and concludes this criterion is satisfied.

(e) For the purpose of subsection (a), "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

The Planning Commission finds the applicant/owner, Dan Pearson, is the farm operator. The application provides that the relative residing in the proposed farm relative dwelling, Tyler Pearson, is Dan's son. The Planning Commission finds and concludes this criterion is satisfied.

(f) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(g) For the purpose of subsection (f), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

The Planning Commission finds a subsequent condition of approval is imposed; if the farm relative dwelling is financed, the secured party may foreclose on the "homesite".

A. DECISION: DENIAL

As defined in 152.059(K)(7), farm relative dwellings are permissible when in support of commercial farm operations. In order to meet the definition of a commercial farm operation, the applicant must demonstrate that the farm operation satisfies the primary farm dwelling income requirements and that the farm operator does, and will continue to, spend a majority of their working hours on the farm operation. The farm operator fails to demonstrate that a majority of their working hours are spent on the farm operation and fails to demonstrate how the farm operation satisfies the income requirements for establishing a primary farm dwelling.

The Planning Commission finds and concludes the applicant's equine boarding and training facility, as outlined above, does not meet the definition of a commercial farming operation. The request is hereby denied.

B. If the Pearson Land Use Decision request satisfied all of the criteria (UCDC 152.059(K)(7)) for establishing a farm relative dwelling, the following conditions of approval would apply:

Precedent Conditions:

1. Sign and record a Covenant Not to Sue document in Umatilla County Deed Records.
Document provided by Planning.

Subsequent Conditions:

1. Obtain a County Zoning Permit for the conversion of the temporary hardship dwelling to a farm relative dwelling. (Land use approval for the farm relative dwelling is valid for four years from the date of the signed Final Findings. An approval extension for an additional two years may be obtained prior to the expiration of the four-year approval date.)
2. Obtain applicable septic permits from County Environmental Health.
3. If the farm relative dwelling is financed, the secured party may foreclose on the “homesite”.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 2023

Suni Danforth, *Chair*

Mailed _____ day of _____, 2023

EMAIL COMMUNICATION PRIOR TO APPLICATION



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Conditional Use Permit for Temporary Hardship Dwelling

1 message

Robert Waldher <robert.waldher@umatillacounty.net>

Tue, Dec 28, 2021 at 2:39 PM

To: dan.pearson@cngc.com

Cc: Carol Johnson <carol.johnson@umatillacounty.net>, Megan Davchevski <megan.davchevski@umatillacounty.net>, Gina Miller <gina.miller@umatillacounty.net>

Hello Mr. Pearson - Per our conversation, please see the attached findings and conclusions for Conditional Use Permit C-944-00 which was approved for a temporary hardship dwelling for Monty and Jeannine Hixson. Please refer to the subsequent conditions of approval (page 7) which require the temporary hardship dwelling to be removed from the property once the hardship ceases.

During our conversation you indicated that an attorney suggested you inquire about applying for a farm relative dwelling as a way to keep the mobile home on the property. This type of dwelling is intended for relatives of a commercial farming operation whose assistance in the management of the farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

You mentioned on the call that you do some boarding of horses on the property (27 acres). While boarding horses certainly is a farm use, I would not consider it a commercial farming operation. In addition, you mentioned that you and your wife work in professions other than commercial farming and your son is employed as an electrician. Therefore, I do not believe you would be able to qualify for a farm relative dwelling.

I understand you had previously spoken with Carol and Megan regarding this hardship dwelling. I have copied them on this email so everyone is on the same page. Feel free to let any of us know if you have additional questions. Thank you.

Bob

--

Bob Waldher, RLA**Director**


Umatilla County Department of Land Use Planning

216 SE 4th ST | Pendleton, OR 97801

Phone: 541-278-6251 | Fax: 541-278-5480

<http://www.umatillacounty.net/planning> - Visit our website for copies of planning documents, permit applications and other helpful information.

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

 **20211228180149.pdf**
444K



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Re: Relative Dwelling

3 messages

Robert Waldher <robert.waldher@umatillacounty.gov>

Mon, Aug 29, 2022 at 11:26 AM

To: Tamra Mabbott <tamra.mabbott@gmail.com>

Cc: "Pearson, Dan" <Dan.Pearson@cngc.com>, Planning <planning@umatillacounty.gov>

Hi Tamra - While I certainly respect your professional opinion, I still disagree with this interpretation. The Morrow County example didn't go into detail about the farming operation, but it appears by the aerial imagery that there are irrigated crops being grown on the 162 acre property. Therefore, it seems plausible that a commercial farming operation is indeed occurring on the subject property in Morrow County. I can see why DLCD didn't comment.

The Pearson property is much smaller (27 acres). Based on the small size, I don't think it would even qualify for a primary farm dwelling under today's standards, let alone an additional farm relative dwelling.

The boarding of horses is a "farm use" that is a use allowed since the property is zoned EFU. However, it is a stretch to be able to say that the Pearsons and their son would be "principally engaged" in a farming operation when they have indicated they all have full time professions other than farming, and the farm does not appear to be at a commercial scale. I believe I sent an example LUBA case in a previous email, but there is quite a bit of case law out there that supports my interpretation: <https://www.oregon.gov/LUBA/docs/headnotes/3.2.2.pdf>

I can sympathise with the Pearsons not wanting to remove the temporary hardship home from the property. A nice manufactured home is definitely an investment. Our office has really made an effort over the past couple years to make sure applicants are aware that the homes are required to be removed once the hardship is no longer in place, and we have even adopted a standard for a recorded covenant requiring the home to be removed at the end of the hardship. Hopefully this helps future applicants really understand what they are getting when they apply for a hardship dwelling.

Kind Regards -

Bob

On Fri, Aug 26, 2022 at 8:46 AM Tamra Mabbott <tamra.mabbott@gmail.com> wrote:

Hello Bob -

I am not representing Dan Pearson although I have talked with him a few times about his situation and his desire to convert a hardship dwelling to a relative dwelling.

A couple months back Morrow County permitted something similar, a relative dwelling on a small parcel zoned EFU. County sent notice to DLCD and they had no comment.

I certainly respect that counties may differ in how they interpret rules and legal precedent but wanted to share this with you on behalf of the Pearsons.

Cordially, Tamra

--
Robert Waldher, RLA
 Director

Umatilla County Department of Land Use Planning

Tel: 541-278-6251 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

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Tamra Mabbott <tamra.mabbott@gmail.com>
To: Robert Waldher <robert.waldher@umatillacounty.gov>
Cc: "Pearson, Dan" <Dan.Pearson@cngc.com>, Planning <planning@umatillacounty.gov>

Wed, Sep 7, 2022 at 11:50 AM

Thank you Bob. Appreciate that you have thoughtfully evaluated the merits of the a Pearson's situation.

Tamra

[Quoted text hidden]

Robert Waldher <robert.waldher@umatillacounty.gov>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, Jan 5, 2023 at 8:53 AM

[Quoted text hidden]



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Re: accessory dwelling in EFU Zone

1 message

Robert Waldher <robert.waldher@umatillacounty.gov>

Wed, May 11, 2022 at 8:49 AM

To: Tamra Mabbott <tamra.mabbott@gmail.com>

Cc: Robert Waldher <robert.waldher@umatillacounty.gov>, "Pearson, Dan" <Dan.Pearson@cngc.com>, Planning <planning@umatillacounty.gov>

Hi Tamra - Yes, I believe we have visited with Mr. Pearson a couple times regarding Conditional Use Permit (CUP) #C-944-00 which was approved for a temporary hardship dwelling for Monty and Jeannine Hixson (relatives of the Pearsons). One of the subsequent conditions of approval requires the temporary hardship dwelling to be removed from the property once the hardship ceases. If I remember correctly Mr. Pearson was hoping to apply for a farm relative dwelling as a way to keep the mobile home on the property, and his son would live in the dwelling.

Planning staff shared the following criteria related to farm relative dwellings...This type of dwelling is intended for relatives of a commercial farming operation whose assistance in the management of the farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

Mr. Pearson noted that his family does do some boarding of horses on the property (27 acres). Planning staff suggested that while boarding horses certainly is a farm use, planning questions whether or not it is considered a commercial farming operation. Without knowing the income of the horse boarding operation, it is difficult to know if the farm operation is at a "commercial scale." It would seem that if the farm operation (horse boarding) was profitable/productive enough to qualify for a primary farm dwelling under the income test, then the Pearsons may be able to easily demonstrate that the farming is indeed occurring at a commercial scale. In addition, Mr. Pearson mentioned that he and his wife work in professions other than commercial farming and their son was employed as an electrician. Therefore, staff did not feel that there was very strong justification to qualify for a farm relative dwelling since it appears they are not necessarily commercial farm operators. Here is a link to a LUBA decision that provides an overview of a similar request that was remanded in Jefferson County: <https://www.oregon.gov/LUBA/docs/Opinions/2019/02-19/18117.pdf>

Unfortunately, we aren't able to find the previous Planning Commission decision you reference where it was approved, even though the applicant failed to meet all of the standards of approval. Please share the name if it comes to mind. As you know, anyone can make an application for a land use decision and the county is required to approve it if they meet all of the approval standards. However, it becomes more difficult to approve an application if all of the standards are not met. There is some pretty strong case law on that as well.

I'm sorry, I realize this is probably not the news Mr. Pearson wants to hear. Please let me know, Tamra, if you think I am off-base on this or if there is another solution we are not thinking of. You certainly have more years of credible planning experience than me. Thanks for the inquiry.

Kind Regards -

Bob

On Sun, May 1, 2022 at 12:30 PM Tamra Mabbott <tamra.mabbott@gmail.com> wrote:

Hello Bob and Carol –

Dan Pearson contacted me several months ago and I understand he has talked with both of you as well.

Dan is a friend of a friend...A couple friends of mine hire Dan and his son to train their horses. The sturdy mounted-shooting type.

Anyway, I think I understand the Pearson's issues. I was hoping you could share a copy of a decision Planning Commission made several years ago, to approve a second dwelling on a small EFU parcel just south of Hermiston. I cannot remember the name of the people. It was an application I was inclined to deny but referred it to Planning Commission who approved it. They met all but one criteria if I recall correctly.

Anyway, please send me those Findings if you can and I'll take a look to see if it might be helpful for Mr. Pearson.

Thank you.

Tamra

Sent from [Mail](#) for Windows

TEMPORARY HARDSHIP DWELLING APPROVAL

**UMATILLA COUNTY PLANNING DEPARTMENT
FINAL FINDINGS AND CONCLUSIONS
CONDITIONAL USE REQUEST - #C-944-00
MAP 4N 31 TAX LOT 2201**

- 1. APPLICANT/
OWNERS:** Monty and Jeannine Hixson, P. O. Box 961, Pendleton, OR 97801
- 2. LOCATION:** Subject property is located on both sides of South Cold Spring Road approximately 10 miles northwest of the city of Pendleton. The existing residence on the property is located on the north side of the road.
- 3. ACREAGE:** Tax Lot 2201 contains 27.26 acres
- 4. REQUEST:** To seek a special exception for a hardship situation. The applicants would like to place a temporary mobile home on their property for the use of Monty's parents in accordance with Umatilla County Development Code Section 152.060 (J).
- 5. COMP. PLAN:** North/South County Agriculture
- 6. ZONING:** EFU (Exclusive Farm Use)
- 7. ACCESS:** Private driveway off of South Cold Spring Road
- 8. ROAD TYPE:** South Cold Spring Road is a two lane paved County Road (#850).
- 9. EASEMENTS:** According to the applicants, an ingress/egress easement exists from S. Cold Spring Road north of the bridge which serves as access to the residence on the subject property. This easement allows access to the adjoining property to the north.
- 10. LAND USE:** The subject property is a non-conforming lot which includes an existing single family residence, a barn, shop buildings and pasture. According to the applicants site plan, the proposed mobile home would be located approximately 200 feet to the west of the existing dwelling on the north side of South Cold Spring Road. The applicant's have also indicated the portion of property where the mobile home would be sited is "scrub" ground with sage brush and thistle and has not been farmed.
- 11. ADJACENT:** The area surrounding the subject property is also zoned for agricultural use. Parcel sizes in the area are generally larger than the applicant's, averaging about 500 acres and are in agricultural use. There are a few farm dwellings associated with the agricultural uses in the area but are at least ½ mile in each direction from the subject property.

12. LANDFORM: Floodplain

13. SOIL TYPES:	SLOPE	AG CLASS	FOREST	SEPTIC	BUILDING
NAME:		Irr/dry			
39A Hermiston silt loam	0 - 5%	1 / 2c	n/a	Moderate	Severe
115D Walla Walla silt loam	12-25%	- / 4e	n/a	Severe	Severe

14. UTILITIES: The site is located in a rural area and is dependent upon private on-site septic systems. There is an existing septic system currently servicing the existing residence. Applicant's have proposed utilizing the existing system for the proposed mobile home. Umatilla Electric Cooperative provides electricity and U. S. West communications provides telephone service.

15. WATER: The existing home is served by a private well and the proposed temporary mobile home would share this water source.

16. GOAL 5 ISSUES: Goal 5 protects scenic, open space, historic, wildlife, and other resources; Couse Creek is an intermittent stream which crosses the subject property. No additional bridges crossing this stream are proposed. Applicants would be required to set the mobile home up according to County Development Code standards which include stream setback requirements. There are no other known Goal 5 resource issues.

17. CONDITIONAL USE STANDARDS OF THE COUNTY DEVELOPMENT ORDINANCE: The standards and criteria of the development ordinance are underlined. The findings and responses are in standard text.

A. Specific Criteria for Granting a Special Exception for Temporary Mobile Home Placement:

1. Section 152.060 of the Umatilla County Land Usage Regulations allows for temporary placement of a mobile home in situations where there could be undue hardship, defined as:

"...unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel such as a dwelling for...aged or disabled family members..."

The applicants have submitted information and documentation of medical disabilities for George and Evelyn Hixson (parents of Monty Hixson). The applicant's have indicated that Monty's parents are of an age that they can live independently but need to be near relatives for care and assistance since they both have medical conditions involving knee and hip replacements.

2. Section 152.576(B)(1) of the Umatilla County Land Usage Regulations allows a mobile home to be temporarily located under the following circumstances:
"Where there exists a personal, but not necessarily financial hardship on the part of the applicant, whereby it is necessary to have someone living on the same premises as the applicant's dwelling or mobile home; however, the installation of a separate subsurface sewage disposal system for a temporary mobile home permit granted pursuant to this subsection is prohibited; "

The application indicates one septic system is currently on the property. The temporary mobile home would be placed in such a way as to allow it to be hooked up to the existing system. The applicants have also expressed a willingness to work with the Dept. of Environmental Quality (DEQ) to improve the existing system, if necessary, to accommodate the additional residence.

3. Section 152.576 of the Umatilla County Land Usage Regulations requires that the following conditions shall be applied in evaluating an application for Special Exception for Temporary Mobile Home Placement:

A. The approval shall clearly set forth the conditions under which the temporary mobile home placement is allowed.

This request must meet the criteria which specifies the standards for conditional uses as described below at B GENERAL CONDITIONS FOR ALL CONDITIONAL USES.

B. Approval shall be for a period of one year, which may be renewed. However, the mobile home shall be removed thirty days after the original need has ceased.

The one year limitation and thirty day removal period should be required as conditions of the Planning Department's approval.

C. The Hearing Officer may require doctor's certification for applications based upon family member dependency due to medical reasons.

Applicants have submitted documentation from George Hixson's physician regarding medical conditions and have indicated that Evelyn Hixson has had knee replacement surgery. No additional documentation appears warranted at this time.

D. The location of the temporary mobile home on a parcel of land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zoning district shall apply.

This should be noted as a subsequent condition of approval.

E. In granting a Special Exception for Temporary Mobile Home Placement, additional conditions may be imposed to meet the purposes of this section and the goals and policies of the Comprehensive Plan. See Section 152.615 described below (B. GENERAL CONDITIONS).

B. GENERAL CONDITIONS FOR ALL CONDITIONAL USES:

In addition to the other requirements and criteria listed in this review, the following conditions listed in Section 152.615 of the Land Usage Regulations may be imposed upon a finding that a particular circumstance warrants additional restrictions:

1. Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, glare or odor;

This does not appear to apply to this request because the proposed use is a residence. There is however, a standard policy requiring a yearly review of hardship mobile homes to assure that the additional dwelling is not causing problems with neighboring property owners and to determine if there is still a need for the hardship dwelling. As part of the yearly review the County charges a renewal fee.

2. Establishing a special yard, other open space or lot area or dimension:

Not applicable.

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

Not applicable.

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

Not applicable. The applicant has not proposed new access points to the County Road.

5. Increasing the required street dedication, roadway width or improvements within the street right-of-way;

This provision is not likely to apply to this request. The impact to area roads will not change significantly by allowing the proposed use since the temporary home will eventually be removed and existing access points to the County Road will be utilized.

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

Applicants propose to use the existing driveway and parking area.

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

This condition is not applicable to this property since no signs are proposed.

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

This condition is not applicable to this property since no outdoor lighting is proposed or required.

9. Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance;

The temporary mobile home will be required to be set up according to Oregon Building Code guidelines. The establishment and maintenance of a landscaped yard and residential appearance will be required as a subsequent condition of approval.

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

Not applicable. No new fencing is proposed or required.

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

There does not appear to be an impact on any significant natural resources or wildlife.

12. Parking area requirements as listed in Sections 152.560 - 152.562.

Section 152.560 requires that one parking space be provided for each dwelling unit. According to the applicant's site plan this requirement appears to be met.

18. LIMITATIONS ON CONDITIONAL USES in Exclusive Farm Use zones (Section 152.061) Umatilla County Development Code:

A. Is compatible with farm uses described in ORS 215.203(2) and the intent and purpose set forth in ORS 215.243, and will not significantly affect other existing resource uses that may be on the remainder of the parcel or on adjacent lands.

There are no known existing resource uses on the subject parcel or on adjacent lands. The proposed temporary dwelling would appear to be compatible with farm uses. The site location of the dwelling would be situation on a portion of the property which has not been farmed. No additional access roads will need to be constructed and set back requirements from S. Cold Spring Creek will be enforced.

B. Does not interfere seriously with accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses, nor interfere with other resource operations and practices on adjacent lands, and will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Yes. The proposed temporary hardship mobile home would not appear to interfere with or disturb adjacent farming practices. Existing access roads would be utilized and no land would be taken out of farm use.

C. Does not materially alter the stability of the overall land use pattern of the area.

Yes. Other Development Code criteria reviewed above in these Findings requires that the proposed dwelling not be considered a second dwelling site on this tax lot nor can it be used to justify a zone change. Due to the temporary nature of this request, the stability of the overall land use pattern of the area will be maintained.

D. A Covenant Not to Sue with regard to normal farming practices shall be recorded as a requirement for approval.

Not applicable. The existing residence is the principle farm dwelling on the subject property. The temporary hardship mobile home will not be considered a second dwelling site, will eventually be removed and will be occupied by family members of the farm dwelling. A Covenant Not to Sue document does not appear to be warranted at this time.

19. ZONING STANDARDS -- See #18 above.

County Development Code Section 152.013 requires any newly placed mobile home to meet basic fire, life and safety codes. Basically, most mobile homes manufactured after January 1, 1972 and bearing the Oregon Department of Commerce "Insignia of Compliance" meet this requirement. The application did not indicate the type or year of the proposed mobile home to be used as the hardship residence. The applicants will be required to verify the type of mobile home and year manufactured prior to issuance of a Zoning Permit signifying final approval.

20. PROPERTY OWNERS NOTIFIED: March 10, 2000

21. CLOSING DATE: March 31, 2000

22. AGENCIES NOTIFIED: Oregon Department of Environmental Quality, Umatilla County Public Works, Umatilla County Assessor, U.S. West Communications, and Umatilla Electric Cooperative.

23. COMMENTS RECEIVED: None to date

BASED ON THE ABOVE FINDINGS AND CONCLUSIONS, THIS REQUEST COULD BE GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:

The following "precedent conditions" must be completed prior to the issuance of final approval.

- A. Verification of the type of mobile home to be used as the temporary hardship residence and the year it was manufactured
- B. Obtain an approved Authorization Notice from DEQ to connect a temporary hardship mobile home to the existing on-site septic system. Provide documentation of DEQ approval to Planning Department.

The following "subsequent conditions" must be completed after issuance of final approval:

- C. Obtain a Zoning Permit from the Umatilla County Planning Dept. signifying formal approval of this request.
- D. The applicant is required to skirt the mobile home, establish and maintain a landscaped yard area around the temporary hardship mobile home and follow set up requirements of Oregon Building Codes.
- E. The location of the temporary hardship home on the subject property shall not be considered a separate dwelling site or lot area, and shall not be used as justification for a future zone change.
- F. The approval of this request will be for a one year period subject to an annual review and an annual renewal fee. The approval may be renewed beyond the one year period. To renew, the applicant shall submit a letter requesting the continued use of the mobile home on a yearly basis as long as the medical hardship exists and either George or Evelyn Hixson is still the resident of the temporary mobile home. **Once this particular hardship ceases, the applicant(s) shall notify the Planning Department and the temporary home shall be removed from the property within 30 days. Due to the dwelling density requirements of this zone, only one permanent dwelling is allowed on this tax lot.**
- G. The approval of this request is subject to the applicant/owner maintaining compliance with the County Development Code and Solid Waste Ordinances on this property. Enforcement action may be taken if the property falls out of compliance or fails to meet any subsequent condition of approval.

Hixson C-944-00
temp. hdshp mh

8



Dennis Olson
Planning Director

4/3/00

Date

**GIS ACREAGE CALCULATIONS & GOOGLE EARTH
IMAGES OBTAINED BY PLANNING STAFF**



+ 116200 X Q
- Show search results for 116200

Measurement X

Acres ▾

Measurement Result

5.11 Acres

Clear

Press CTRL to enable snapping

300ft
118.90845827 Degrees





116200

Show search results for 116200

Measurement [X]

Acres

Measurement Result

2.19 Acres

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300ft

-118.900 45.824 Degrees

Pearson Property Looking East

Imagen taken May 2012

Legend



Google Earth

© 2023 Google

7.05 ft

Pearson Property Looking W

Image taken May 2012

Legend



Google Earth

© 2023 Google



10 ft

LAND USE DECISION APPLICATION



Welcome to Umatilla County

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Fwd: Farm Relative Dwelling Application

1 message

Robert Waldher <robert.waldher@umatillacounty.gov>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, Jan 5, 2023 at 8:53 AM

----- Forwarded message -----
From: **Tonja Pearson** <dtpearson92@gmail.com>
Date: Thu, Dec 29, 2022 at 7:32 PM
Subject: Farm Relative Dwelling Application
To: <robert.waldher@umatillacounty.gov>

Hello Mr. Waldher,

Here is our application for a farm relative dwelling. I believe we have the application complete. Given our conversations in the past that the planning department doesn't feel we qualify. We would request our application to go to the planning commission. If you have any questions or suggestions please feel free to call me at 541-379-4652.

Thank you,
Dan Pearson

--
Robert Waldher, RLA
Director
Umatilla County Department of Land Use Planning
Tel: 541-278-6251 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.gov/planning>



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 **Dan and Tonja Pearson Application.pdf**
4149K

We purchased the property in January 2017 from my stepfather, Monty Hixson. Our intent was, and still is, to have a horse boarding and training business to be operated by myself and our son Tyler Pearson.

The property has a stick built home built in 1980 and a manufactured home that was permitted by Umatilla County as a hardship dwelling in 2000.

When we talked with my stepfather prior to purchasing the farm we asked about the manufactured home. He told us that he looked into it and that it could stay on the property after my step grandmother was no longer able to live at home. We took his word for that, and we bought the property and with my son's help, we started boarding and training horses. We thought that once my step grandmother could no longer stay in the home that my son would move into the manufactured home, and we would continue to grow the equine operation. We also researched county deed records and it showed no restrictions on the manufactured home.

My son and I have jobs in town to supplement the equine operation but consider the equine operation our primary jobs. The horse boarding and training requires our attention seven days a week, 365 days a year. In addition to twice daily feeding and watering, the operation requires daily work such as checking fences, animal waste management (removing manure), moving gates, working the arena with a tractor and equipment and of course the training of horses. Our primary clients are people who use horses for mounted shooting competition. My son especially has a niche market skill for training mounted shooting horses. We would like to grow the business in the future to the point where neither of us would need employment off the farm.

The farm qualifies for farm property tax deferral. We also file self-employment taxes for the farm. We can share the federal forms upon request.

It is our understanding that there have been no complaints filed with the county about the occupancy of the manufactured home or our horse boarding and training facility. We would like the opportunity to continue to have both homes on the property so that we can continue to grow the equine business.

RECEIVED

DEC 30 2022

UMATILLA COUNTY
PLANNING DEPARTMENT

- For Office Use Only -

Application Fee (non-refundable):
The acceptance of the fee does not mean the application is determined to be complete at this time.

\$

Assigned Application #:

LUD-293-23

Umatilla County Department of Land Use Planning Land Use Request Application

This application must be submitted to the Umatilla County Department of Land Use Planning, 216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252, and must be accompanied by a non-refundable application fee. Acceptance of the application and fee does not guarantee approval or a Determination of Completeness.
PLEASE COMPLETE THIS APPLICATION PRINTING CLEARLY WITH A BLACK INK PEN

RECEIVED

Section 1: Type of Application(s) to Submit

Complete the applicable Supplemental Application that corresponds with the application you are submitting.

DEC 30 2022

UMATILLA COUNTY
PLANNING DEPARTMENT

Amendment: Comprehensive Plan Text/Map, Zoning Text/Map

Conditional Use (briefly describe) _____

Land Division Type I, Type II, Type III, Type IV

Land Use Decision Farm Dwelling, Non-Farm Dwelling, Lot of Record Dwelling

(OTHER LUD, briefly describe) Farm Relative dwelling

Pre-Application Dwellings on resource land (specify) _____

Variance Lot Size, Setbacks, Other (specify) _____

Section 2: Contact Information

Name of Applicant: Dan & Tonja Pearson

Address: 79089 South Cold Spring Road

City, State, Zip: Pendleton, OR 97801

Telephone Number & Email Address: 541-278-1733 dtpearson92@gmail.com

The APPLICANT is the ... Legal Owner, Contract Purchaser, Agent, Realtor

Name of Current Property Owner(s):

If Property Owner is not the applicant. _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Section 3: Property Information

Complete for all land use request applications.

1. Location of Property (Provide directions you would give someone to get to the property):

From Rendleton, North on Hwy 37 for approx. 7 miles. Left on South Cole Spring Road drive 4 miles, driveway is at mile post 19.

2. Account Number(s) of Property:

Account # 116200

Account # _____

3. Map Number(s) of Property:

Township 4N Range 31E Section 14, 15 Tax Lot 2201

Township _____ Range _____ Section _____ Tax Lot _____

Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".

4. Has the Property or dwelling received a Rural Address? If so, what is it?

Yes

No

5. Current size of the Property:

Note: A "TRACT OF LAND" is contiguous property within the same ownership. A Tract is viewed differently at times in terms of land use.

Acres 27.26

Acres _____

6. Current Zoning Designation:

There are some 22 zoning designations in Umatilla County.

EFU

GF

Other Zone _____

7. Comprehensive Plan Designation:

A Comprehensive Plan Designation is different than a Zoning Designation in that it distinguishes land that should be developed for various uses, where zoning actually specifies the uses. There can be multiple zoning designations within a Comprehensive Plan Designation.

Agri-business

Commercial

Grazing/Forest

Industrial

Multi-Use

North/South Agriculture

Orchard District

Rural Residential

Special Agriculture

West County Irrigation District

8. Buildings on the Property: Three GP buildings, one GP Shed, one machine Shed, one feeder barn. One dwelling, one conditional use dwelling.

9. Current Use of the Property. If the use is farming, explain the types of crops grown.

Dwelling, boarding and training equines

10. Surrounding Uses of the Property. If the use is farming, explain the type of crops grown.

C.R.P to the North, West and South. Dry land wheat to the East.

11. Does the Property reside in a Floodplain? If so, a Floodplain Development Permit will need to be completed prior to construction.

- No, the Property is not in a floodplain.
 Yes, the Property is in a floodplain:

Zone N/A

Community Number N/A

Panel Number N/A

12. If the Property is in a Floodplain, then is it also located in a wetland as listed on the National Wetlands Inventory maps?

- Yes, provide documentation.
 No, the Property is not in a wetlands

13. How is ACCESS provided to the Property? (i.e. provide name of road that directly serves the Property.) What type of surface does the roadway have?

Name of Road or Lane

South Cold Spring rd

- Paved, Gravel, Dirt

14. Will the Property need an Access Permit onto a County Road or State Highway? If so contact the County Public Works Department, 541-278-5424, or ODOT, 541-276-1241.

- Yes, if so please contact the proper authority and provide that documentation
 No, one already exists (provide a copy)

will use existing driveway and obtain an access permit if Required

15. EASEMENTS: Are there any easements on the Property that provide the MAIN ACCESS for the Property OR adjacent properties? Are there any other easements on the property? Attach easement documentation.

Attach easement documentation:

- Access easements exist
 Utility line easements exist
 Irrigation easements exist
 Other easements exist:
 No, other easements exist.

16. Which Rural Fire District/Department covers your Property with fire protection?

Fire Services:

- East Umatilla
 Echo Rural
 Helix Rural
 Pendleton FD
 Pilot Rock FD
 Umatilla Rural
 Umatilla Dist. #1

Private Companies:

- Meacham
 Milton-Freewater (subscriber)
 Tribal
 Not in a RFD
 Other,

17. Is the Property within an Irrigation District? If the property is served by an Irrigation District, a confirmation letter from that office discussing any concerns of the proposed development must be submitted with this application.

Irrigation District:

- Hermiston
 Stanfield
 West Extension
 Westland

- Hudson Bay or Walla Walla River Irrigation
 Not in an ID
 Other,

18. Describe the soils on the Property by listing the map name and land capability. Visit <http://websoilsurvey.nrcs.usda.gov> or contact NRCS at (541) 278-8049.

Map Unit	Description	Class
39A	Hermiston Silt Loam ^{0-3%} slope	2C
116D	Walla Walla Silt loam ^{12-25%} slope	4E

19. What type of water use(s) exist on the Property? If there are none currently, will there be water uses developed in the future?

- No current water uses exist
 Water Uses to be developed:

Yes, there are water uses

- Domestic Well
 Irrigation Well
 Stock Well

Other: _____

20. Are there Water Rights on the Property? If there are Water Rights, the water permit, certificate and/or other documentation from the Oregon Water Resources Department shall be included with this application.

- No current water rights exist
 Will apply for Water Rights
 Yes, there are water rights, please provide documentation (permit #, etc.)
 Surface Water Right, # _____
 Ground Water Right, # _____

21. What are the water needs of the proposed development? Provide an explanation that shows how the determination was obtained that shows daily usage of water for the development.

Expected Water Usage:

- Exempt Domestic Well (<15,000 gal daily)
 Exempt Commercial Well (<5,000 gal daily)
 Water Right required, estimated number of gallons to be used daily: _____ gallons
 No water is necessary for the development

22. What is the source of your water supply for the proposed development? Please explain your response on a separate sheet of paper.

Water Source:

- Surface Water, explanation attached
 Alluvial Groundwater, explanation attached
 Basalt Groundwater, explanation attached
 No water is necessary for the development

23. Who is the provider of the utilities for the Property?

Water well, or _____
 Sewer septic, or _____

Telephone Century Link

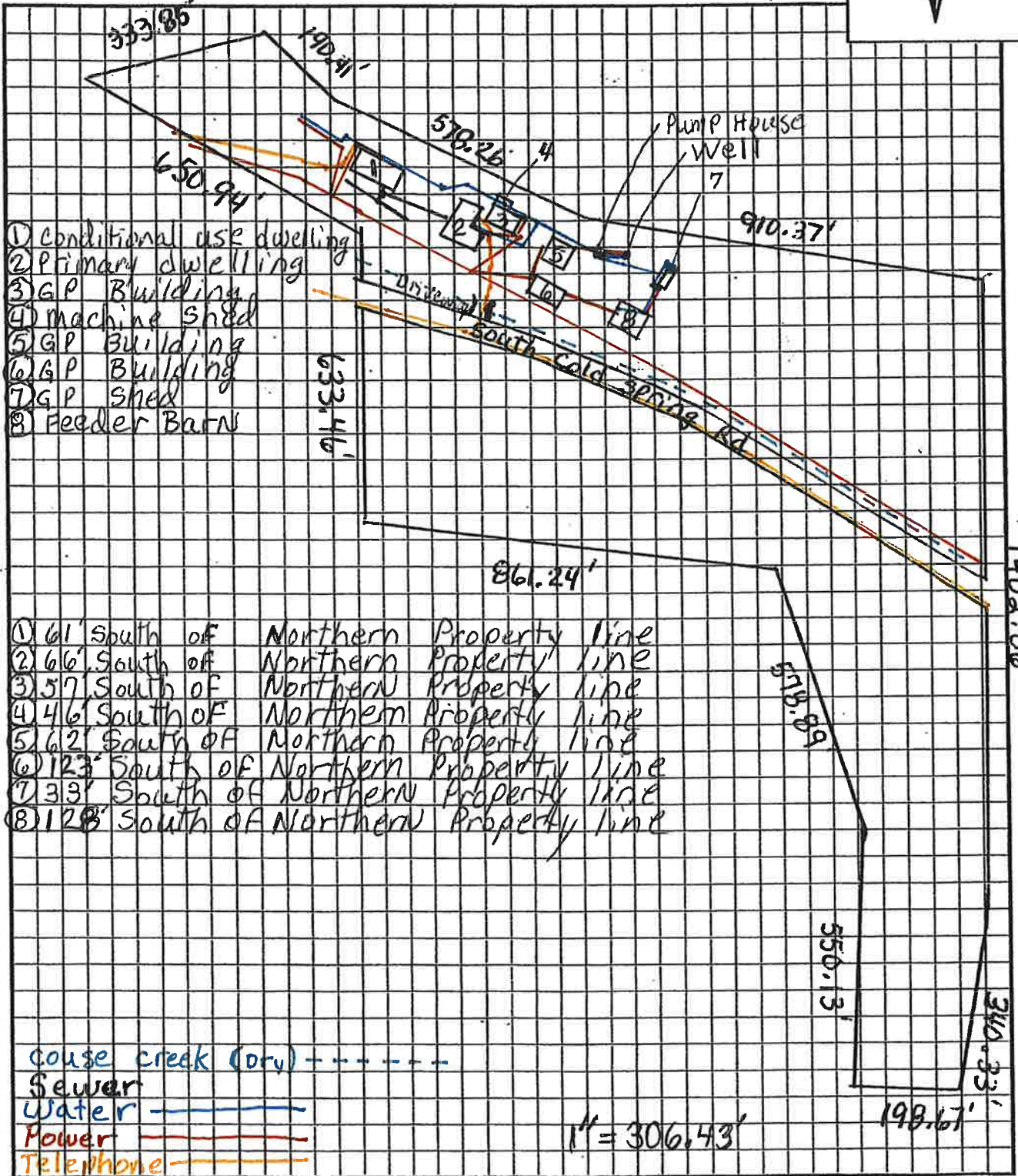
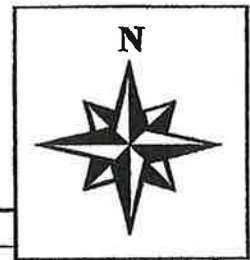
Electrical Umatilla Electric Co-op

Garbage Disposal Pendleton Sanitary Service

24. Provide a description of your proposal (*attach a description if necessary*):

Exhibit B, "Site Plan"

Please include the details listed under item (c) found in Section 4 (on preceding page)



Property Size 27.26 Acres

Umatilla County Department of Land Use Planning, Land Use Request Application, page 8

Revision Date: Nov. 12, 2019, H:\SHARED\FORMS_Master\Application Form & Supplemental Packet Information\Application_Land Use Request_Nov_2019.doc

Section 5: Certification

(Please provide legible signatures.)

APPLICANT: I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Dan Pearson
Signature of Applicant

12-4-22
Date

Dan Pearson
Printed Name of Applicant

PROPERTY OWNER(S): ALL property owners to this land use request are to sign, date and print their names verifying that the applicant is authorized to submit the specified land use request. If there are multiple parcels that are part of this land use request, please indicate which parcel you own. This page can be copied if there are more property owners than this space allows. Attach additional page if necessary.

Legal Owner(s) Dan & Tonja Pearson

Mailing Address P.O. Box 433 City, State, Zip Pendleton OR 97801

Parcel Map # 4N 31E Sec 14,15 tax Lot #2201

X Dan Pearson
Signature of Legal Owner

12-4-22
Date

X Tonja Pearson
Signature of Legal Owner

12/4/2022
Date

* * * * *

Legal Owner(s) _____

Mailing Address _____ City, State, Zip _____

Parcel Map # _____

X _____
Signature of Legal Owner

Date

X _____
Signature of Legal Owner

Date

ADDITIONAL PERSON(S) TO SEND NOTICE

Is there anyone else besides the property owner and adjacent property owners who would like to receive notice of this application during its' review period and notice of decision? (Realtor, Prospective Buyer, Attorney, etc.) Provide name and mailing address:

Name: _____

Address: _____

LN	31		2201	16-2
Twp.	Rge. E	Sec.	Tax Lot Number	Code Area Number
		1/4/1/10		
Map Number				
ACCOUNT NUMBER				



Lot	4N31000002201 - 1
Inden	
Course	

OFFICIAL RECORD OF DESCRIPTION OF REAL PROPERTY 116200
Umatilla County Assessor's Office

15	LN	31
Section	Township	Range E.

City		
Date of Entry On This Card	Deed Record Vol. Pg.	Acres Remaining

2200

Com at the NW corner of Sec. 15,
T4N, R31, EWM and run th S 63° 37' 55"
E 5359 ft to the true P.O.B. for this desc;
Th N 78° 35' 55" E 333.85 ft;
Th S 51° 30' 50" E 190.41 ft;
Th S 63° 17' 00" E 578.26 ft;
Th S 81° 04' 20" E 910.37 ft;
Th S 0° 51' 10" W 1402.86 ft;
Th S 15° 23' 50" W 340.33 ft;
Th N 79° 44' 10" W 198.67 ft;
Th N 2° 36' 10" E 550.13 ft;
Th N 15° 20' 30" W 578.89 ft;
Th N 82° 19' 35" W 861.24 ft;
Th N 4° 02' 55" W 633.46 ft;
Th N 62° 58' 50" W 650.94 ft to the

P.O.B.

Except any and all road and water rights of way.

All being in E½ Sec. 15, and W½ Sec. 14, T4N, R31, EWM, Umatilla County, State of Oregon.

Death Cert: Pearly E. Cribbs.

Death Ctf. for Johnny K. Smith

	5-73	328	15	27.26
N.C.	6-73	329	209	
N.C.	7-81	UnRec.	File	
			7-1-81	
N.C.	10-82	R96	276	
N.C.	12-94	R262	2512	
N.C.	12-94	R262	1514	

UMATILLA COUNTY ASSESSOR'S NAME LEDGER

3/14/2022 4:24:28 PM

Account ID **116200** Township **4N** Range **31** Section **00** 1/4 **0** 1/16 **0** Taxlot **02201** Special Interest

Effective Date **10-Nov-1994 12:00 AM** Transaction ID **-26284** Entry Date **10-Nov-1994** Recorded Date **10-Nov-1994** Sale Price **\$160,000**
 Sale Date **10-Nov-1994**

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	Ownership %	To/From Map
1	-8333	1994	CLERK - BOR	WD	1994	2621514	1	262-1514		NAME CHANGE		

Name Changes Status Name
 A HIXSON MONTY R &
 D SMITH LINDA E
Ownership Type OWNER
Ownership Type OWNER

Effective Date **23-Sep-2004 12:00 AM** Transaction ID **33240** Entry Date **23-Sep-2004** Recorded Date **23-Sep-2004** Sale Date **23-Sep-2004**

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	Ownership %	To/From Map
1	33240	2005	ASSESSOR'S FILE		2004	15144	1	1900-116200		CONVERSION		

Size Changes Code +/- Size Alternate Size Code Area Deleted Move to Acct Move To Code
 1602 27.26 Acres
Size Totals Code Acres Sqft Alternate Size
 1602 27.26

Effective Date **25-Jan-2017 9:04 AM** Transaction ID **1997580** Entry Date **25-Jan-2017** Recorded Date **23-Jan-2017** Sale Price **\$410,000**
 Sale Date **19-Jan-2017**

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	Ownership %	To/From Map
1	3561936	2017	CLERK - BOR	WD	2017	6530629	1			NAME CHANGE		

Name Changes Status Name
 D HIXSON, MONTY R
 D SOULE-HIXSON, JEANNINE K
 A PEARSON, DANNY
 A PEARSON, TONJA
 OWNER (100%)
 TENANTS BY ENTIRETY
 HUSBAND
 PEARSON, DANNY
 WIFE
 PEARSON, TONJA
Ownership Type OWNER
Ownership Type OWNER
Ownership Type OWNER
Ownership Type OWNER
Ownership % 100.0000
Ownership % 100.0000
Ownership % 100.0000
Ownership % 100.0000

Account ID 116200 Township 4N Range 31 Section 00 1/4 0 1/16 0 02201 Taxlot Special Interest

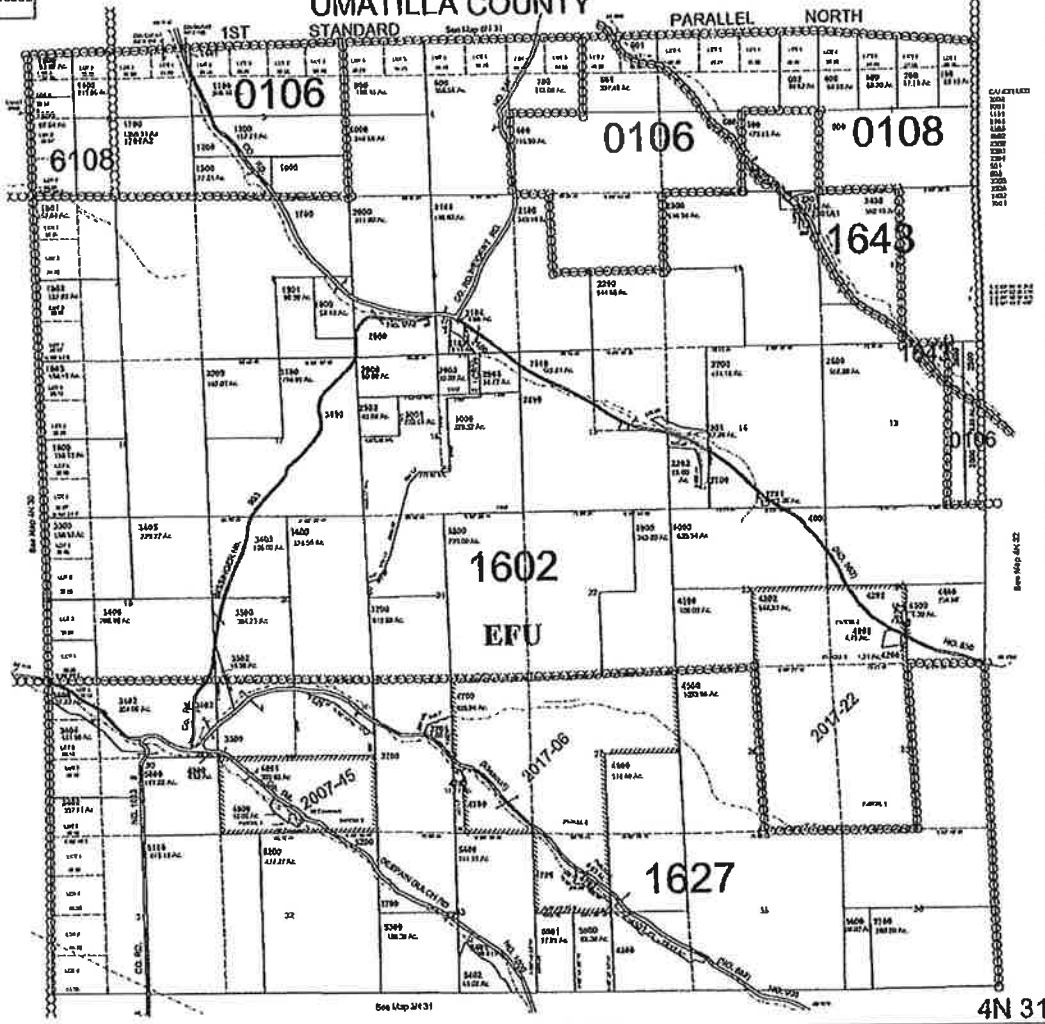
Size Totals	Code	Acres	Sqft	Alternate Size
1502		27.26		

This map was prepared for assessment purposes

SCALE 1"=2000'

T4N R31E WM UMATILLA COUNTY

SECTION 4N 31
AFFIDAVIT PARTIAL RECORDED 10-130-141, 2P 3-0 A 66-62



UMATILLA County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

March 13, 2022 4:46:56 pm

Account # 116200
 Map # 4N31000002201
 Code - Tax # 1602-116200

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr See Record

Mailing Name PEARSON DANNY & TONJA

Deed Reference # 2017-6530629

Agent

Sales Date/Price 01-19-2017 / \$410,000.00

In Care Of

Appraiser

Mailing Address PO BOX 433
 PENDLETON, OR 97801-0433

Prop Class 551 MA SA NH Unit
 RMV Class 551 05 90 000 116200-1

Situs Address(s)		Situs City
ID#	79089 S COLD SPRINGS RD	PENDLETON
ID# 1	79091 S COLD SPRINGS RD	PENDLETON

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
1602	Land 83,240			Land 0	
	Impr. 316,500			Impr. 0	
Code Area Total	399,740	285,430	284,734	0	
Grand Total	399,740	285,430	284,734	0	

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Land Class	Trended RMV
						TD%	LS	Size		
1602					EFU OSD - FULL	100			H	32,000
1602	1	<input checked="" type="checkbox"/>		EFU	Farm Site	99	A	1.00	H	37,620
1602	2	<input checked="" type="checkbox"/>		EFU	Farm Use Zoned	99	A	5.00	3-3	5,790
1602	3	<input checked="" type="checkbox"/>		EFU	Farm Use Zoned	99	A	6.00	4-3	6,240
1602	4	<input checked="" type="checkbox"/>		EFU	Farm Use Zoned	99	A	4.45	6-3	520
1602	5	<input checked="" type="checkbox"/>		EFU	Farm Use Zoned	99	A	10.76	7-3	1,070
1602	6	<input checked="" type="checkbox"/>		EFU	Farm Use Zoned	99	A	0.05	8-3	0
Grand Total								27.26		83,240

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%					
1602	6		302	MACHINE SHED	100		192		1,360	
1602	3		315	GP BUILDING	100		2,160		3,990	
1602	8		305	GP SHED	100		273		3,720	
1602	7		315	GP BUILDING	100		1,040		9,230	
1602	5		332	FEEDER BARN	100		3,072		9,290	
1602	4		315	GP BUILDING	100		1,860		22,320	
1602	1	1980	141	One story	120		2,741		266,590	
Grand Total								11,338		316,500

Exemptions / Special Assessments / Potential Liability

NOTATIONS:

- POTENTIAL ADDL TAX LIABILITY ADDED 2005

MS Account(s): 1602-P-156912

Comments: REMODELED 2001

File No.: 147881AM
Page 4

EXHIBIT "A"
LEGAL DESCRIPTION

That portion of the following described property which lies within the West half of Section 14 and the Northeast Quarter of Section 15, Township 4 North, Range 31, East of the Willamette Meridian, Umatilla County, Oregon;

Commencing at the Northwest corner of Section 15, Township 4 North, Range 31, East of the Willamette Meridian, and running thence South $63^{\circ}37'55''$ East 5359.81 feet to the true point of beginning for this description; thence North $78^{\circ}35'55''$ East 333.85 feet; thence South $51^{\circ}30'50''$ East 190.41 feet; thence South $63^{\circ}17'00''$ East 578.26 feet; thence South $81^{\circ}04'20''$ East 910.37 feet; thence South $0^{\circ}51'10''$ West 1402.86 feet; thence South $15^{\circ}23'50''$ West 340.33 feet; thence North $79^{\circ}44'10''$ West 198.67 feet; thence North $2^{\circ}36'10''$ East 550.13 feet; thence North $15^{\circ}20'30''$ West 578.89 feet; thence North $82^{\circ}19'35''$ West 861.24 feet; thence North $4^{\circ}02'55''$ West 633.46 feet; thence North $62^{\circ}58'50''$ West 650.94 feet to the point of beginning;

EXCEPTING Any and all road and water rights of way.



State of Oregon
County of Umatilla



Instrument received
and recorded on
1/23/2017 03:44 PM

THIS SPACE RESERVED in the record of instrument
code type DE

Instrument number 2017-6530629
Fee \$59.00

Office of County Records

Steph Charalait

Records Officer

1058293 P2

After recording return to:
Danny Pearson and Tonja Pearson
PO Box 433
Pendleton, OR 97801

Until a change is requested all tax statements
shall be sent to the following address:
Danny Pearson and Tonja Pearson
PO Box 433
Pendleton, OR 97801
File No. 147881AM

STATUTORY WARRANTY DEED

Monty Hixson also known as Monty R. Hixson and Jeannine K. Soule Hixson also known as Jeannine K. Soule-Hixson, husband and wife

Grantor(s), hereby convey and warrant to

Danny Pearson and Tonja Pearson, as Tenants by the Entirety,

Grantee(s), the following described real property in the County of Umatilla and State of Oregon free of encumbrances except as specifically set forth herein:

That portion of the following described property which lies within the West half of Section 14 and the Northeast Quarter of Section 15, Township 4 North, Range 31, East of the Willamette Meridian, Umatilla County, Oregon;

Commencing at the Northwest corner of Section 15, Township 4 North, Range 31, East of the Willamette Meridian, and running thence South 63°37'55" East 5359.81 feet to the true point of beginning for this description; thence North 78°35'55" East 333.85 feet; thence South 51°30'50" East 190.41 feet; thence South 63°17'00" East 578.26 feet; thence South 81°04'20" East 910.37 feet; thence South 0°51'10" West 1402.86 feet; thence South 15°23'50" West 340.33 feet; thence North 79°44'10" West 198.67 feet; thence North 2°36'10" East 550.13 feet; thence North 15°20'30" West 578.89 feet; thence North 82°19'35" West 861.24 feet; thence North 4°02'55" West 633.46 feet; thence North 62°58'50" West 650.94 feet to the point of beginning;

EXCEPTING Any and all road and water rights of way.

FOR INFORMATION PURPOSES ONLY, THE MAP/TAX ACCT #(S) ARE REFERENCED HERE:

4N 31 02201

The true and actual consideration for this conveyance is \$410,000.00.
The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

AmeriTitle 14788 W

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 19th day of January 2017.

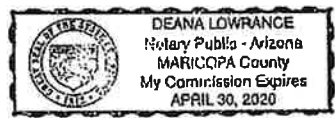
Monty Hixson
Monty Hixson also known as Monty R. Hixson

Jeannine K. Soule Hixson
Jeannine K. Soule Hixson also known as Jeannine K. Soule-Hixson

State of Arizona) ss
County of Maricopa }

On this 19 day of January, 2017, before me, Deana Lowrance a Notary Public in and for said state, personally appeared Monty Hixson, also known as Monty R. Hixson and Jeannine K. Soule Hixson, also known as Jeannine K. Soule-Hixson, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Deana Lowrance
Notary Public for the State of Arizona
Residing at: Phoenix AZ 85050
Commission Expires: 4-30-20



Right of Way Easement

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

Mary Pell, a widow

for a good and valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant unto Umatilla Electric Cooperative Association, a cooperative corporation, whose postoffice address is Hermiston, Oregon, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of *Umatilla*....., State of Oregon, and more particularly described as follows:

W 1/2 of W 1/2 Section 14 and that portion of NE 1/4 of Section 15 which lies north of the county road, all in

Section....., Township *4*..... North of Range *31*..... East of the Willamette Meridian, and to construct, operate and maintain on the above described lands and / or in and upon all streets, roads or highways abutting said lands, an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system, and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wires in falling.

The undersigned covenant that they are the owners of the above described lands and that the said lands are free and clear of incumbrances and liens of whatsoever character except those held by the following persons:

None Federal Land Bank, Spokane

IN WITNESS WHEREOF, the undersigned have set their hands this *22nd* day of *October*....., 19 *46*.....

.....*Mary Pell*.....
.....

Copy

State of Oregon,
County of *Umatilla*.....) ss.

THIS CERTIFIES that on this *22nd* day of *October*....., 19 *46*, before me the undersigned personally appeared the above named
Mary Pell, a widow.....

.....
his wife, known to me to be the identical person described in and who executed the foregoing instrument and acknowledged to me that ~~they~~ ^{she} executed the same.

IN TESTIMONY WHEREOF I have herunto set my hand and official seal the day and year in this certificate written.

R. P. Walley
Notary Public for Oregon.
Comm. expires *March 22, 1949*

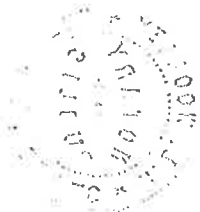
473A

INDEXED
COMPARED
PAGED

STATE OF OREGON }
County of Multnomah } S
This instrument was filed for record on
FEB 7 1947
at 3:12 o'clock P.M. and duly recorded
in Vol. 180 of Deeds
Page 285
Book Peterson
Recorder of Conveyances
By _____ Deputy
Per S. 102 No. 88983

Copy

423*



140-20

Section 6: Farm Relative Dwelling

Complete this section ONLY if applying for a Farm Relative Dwelling.
Review UCDC 152.059 (K) (IV) for greater details.

Note: A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

1. When was the primary farm dwelling constructed on the property and how long has the farming operation been established? The primary farm dwelling was built in 1980. The farm was established and in operation prior to that year.

2. Describe the farming operation that the primary farm dwelling is part of and that the farm relative dwelling would be associated with (i.e. size of operation, type of crops, etc.)

The farm is used for riding lessons, boarding and training horses. The 27 acres allows us to board 5-10 horses and use the balance for training. My son trains Mounted Shooting horses. Enclosed are letters from some of our clients. We have an almost 3100 sq ft barn, three 50' x 70' horse pens with shelters, a 100' x 200' arena and approx 18 acres of pasture.

3. Will the farm relative dwelling be located on the same parcel as the primary farm dwelling where the farm operator lives?

- Yes, the farm relative dwelling will be placed on the same parcel.
 No, the farm relative dwelling will be placed on a different parcel.

4. What is the relationship between the person(s) who will live in the farm relative dwelling and the farm operator or the farm operator's spouse?

- | | |
|---|--|
| <input type="checkbox"/> Grandparent | <input type="checkbox"/> Step-grandparent |
| <input type="checkbox"/> Grandchild | <input type="checkbox"/> Stepsibling |
| <input type="checkbox"/> Parent | <input type="checkbox"/> Niece |
| <input checked="" type="checkbox"/> Child | <input type="checkbox"/> Nephew |
| <input type="checkbox"/> Sibling | <input type="checkbox"/> First Cousin |
| <input type="checkbox"/> Stepparent | |
| | <input type="checkbox"/> We are not related. |

5. Will the farm operator continue to play the predominant role in the management and farm use of the operation?

- Yes, the farm operator will continue to be the predominate manager of the farm.
 No, the farm operator will decrease his/her role as the farm manager or will not be working at all.

6. How is the assistance of the relative in the management of the farm use of the existing commercial farming operation required by the farm operator? Please describe the job duties:

With boarding, training, and maintaining the pasture, horse pens, barn and arena the operation takes two people. Daily activities include feeding, watering, checking fences and gates, and waste management (removing horse manure). Other activities include spraying and pulling weeds in pasture and fence lines, mowing the pastures, working the arena and the time intensive training.

7. Will the farm operator continue to play the predominant role in the management and farm use of the operation?

Yes, the farm operator will continue to be the predominate manager of the farm.

No, the farm operator will decrease his/her role as the farm manager or will not be working at all.

8. Because this land use request deals with a dwelling a "Covenant Not to Sue" (provided by the County) will be recorded. This agreement restricts the landowner from filing suit against adjacent property owners due to farming practices.

I am willing to sign a Covenant Not to Sue Agreement.

I am NOT willing to sign a Covenant Not to Sue Agreement.

February 2, 2022

Regarding:

Tyler Pearson
79089 South Cold Springs Rd
Pendleton, OR 97801

I have used Tyler Pearson in the past to train some of my horses. He does a great job and I trust his methods. I will be sending him another horse to train this spring.

Kelly Myers
PO BOX 334
Rainier, WA 98576
360-339-2814

Parker Wood
109 Summit Drive
Kalama, Washington, 98625

December 10, 2022

To whom it may concern:

I have been boarding three horses at the Pearson's facility since March of 2022. Due to my career as rig support up in Prudhoe Bay Alaska on the Oil fields, I work three weeks on and three weeks off. The Pearson's came highly recommended by some shooters that have had the Pearson's train and tune up their horses. I have the Pearson's feed my horses per our agreement and also ride and maintain my competition horses. They have been very fair. Since my horses have been there I have no worries that they are being well taken care of and maintained.

Sincerely,

A handwritten signature in blue ink that reads "P. Wood". The signature is stylized with a large, cursive "P" and a long horizontal stroke extending to the right.

Parker Ryan Wood
(541) 429-1600

Casey K. Van Dorn

◆◆◆
72278 Nash Lane, Pendleton, Oregon 97801

◆◆◆
◆ Cell Phone 541-310-1496 ◆ Email kjvandorn@gmail.com

December 15. 2022

To Whom It May Concern:

I am a local high school student that has an interest in Cowboy Mounted Shooting. I have had the opportunity to take riding lessons to further my knowledge and skills in Mounted Shooting. I have been able to take those lessons at the Pearson property at: 79089 South Cold Spring Road, Pendleton, OR 97801. I have been taking lessons there since spring of 2022 and have learned from the opportunity immensely.

Please feel free to contact me for information or any further questions I could answer.

Sincerely,



Casey K Van Dorn





**STAFF REQUESTS FOR ADDITIONAL INFORMATION
& APPLICANT RESPONSES**



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Land Use Request for Farm Relative Dwelling

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Fri, Jan 6, 2023 at 10:18 AM

To: dan.pearson@cngc.com

Cc: Robert Waldher <robert.waldher@umatillacounty.gov>

Hello Mr. Pearson,

I was assigned your land use request application to establish the existing Temporary Hardship Home as a Farm Relative Dwelling. I have reviewed your application and have several questions for you:

1. What jobs do you and Tyler have in town? How many hours do each of you spend working these jobs?
2. How many horses do you typically board each day?
3. How many horses are you training? Is this daily, weekly, etc? How long are horses for training typically receiving boarding as well?
4. How long are training sessions typically?
5. How many hours do you and Tyler each spend on boarding care each week? Hours training horses each week?
6. What roles do each of you specifically play in the boarding and training facility? I.e. Who is responsible for feeding and watering, vs. fence checking/repairing, etc?
7. Who is responsible for making the day-to-day decisions, and what are some examples of those decisions?

Your application states that you file self-employment taxes for the operation. Does that include Tyler as an employee? I think those tax documents could assist in supplementing the above requested information, you can of course redact sensitive information.

I appreciate your attention to the above, and I look forward to learning more about your farm operation.

Thank you,

--

Megan Davchevski

Land Use Planner

Transit Coordinator

Umatilla County Department of Land Use Planning



Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Land Use Request for Farm Relative Dwelling

Tonja Pearson <dtpearson92@gmail.com>
To: megan.davchevski@umatillacounty.gov

Wed, Jan 11, 2023 at 8:13 PM

Hello Megan,

Tyler and I work 40 hour weeks in town. Tyler is an electrician and I'm an equipment operator.

Currently we are boarding three horses. They have been here for 11 months. We also boarded one horse for one month and two horses for three months in 2022.

Currently we are working with five horses. The three boarded horses we work with one hour per week each on the weeks the owner is out of state working. He works three weeks on three weeks off. The other two we average 3 days per week. If client horses stay here for training they would also be charged a boarding fee. Typically training sessions last about an hour.

I spend about 22 hours a week feeding, watering, cleaning the stalls and pens. Dragging the manure in the pasture, checking the fences and gates. I spend on average two hours per week warming up the horses for training. I also spend about 10-12 hours per week on jobs such as maintaining fences, horse panels, barn, horse shelters and shops. Also weed control, mowing pastures, and facility improvements.

Tyler averages about 8 hours per week working with horses. He helps me with the many maintenance duties 8-10 hours per week. The days I'm not here he does the boarding duties

The day to day decisions are made by me.

One decision was to purchase two young prospect horses to break and train to sell. Another was to run a waterline to the arena to control the dust for clients and for us when riding in the arena.

Tyler isn't an employee. He and I are working together

If you have any more questions let me know.

Thank you,
Dan Pearson
541-379-4652.

On Tue, Jan 10, 2023 at 12:10 PM Pearson, Dan <Dan.Pearson@cngc.com> wrote:

Get [Outlook for iOS](#)

From: Megan Davchevski <megan.davchevski@umatillacounty.gov>
Sent: Tuesday, January 10, 2023 9:59:32 AM
To: Pearson, Dan <dan.pearson@cngc.com>
Subject: Re: Land Use Request for Farm Relative Dwelling

You don't often get email from megan.davchevski@umatillacounty.gov. [Learn why this is important](#)

**** WARNING: EXTERNAL SENDER. NEVER click links or open attachments without positive sender verification of purpose. DO NOT provide your user ID or password on sites or forms linked from this email. ****

[Quoted text hidden]



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Land Use Request for Farm Relative Dwelling

Megan Davchevski <megan.davchevski@umatillacounty.gov>
To: Tonja Pearson <dtpearson92@gmail.com>

Thu, Jan 12, 2023 at 4:45 PM

Hi Dan,

Did you file a farm profit/loss statement prior to 2021?

[Quoted text hidden]



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Land Use Request for Farm Relative Dwelling

Tonja Pearson <dtpearson92@gmail.com>

Fri, Jan 13, 2023 at 6:39 AM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Good morning Megan,

No, we started boarding and training in 2021.

Have a good day, Dan Pearson

Sent from [Mail](#) for Windows 10

From: [Megan Davchevski](#)

Sent: Thursday, January 12, 2023 4:46 PM

To: [Tonja Pearson](#)

Subject: Re: Land Use Request for Farm Relative Dwelling

Hi Dan,

Did you file a farm profit/loss statement prior to 2021?

On Thu, Jan 12, 2023 at 8:21 AM Megan Davchevski <megan.davchevski@umatillacounty.gov> wrote:

Thank you Dan, this is very helpful. I also received those tax forms.

I will reach out if I have any further questions. Your receipts are attached.

Best,

Megan

On Wed, Jan 11, 2023 at 8:13 PM Tonja Pearson <dtpearson92@gmail.com> wrote:

Hello Megan,

REDACTED IRS FORMS

SCHEDULE F

(Form 1040) Department of the Treasury Internal Revenue Service (99)

Profit or Loss From Farming

Attach to Form 1040, Form 1040-SR, Form 1040-NR, Form 1041, or Form 1065. Go to www.irs.gov/ScheduleF for instructions and the latest information.

OMB No. 1545-0047

2021 Attachment Sequence No. 14

Name of proprietor Social security number (SSN)

EQUESTRIAN

A Principal crop or activity

B Enter code from Part IV

C Accounting method: Cash [X] Accrual []

D Employer number (EIN)

EQUESTRIAN

112900

E Did you "materially participate" in the operation of this business during 2021? If "No," see instructions for limit on passive losses

[X] Yes [] No

F Did you make any payments in 2021 that would require you to file Form(s) 1099? see instructions

[] Yes [] No

G If "Yes," did you or will you file required Form(s) 1099?

[] Yes [] No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 9.)

Table with 9 rows for Farm Income. Line 9: Gross income 3,600.

Part II Farm Expenses - Cash and Accrual Method. Do not include personal or living expenses. See instructions.

Table with 34 rows for Farm Expenses. Line 33: Total expenses 2,710. Line 34: Net farm profit (loss) 890.

35 Reserved for future use. 36 Check the box that describes your investment in this activity and see instructions for where to report your loss: a [] All investment is at risk b [] Some investment is not at risk.

LHA For Paperwork Reduction Act Notice, see the separate instructions. Schedule F (Form 1040) 2021

**SCHEDULE SE
(Form 1040)**

Self-Employment Tax

OMB No. 1545-0074

2021

Attachment
Sequence No. 17

Department of the Treasury
Internal Revenue Service (99)

Go to www.irs.gov/ScheduleSE for instructions and the latest information.

Attach to Form 1040, 1040-SR, or 1040-NR.

Name of person with self-employment income (as shown on Form 1040, 1040-SR, or 1040-NR)

Social security number of person

DANNY PEARSON

with self-employment income ▶ ***-**-****

Part I Self-Employment Tax

Note: If your only income subject to self-employment tax is church employee income, see instructions for how to report your income and the definition of church employee income.

A If you are a minister, member of a religious order, or Christian Science practitioner and you filed Form 4361, but you had \$400 or more of other net earnings from self-employment, check here and continue with Part I

Skip lines 1a and 1b if you use the farm optional method in Part II. See instructions. **SEE STATEMENT 4**

1a	Net farm profit or (loss) from Sch. F, line 34, and farm partnerships, Sch. K-1 (Form 1065), box 14, code A If you received social security retirement or disability benefits, enter the amount of Conservation Reserve Program payments included on Schedule F, line 4b, or listed on Schedule K-1 (Form 1065), box 20, code AH	1a	445.
b	Program payments included on Schedule F, line 4b, or listed on Schedule K-1 (Form 1065), box 20, code AH	1b	
2	Net profit or (loss) from Schedule C, line 31; and Schedule K-1 (Form 1065), box 14, code A (other than farming). See instructions for other income to report or if you are a minister or member of a religious order	2	
3	Combine lines 1a, 1b, and 2	3	445.
4a	If line 3 is more than zero, multiply line 3 by 92.35% (0.9235). Otherwise, enter amount from line 3 Note: If line 4a is less than \$400 due to Conservation Reserve Program payments on line 1b, see instructions	4a	411.
b	If you elect one or both of the optional methods, enter the total of lines 15 and 17 here	4b	
c	Combine lines 4a and 4b. If less than \$400, stop; you don't owe self-employment tax. Exception: If less than \$400 and you had church employee income, enter -0- and continue	4c	411.
5a	Enter your church employee income from Form W-2. See instructions for definition of church employee income	5a	
b	Multiply line 5a by 92.35% (0.9235). If less than \$100, enter -0-	5b	
6	Add lines 4c and 5b	6	411.
7	Maximum amount of combined wages and self-employment earnings subject to social security tax or the 6.2% portion of the 7.65% railroad retirement (tier 1) tax for 2021	7	142,800
8a	Total social security wages and tips (total of boxes 3 and 7 on Form(s) W-2) and railroad retirement (tier 1) compensation. If \$142,800 or more, skip lines 8b through 10, and go to line 11	8a	
b	Unreported tips subject to social security tax from Form 4137, line 10	8b	
c	Wages subject to social security tax from Form 8919, line 10	8c	
d	Add lines 8a, 8b, and 8c	8d	
9	Subtract line 8d from line 7. If zero or less, enter -0- here and on line 10 and go to line 11	9	
10	Multiply the smaller of line 6 or line 9 by 12.4% (0.124)	10	51.
11	Multiply line 6 by 2.9% (0.029)	11	12.
12	Self-employment tax. Add lines 10 and 11. Enter here and on Schedule 2 (Form 1040), line 4	12	63.
13	Deduction for one-half of self-employment tax. Multiply line 12 by 50% (0.50). Enter here and on Schedule 1 (Form 1040), line 15	13	32.

Part II Optional Methods To Figure Net Earnings (see instructions)

Farm Optional Method. You may use this method only if (a) your gross farm income ¹ wasn't more than \$8,820, or (b) your net farm profits ² were less than \$6,367.			
14	Maximum income for optional methods	14	5,880
15	Enter the smaller of: two-thirds (2/3) of gross farm income ¹ (not less than zero) or \$5,880. Also, include this amount on line 4b above	15	
Nonfarm Optional Method. You may use this method only if (a) your net nonfarm profits ³ were less than \$6,367 and also less than 72.189% of your gross nonfarm income ⁴ and (b) you had net earnings from self-employment of at least \$400 in 2 of the prior 3 years. Caution: You may use this method no more than five times.			
16	Subtract line 15 from line 14	16	
17	Enter the smaller of: two-thirds (2/3) of gross nonfarm income ⁴ (not less than zero) or the amount on line 16. Also, include this amount on line 4b above	17	

¹ From Sch. F, line 9; and Sch. K-1 (Form 1065), box 14, code B.
² From Sch. F, line 34; and Sch. K-1 (Form 1065), box 14, code A minus the amount you would have entered on line 1b had you not used the optional method.
³ From Sch. C, line 31; and Sch. K-1 (Form 1065), box 14, code A.
⁴ From Sch. C, line 7; and Sch. K-1 (Form 1065), box 14, code C.

REQUEST FOR PUBLIC HEARING

Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252



Request for a Public Hearing

Process taken from UCDC 152.769

REQUEST FOR A HEARING

The purpose of a notice for a land use request application is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

FILING FEE

Requesting a Public Hearing - \$250

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009
File Location: H:\shared\FORMS_Master\Appeal_Hearing.doc

RECEIVED

FEB 17 2023

**UMATILLA COUNTY
PLANNING DEPARTMENT**

Section 1: Request and Description of Application

This information deals with the Land Use Request Application where a Public Hearing is being requested.

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #LUD-293-23
- Type of Land Use Request Application: Farm relative dwelling
- Decision-Making Body: Planning Director or Other _____
- For a Request of a Public Hearing, Date Notice was sent: January 30, 2023

Section 2: Contact Information

Name of Submitter(s): Dan Pearson

Address: 79089 S. Cold Spring Rd

City, State, Zip: Pendleton Oregon 97801

Telephone Number & Email

Address: (541)278-1733 dtpearson92@gmail.com

Date of Submittal for Request of a Public Hearing: 2-17-23

Section 3: Basis for the Request for a Public Hearing

Complete only for a Request for a Public Hearing

The Request for a Public Hearing must be based on issues you feel should be addressed in a public forum. Please describe the reasons you feel that a public hearing should be held before the Umatilla County Planning Commission in relation to the land use request application specified above:

See Attached

The Applicant requests a public hearing before the Planning Commission for the reasons set forth below. The criteria for a relative farm help dwelling are set forth below:

§152.059(7) Relative farm help dwelling.

(a) A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. A "relative" means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse and is subject to the following criteria:

(b) The farm operator shall continue to play the predominant role in the farm management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing:

(i) Provide information on the farm operation, (i.e., size, crops planted, numbers of livestock, etc.) and provide a summary of the farm duties and assistance the relative will provide;

(ii) The relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use. Provide the location of the farm operator's dwelling and the location of the proposed relative farm help dwelling.

(c) Sign and record a Covenant Not to Sue as provided in §152.059 (K) (11).

(d) Farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling.

(e) For the purpose of subsection (a), "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

(f) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(g) For the purpose of subsection (f), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

The planning director has tentatively determined that the farm only qualifies as a "commercial" farming operation, warranting additional farm help, the following must be true: (1) the farm operator must devote a majority of his or her working hours to operating a farm on the subject property, *and* (2) that the farm operation meets or exceeds the income threshold to qualify for a primary farm dwelling. The applicant takes issue with these proposed findings.

The applicant intends to demonstrate at the public hearing that he is operating a commercial farming operation. LUBA has stated that the phrase "commercial farm operation" is undefined, "counties have some discretion to determine the thresholds for a "commercial farming operation" as applied within the county or within a particular local area or agricultural sector. *Harland v. Polk*

County, 44 Or LUBA 420, 435 (2003). The goal is to distinguish between a hobby farm and a genuine commercial farm. LUBA has stated that “[w]hat distinguishes an existing ‘commercial’ farming operation from its noncommercial counterparts is largely a matter of scale and intensity.” *Richards v. Jefferson County*, __ Or LUBA __ (LUBA No. 2018-117, Feb. 27, 2019). In *Richards*, LUBA went on to say that “[r]oughly speaking, we believe a commercial farming operation is one that is of sufficient scale and intensity that would induce and require a reasonable farmer to devote the majority of his or her working hours to operating a farm on the subject property.” However, LUBA was not intending to create a hard-and-fast rule, and the Planning Commission does have some latitude here, particularly in a case like this where the hours spent working on the farm is very close to the time spent pursuing other work.

The applicant also does not believe that the County is required to apply the \$40,000 income requirement as a safe harbor for a relative farm help dwelling. The applicant is required to demonstrate that it has an “existing commercial farming operation,” and a safe harbor is not the only way to meet that test.

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Dan Pearson 2-17-23
Signature of Submitter Date

Dan Pearson
Printed Name of Submitter

X _____
Signature of Submitter Date

Printed Name of Submitter

X _____
Signature of Submitter Date

Printed Name of Submitter

X _____
Signature of Submitter Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: 02/17/23

Accepted by: Robert T Walden
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 21712

LETTERS SUBMITTED BY APPLICANT



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Pearson hearing April 27, 2023

2 messages


Tonja Pearson <dtpearson92@gmail.com>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, Apr 13, 2023 at 7:30 PM

Hi Megan,

We would like the attached letters to be added to the packet. Please let us know if you have any issues with the attachments.

Thank you,
Dan Pearson

 **20230413070150147.pdf**
404K

Megan Davchevski <megan.davchevski@umatillacounty.gov>
To: Tonja Pearson <dtpearson92@gmail.com>

Fri, Apr 14, 2023 at 8:03 AM

Hi Dan,

Your letters were received, thank you. I will have them added to the Planning Commission packet.

Next week (Thursday) I will send you the meeting information and link to the packet. Feel free to reach out if you have any questions.

Thank you,

Megan
[Quoted text hidden]

--

Megan Davchevski

Planning Division Manager

Community Development Department



Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

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APR 14 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Planning Appeal

For the past 23 years, farmers and ranchers driving along South Cold Springs Road have admired the neat, well-kept dwelling that was clearly part of the Hixson property. The home was established as a residence for an elderly couple whose children lived in the farmhouse just a few feet away. There is no dispute that the home was permitted for the purpose of providing on-site care.

Now, the current owners of the property did what they felt was the right thing to do and reported to the Planning Department that they were interested in changing the use of the now empty home which as noted earlier, is just a feet from the home of the new owners of the farm.

As the new owner, who, upon purchase of the property from his stepfather was led to believe there were no issues regarding subsequent uses, approaches retirement from a job with Cascade Natural Gas, he has established a horse boarding facility that will ultimately consume his full attention. As part of this transition, he is hoping to be able to utilize the other home on the property for his son, who will eventually inherit the farm and who, in the meantime, will be actively involved in helping develop the new family business while also helping his parents as they age.

The family is well aware that this is farming country and they have no interest in establishing a rental or doing anything else that would change the nature of the property from anything other than an agricultural enterprise. They also would not dispute a finding that the home must be occupied by a direct relative who is prepared to both assist with the business and provide long-term care for the parents.

It has been acknowledged that the location of both homes on the property fall within guidelines for an additional farm dwelling. In addition, due to its existence, there is no impact on water supplies, egress and ingress, and provisions for public utilities. Its location on South Cold Springs Road is on a straight-away and provides no safety hazards.

The son is already engaged in activities related to horses plus he has trained as an electrician and is employed by S & S Electric. Both the father and the son have developed a reputation in the neighborhood as hard working individuals who show pride in their property. The neighbors who live closest to them have providing supporting letters indicating they are fully supportive of allowing the family to be part of their remote neighborhood.

They have a growing reputation in their horse boarding business with clients from not just the immediate area but from throughout the Pacific Northwest. In response to questions about the current size of the operation, Ordinance 3.3.2 allows for a dwelling for a relative whose assistance either is or will be required by the farm operator. It is their intention to significantly grow the enterprise.

Further definitions under 3.3.2 notes that authorization for family farm help dwellings does not require that the applicant must establish that the relative's assistance is required year-round or full-time. Where an applicant identifies varied tasks that the relative will perform and takes the position that the relative's assistance will be particularly needed during times when the only farm operator

cannot be present, the applicant adequately establishes that the relative's assistance is required under the code.

One of the reasons the neighbors are supportive, beyond the fact the family has proven itself as good stewards, is the fact that a trip along South Cold Springs Road would quickly reveal that there are vast, open wheat fields where farmers have millions of dollars' worth of sophisticated farm equipment that is constantly subject to theft and damage due to its exposure. There is certainly plenty of evidence regarding the impact of criminal activity on vulnerable farmers and ranchers. The primary source of surveillance falls on the tight-knit group of residents along South Cold Springs Road who look out for each other. They appreciate the contribution the Pearson's make to that constant effort as have those who have occupied the farm before them.

Where regulations speak to the addition of farm activities that fit within those normally conducted in the area, there are often roping steers grazing nearby on wheat stubble. In addition, the nearest neighbor has a roping arena in his front yard and he and his family are prominent on the rodeo circuit and have been for many decades. It is therefore not incongruent with guidelines that further horse-related activities are appropriate.

Like so many things in Oregon, many laws, particularly in the arena of land use, find their roots on the west side of the state. While such laws often prove to be impractical, the state in its infinite wisdom provided local counties with the authority to make interpretations that best meet the needs of the local community. In fact, there are references that refer to the fact the state has been intentionally vague in some of its guidelines in order to equip local authorities with the opportunity to incorporate local conditions in the decision-making process.

In actuality, on the east side of the state, where agriculture is highly-revered, so too is the preservation of productive farmland. The term EFU, means something and both farmers and public officials are committed to making decisions that do not take valuable cropland out of production. Such is often not the case in areas reflecting unfettered urban sprawl. The current dwelling in question has no impact on productive farmland.

While laws and rules are important, so too are provisions for reasonable and prudent action and the application of common sense. Perhaps the latter consideration, common sense, or good sense as it should be more appropriately described, is what so often sets rural counties apart as local boards and elected officials consider issues regarding their constituents.

Oregon is currently in the throes of a massive housing shortage and people, even in Umatilla County, are finding shelter in sheds, old motorhomes, abandoned buildings, or in tents along the rivers or wherever the homeless can accommodate themselves out of sight. One only needs to travel around the county to find small enclaves of old motorhomes and vehicles. This in itself is a travesty that needs to be seriously addressed.

Contrast this against the plight of a 24-year old electrician who is responsibly trying to do the right thing in occupying an established, well-maintained home where he will be able to assist with the family

horse enterprise, position himself to assist his parents as they age, and ultimately inherit the business and the farm. Hopefully those engaged in this decision will have an opportunity to see the home and its proximity to the main farmhouse and the farmstead itself. A visit to the site would be ideal but photos can help, as do the support letters from neighbors.

Commissions and ultimately the authority of the County Commission were established for the purpose of applying a measure of reality to situations of this nature. All Oregon residents should appreciate and embrace the fact that there are still governmental bodies at work in this state that have the authority, if they choose to employ it, to balance broad policy against good sense.

One of the goals of Umatilla County and very likely all counties is to foster the continual improvement and the value of individual properties. Another goal, carried out by the code enforcement function, is to help assure that properties meet certain appearance standards. The arbitrary removal of a well-maintained home with a real market value arguably in the neighborhood of \$200,000 and replacing it with an empty lot that could very likely show remnants of its former use doesn't make any sense – in terms of appearance or tax revenues.

In that regard, please grant this appeal.

11/12/2022

To whom it may concern,

We are writing on behalf of Dan and Tonja Pearson in regards to the former home of Evelyn Hixson. The Pearsons have lived down the road from us for many years now and have been nothing but great neighbors. Prior to their residency on South Cold Springs Rd their home was the home of the Hixson family who were friends and neighbors of ours. It is to our understanding that of the two homes on the Pearsons property one of them is to be deemed "uninhabitable" or torn down upon the death of Evelyn Hixson. We strongly suggest this be reconsidered and the house remain as is for the Pearsons to use as they want. In our opinion it does not make sense to tear down a perfectly livable house that causes no burden to anyone around them. The Pearsons are family people and that second home on their property would be a great place for any of their family members to live. They are also very tidy and their two homes and property are a staple of how a piece of property should be maintained and taken care of.

Thank you and I hope this matter can be resolved to the benefit of the Pearson family. Please feel free to contact us with any questions or concerns.

Sincerely,


Pake & Bailey Sorey

541-240-1102
78298 S. Cold Spring Rd.
Pendleton OR, 97801

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APR 14 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

RECEIVED

APR 14 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

November 14, 2022

To Whom It May Concern:

It has come to our attention that our neighbors, Dan & Tonja Pearson, are running into zoning issues with a second residence on their property. We have been asked by the Pearson's if we had any objections to the house remaining on their property and we have none.

Our understanding of this residence was to house the immediate family of the former owners Monty and Jeannine Hixson. Monty's elderly parents were allowed to put this home on the property so they could live out their days near their son. Now that the elderly Hixson's have passed away, and the property has been sold, it is the intention of the Pearsons to allow their son to reside in this home. We have no objection to the house being used in this manner.

We also feel that the following reasons make a positive contribution to our area:

- Additional property tax income
- Additional security of property (persons to help watch)
- We also feel that there are no downside or negative issues overall.

The home has been there for the past 22 years. It is well taken care of and would be a waste if it was disposed of at this point.

We realize that zoning regulations are put into place for a reason, but we also feel that situations such as this should be reviewed and considered for an exception.

Thank you for your time and consideration.

Sincerely,



Tom and Wendy Sorey
78634 S Cold Spring Rd
541-~~379~~379-0917
tomsorey@gmail.com

March 3rd, 2023

RECEIVED

APR 14 2023

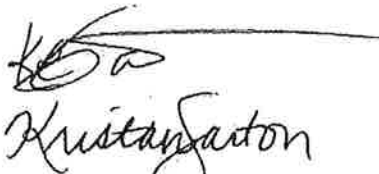
UMATILLA COUNTY
PLANNING DEPARTMENT

To Whom it May Concern:

We are neighbors with Dan and Tonja Pearson's family at their beautiful home on S. Cold Spring Rd in Pendleton. Dan and Tonya purchased their home from the Hixon family, who were fortunate enough to place a second residence on their property for Monty Hixon's elderly parents to live the remainder of their lives. The elder Hixons have since passed, and the well manicured second home remains on the property. The Pearson family hopes to use the residence the exact same way, for their son to reside in the home to help with day to day tasks, as well as offer additional security to the property when Dan and Tanya are away.

As neighbors, we have absolutely no objections to the house being used in this manner. It would be an absolute shame to see this home destroyed as a result of not considering this exception for the home to remain where it has been the past 22 years.

We thank you for your time and consideration in this matter. Should you have any further questions, please don't hesitate to reach out.



Kelsy & Kristan Garton
541-969-6601

MEETING MINUTES

**TEXT AMENDMENT #T-092-22,
PLAN AMENDMENT #P-135-22 &
ZONE MAP AMENDMENT #Z-322-22
GIRTH DOG LLC, APPLICANT/ OWNER**

The applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan list of Goal 5 protected Large Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site.

The property site is comprised of several tax lots located south of the Interstate 82/84 interchange. The site is identified on assessor's map as Township 4 North, Range 27 East, Section 36, Tax Lots 900, 1100, 1200, 1300 & 1800. The site is approximately 225 acres and is zoned Exclusive Farm Use (EFU).

**UMATILLA COUNTY
PLANNING COMMISSION HEARING
January 26, 2023**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, January 26, 2023, 6:30pm

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Tami Green, Sam Tucker,
John Standley, Emery Gentry & Jodi Hinsley

COMMISSIONER

PRESENT VIA ZOOM: Tammie Williams

PLANNING STAFF: Bob Waldher, Planning Director; Megan Davchevski, Planner/ Transit
Coordinator & Tierney Cimmiyotti, Administrative Assistant

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE.

CALL TO ORDER

Chair Danforth called the meeting to order at 6:31 pm and read the Opening Statement.

CONTINUED HEARING

TEXT AMENDMENT #T-092-22, PLAN AMENDMENT #P-135-22 & ZONE MAP AMENDMENT #Z-322-22; CRAIG COLEMAN, APPLICANT/ GIRTH DOG LLC, OWNER. The applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan list of Goal 5 protected Large Significant Sites, and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The proposed site is comprised of several tax lots located south of the Interstate 82/84 interchange. The site is identified on Assessor’s Map as Township 4 North, Range 27 East, Section 36, Tax Lots 900, 1100, 1200, 1300 & 1800. The site is approximately 225 acres and is zoned Exclusive Farm Use (EFU).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Tucker stated that he represented Carla McLane’s (applicant’s consultant) mother’s estate as an attorney. The Planning Commissioners determined there is no conflict of interest in this matter.

MINUTES

Chair Danforth called for any corrections or additions to the October 20, 2022 & December 16, 2022 meeting minutes. There were none. Commissioner Tucker moved to approve the minutes as presented. Commissioner Wysocki seconded the motion. Motion carried by consensus.

Chair Danforth called for the Staff Report.

STAFF REPORT

Mr. Waldher, Umatilla County Community Development Director, stated that the applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan

list of Goal 5 protected Large Significant Sites and apply the AR Overlay Zone to the entire quarry site. He explained that the property is comprised of several tax lots totaling approximately 225 acres and is zoned EFU. The property is located south of the Interstate 82 and 84 Interchange, southwest of the Westland Road Interchange and south of Stafford Hansell Road. If the proposal is approved, the County will add this site as a Large Significant Site to Umatilla County's Goal 5 Aggregate Resource Inventory.

Mr. Waldher stated that the applicant requests to excavate aggregate, batch that aggregate for various commercial and industrial projects, stockpile unused aggregate material for current and future use and process the aggregate into both asphalt and concrete. Both sand and gravel materials are available on this site.

The criteria of approval are found in Oregon Administrative Rule (OAR) 660-023-0040 – 0050, 660-023-0180 (3), (5) and (7) and Umatilla County Development Code (UCDC) Section 152.487 – 488.

Mr. Waldher stated that the Umatilla County Planning Commission held a first evidentiary hearing on this matter Thursday, October 20, 2022. The hearing was subsequently continued to Thursday, December 15, 2022. During the continued hearing in December, testimony was provided by the applicant and their consultant, as well as project opponents (including neighboring and nearby aggregate operators). Several documents which were not included in the original October and December hearing packets were introduced into the record and are summarized as follows:

Exhibit I; December 12, 2022, Email communication between Bob Waldher (Planning Director) and Greg Silbernagel (Watermaster, OWRD).

Exhibit J; December 14, 2022, Email Response to Mr. Stamps 11/23/22 letter (Attorney Representing Opponents) from Carla McLane (Consultant for Applicant) to planning staff including; Coleman Response Letter, Hatley Application, Road Vacation Order & two pictures of the rock source locations.

During the December hearing, upon request from Mr. Stamp, the Planning Commission agreed to leave the record open for a period of 21 days, outlined as follows; 7 days to allow for all parties to submit new evidence (deadline 12/22/22); then, 7 additional days for rebuttal (deadline 12/29/22); and finally, 7 days for the applicant to submit final legal arguments only – no new evidence (deadline 01/05/23). Deliberation and a decision (recommendation to the Board of County Commissioners) was announced for the hearing scheduled on January 26, 2023 at 6:30 pm at the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, Oregon.

Subsequent to the continued December 2022 hearing, additional information was submitted and received by the County Planning Department during the 21-day open record period, summarized as follows:

Exhibit K; December 22, 2022, Additional Evidence submitted by Craig Coleman & Representatives (Applicant)

Exhibit L; December 22, 2022, Additional Evidence submitted by Wade Aylett Sr. (Opponent)

Exhibit M; December 22, 2022, Additional Evidence submitted by Wade Aylett Jr. (Opponent)

Exhibit N; December 22, 2022, Additional Evidence submitted by Andrew Stamp (Attorney Representing Opponents)

Exhibit O; December 29, 2022, Rebuttal submitted by Craig Coleman & Representatives (Applicant)

Exhibit P; January 5, 2023, Final Legal Arguments submitted by Sarah Stauffer Curtiss (Attorney Representing Applicant)

Mr. Waldher added that, in addition to the information included in the Staff Report, relevant information pertaining to this agenda item can be found in the previous October and December 2022 hearing packets. Previous hearing packets can be found on the County's website at: <https://www.co.umatilla.or.us/departments/planning/plan-packets>.

Mr. Waldher noted that, during the final 7-day period in which only the applicant was to submit final legal arguments, additional emails and comments were received from Terry Clarke representing JTJ Enterprises, LLC which operates a mining site to the east of the subject property, and Andrew Stamp, Attorney representing the Aylett's and Rock It, LLC. After discussion with legal counsel, these documents were not included in the January 26, 2023 hearing packets because they were received outside the deadline set by the Planning Commission at the December 15, 2022 hearing. However, staff noted that this information can be presented in arguments before the Board of County Commissioners (BCC) as part of the de novo hearing review and decision process.

Mr. Waldher stated that the process of approval by the County involves review by the County Planning Commission with a recommendation to the BCC. The decision includes a set of Precedent and Subsequent Conditions of Approval. He explained that the Planning Commission is tasked with determining if the application satisfies the criteria of approval. First, they must decide whether the site can be established as a Goal 5 site added to the County's Aggregate Resource Inventory and second, whether or not to allow mining. He added that this decision must be based on evidence and facts in the record. Subsequently, the BCC must hold a public hearing and decide whether or not to adopt the proposed amendments. A public hearing before the BCC will be scheduled upon a recommendation from the Planning Commission.

Chair Danforth closed the hearing for deliberation and adopted Exhibits K - P into the record.

Mr. Stamp Andrew Stamp (Representative for Opponent, Wade Aylett, Rock It, LLC) stated that he objects to the proceeding. Chair Danforth noted Mr. Stamps objection and moved forward with deliberation.

DELIBERATION & DECISION

Commissioner Tucker stated that believes that at a higher level, this request could be decided differently than what the Planning Commission decides. There could be appeals to the Oregon Land Use Board of Appeals (LUBA) and they could find problems with their recommendation. However, he feels that possibility should not be considered when deciding this matter. He explained that after the first hearing he was left with the impression that the applicant did not have everything they needed. However, as the opponent presented complaints about the application they essentially made a road map of what was incomplete. As a result, the applicants came back to the second hearing and addressed each concern presented by the opponents at the first hearing. Ultimately, they proceeded to check all the necessary boxes.

Commissioner Tucker explained that he believes the job of the Planning Commission is to read the rules and apply them to the facts presented in the applicant's request. Therefore, the argument that there are already too many aggregate pits in the area does not play a role in making the final decision. He expressed that he would not want to stop development and explained that his general philosophy is that the government should stay out of the way unless there is a reason to get involved. He feels that, if the applicant meets criteria, they meet it. If the concern is competition, he believes that is what our economic theory is based upon and competition controls price.

Commissioner Tucker acknowledged that there is a water issue at the site and the applicant is unsure how they will get water. He stated that, although this is a concern, it is not the Planning Commission's problem. He does not think the Planning Commission should deny the request because they think another agency may not approve something down the line. He believes approval is appropriate because the applicant has checked all the boxes necessary to meet the Planning Commissions requirements. He trusts that the applicant has drilled and tested an adequate amount of test holes and demonstrated with overwhelming evidence that they meet the quality and quantity standards for material at the site. He stated that he supports approval of the application.

Commissioner Hinsley stated that her biggest struggle with this application was that the applicant does not have water rights to support operations at the facility. Additionally, she was concerned about adding another aggregate operation to the area when there are already a number of existing sites close by.

Commissioner Standley agreed with Commissioner Tucker. He stated that he was originally concerned about the lack of water at the site, but believes the applicant has presented several ways to mitigate that issue. He added that it's the applicant's role to provide more details about their intended water source as they advance in the application process with other agencies. The

Department of Environmental Quality (DEQ) and Department of Geology and Mineral Industries (DOGAMI) will have standards the applicant has to meet that don't involve County Planning.

Commissioner Williams stated that she agrees with the other Commissioners. She thinks the applicant meets the requirements and water at the site is not the Planning Commission's issue. She added that it can take 2-3 years to establish a water right and it's not something the Planning Commission looks at when making their decision.

Commissioner Gentry stated that he also agrees with the others. He added that the Planning Commission has met several times on this issue and the request has been thoroughly examined. It is important to consider what is within the purview of the County and the role of the Planning Commission. He believes the applicant has met the criteria for approval in this application and restated that they will have additional standards to meet when they move forward with other agencies.

Commissioner Wysocki stated that he feels this is a difficult decision and he has empathy for both the applicant and opponents. He reiterated that the Planning Commission is required to make decisions based on the rules and regulations required by the County.

Chair Danforth stated that this is the first time in her tenure with the Planning Commission that an issue has been continued to a third hearing. She has empathy for both sides and stated that she has learned a lot during this process. She agrees with Commissioner Tucker that the opponent was able to outline a path forward for the applicant. She was not able to review the application submitted by Mr. Coleman and wondered why the application was not in the packets. She stated that the applicant used previous applications to complete their own application and contended that this request is just like the others that the Planning Commission has approved in the past. However, she does not believe this request is like the others. She explained that this is a new request for Goal 5 protections, not adding additional acreage to an existing site. She feels it is important to look at this request as its own unique application and not compare it to past aggregate requests.

Chair Danforth stated that she is concerned that the applicant does not have a definitive plan for onsite operations. She was frustrated that, when asked for specific details, the applicant and proponents used phrases like, 'we will see what we're working with'. She reiterated that there is no actual plan in place and asked, "How do you approve something without a plan?"

Chair Danforth stated that she believes this operation will affect residential sites in the area and she would like a standard in place to protect those residents, not just the applicant's word at the hearing. She views this issue as particularly problematic because enforcement of environmental impact standards is complaint driven, so the resident will carry the burden. She pointed out that, with no water at the site they cannot properly manage dust and she believes they do not have all the necessary parts in place to operate at this time. She explained that the applicant expressed that they plan to produce asphalt and concrete but they do not have water, which is required to clean

the rock. Additionally, she does not believe the applicant showed proof of a certified geological study completed at the site.

Chair Danforth expressed that she has confidence that the Planning Commission has been able to come to a clear understanding of what this request entails over last few months and feels that the concerns expressed by her and others should be voiced to the BCC. She wants to be sure the Planning Commission continues to approve only applications which meet the required standards when reviewing aggregate requests and not lower the bar moving forward.

Commissioner Standley stated that he has apprehensions about potentially conflicting issues not being in writing. For example, the applicant does not intend to use a berm as part of the operation because they contend the nearest neighbor prefers that they not impede his view. Commissioner Standley explained that it makes him uneasy that this agreement has not been solidified as part of the operation plan. He would like more documentation in the record to show exactly what is being approved and what was not, to ensure things do not change over time.

Commissioner Gentry reiterated that the Planning Commission has specific criteria to consider when approving or denying these requests. He explained that the applicant will be required to provide many more specific details and meet strict requirements when they apply for permits related to mining operations because there will be a number of permits required by a variety of agencies at that time. Additionally, other agencies will enforce regulatory standards for environmental concerns like dust and noise so it's not the Planning Commissions role to make those determinations.

Commissioner Gentry asked if it is appropriate for the Planning Commission to tell an applicant that they need to spend the money to conduct a full geological survey. He stated that he has the impression that some of the Commissioners feel the applicants testing of rock samples may have been inadequate. However, he believes the only way to do more is to conduct a full geological survey of the site, and that seems like a big ask.

Commissioner Standley stated that he is unsure what other regulatory agencies are responsible for when it comes to permitting operations like this. He pointed out that, as part of his testimony at previous hearings, Mr. Clark asked for additional information about the site plan, among other things. Commissioner Standley stated that he is unsure if a site plan is required for our process or if another agency oversees that piece. He stated that he would feel better about not fully addressing every aspect of the operation if he knew they were being taken care of by another agency.

Commissioner Hinsley stated that she originally had concerns about impacts to the neighbor living near the operation. However, she pointed out that the neighbor received notification about the public hearing and did not object to anything.

Mr. Waldher reminded the Planning Commissioners that they have the opportunity to add conditions. For instance, a site plan is required when obtaining the Zoning Permit to complete the

process. He stated that they could impose conditions like spelling out that the processing equipment will be setback at least 500 feet from existing dwellings and require the applicant to show the berm on the site plan. In terms of water, a condition could be added to ensure they obtain all required permits from Oregon Water Resources Department (OWRD) or otherwise demonstrate whatever method they plan to use to obtain water at the site.

Commissioner Tucker asked whether additional conditions like that are necessary or if they are redundant, because those requirements will be mandatory either way. Chair Danforth stated that they could add conditions of approval, but the matter will ultimately be decided by the BCC. They could add more conditions or remove all the conditions recommended by the Planning Commission, it's their decision. Commissioner Wysocki stated that, although he knows the additional conditions are already required steps, he thinks it's important to send a message to the BCC that they have considered all the elements by adding them as conditions of approval. Commissioner Hinsley agreed. She added that it makes a statement to the BCC that these pieces of the plan are not yet in place, and she would like it to be noted. Chair Danforth was in agreement.

Chair Danforth stated that she would like to see a berm around the pit. Commissioner Tucker argued that a requirement like that would be counterproductive because the pit will eventually be near the residence, placing the berm near the residence. This is something the neighbors clearly asked not to be done. Discussion continued among the Planning Commissioners about potential conditions of approval. It was decided not to require the applicant to include the berm as part of the site plan because the neighbor stated that they do not want a berm blocking their view.

Commissioner Standley pointed out that, in the January hearing packets, under Exhibit P (January 5, 2023, Final Legal Arguments submitted by Sarah Stauffer Curtiss, Attorney Representing Applicant), Ms. Stauffer Curtiss wrote:

“Location of Crushing: As discussed during the December 15 public hearing, the Applicant proposes to locate its crushing equipment in tax lot 1800. The applicant will start the crushing equipment at the surface. Once the pit is opened up to the finish depth and there is enough room, the crushing equipment will be relocated down in the pit. This location will keep all impacts away from the residences in the area. The County can place a condition on approval that will require the Applicant to keep the location of the crushing there throughout the entire operation.”

Commissioner Standley stated that he would like to find a way to ensure that the processing equipment will stay inside the pit on Tax Lot 1800 as the permanent site for operations, not to be relocated. He would like this detail documented as part of the conditions of approval.

Commissioner Tucker made a motion to recommend approval of Text Amendment #T-092-22, Plan Amendment #P-135-22 & Zone Map Amendment #Z-322-22, Craig Coleman, Applicant, Girth Dog LLC, Owner to the Board of County Commissioners with the following addition to

Subsequent Condition #2 (changes bolded & underlined below), Obtain a Zoning Permit from the Umatilla County Planning Department to finalize the approval of the aggregate site. The site plan shall demonstrate that the extraction and sedimentation ponds are not located within 25 feet of a public road or within 100 feet from a dwelling. Access to the mining operation shall be restricted from Stafford Hansell Road. **Processing equipment shall be located at least 500 feet from existing dwellings, shall be located on tax lot 1800 and placed in the pit once opened to the finish depth. Processing equipment shall remain in this location for the duration of the aggregate operations.**

With the addition of the following Subsequent Conditions:

8. Mining is only allowed as proposed in the application, and as otherwise limited in these conditions.

9. All processing of mineral and aggregate materials shall occur on the northwest corner of Tax Lot 1800 as shown in Exhibit C, (October 18, 2022, Letter to Planning Commission submitted by Carla McLane) on page 16 of the December 15, 2022 hearing packets.

10. Applicant shall minimize fugitive dust emissions from the property by application of dust abatement chemicals, water, or similar best management practices recommended by DOGAMI and DEQ for control of dust at aggregate mining sites.

11. Applicant shall ensure equipment operating on internal haul roads does not exceed 20 mph to reduce potential dust impacts.

12. If water is used for dust abatement, water must be secured from a permitted source.

Commissioner Gentry seconded the motion. Motion carried with a vote of 7:1.

OTHER BUSINESS

Mr. Waldher stated that because this is the first meeting of 2023, Planning Commission Chair and Vice-Chair positions are due for reelection. Commissioner Standley nominated Chair Suni Danforth to continue as Chair and Commissioner Don Wysocki to continue as Vice-Chair. Commissioner Green seconded the motion. Motion carried by consensus.

Mr. Waldher explained that the Planning Department is going through a reorganization. We will now be operating as the Planning Division of the Umatilla County Community Development Department. Additionally, there have been some recent role changes. Mr. Waldher is now the Umatilla County Community Development Director and will focus more on economic & community development projects and issues. He explained that the County created a new position, Planning Manager, to oversee day-to-day operations in the Planning office. The Planning Manager position is open for recruitment and they hope to make a decision as soon as possible.

Mr. Waldher announced that Tierney Cimmiyotti has been promoted from Administrative Assistant to Planner II/ GIS. As a result, the Planning Administrative Assistant role is open for recruitment and Mr. Waldher asked for anyone who knows of a good candidate to encourage them to apply.

Mr. Waldher stated that staff is also seeking two Planning Commissioners to fill vacancies. He explained that Cindy Timmons resigned when she became Umatilla County Commissioner. Also, Tammie Williams' term is ending soon. Again, he asked for anyone who knows of a good candidate to encourage them to apply.

Mr. Waldher stated that we will likely not have a Planning Commission hearing in February. Staff will follow up with an email announcement when we know for sure.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:42pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant