

Umatilla County

Department of Land Use Planning



AGENDA

**Umatilla County Planning Commission
Public Hearing
Thursday, December 17, 2015, 6:30 p.m.
Justice Center Media Room
Pendleton, OR**

Members of Planning Commission

Randy Randall, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne
Tami Green

Members of Planning Staff

Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner
Bob Waldher, Senior Planner
Brandon Seitz, Assistant Planner
Julie Alford, GIS
Gina Miller, Code Enforcement
Tierney Dutcher, Administrative Assistant

- 1. Call to order**
- 2. Adopt minutes** (November 19, 2015)
- 3. Continued Hearing:**

CONTINUED HEARING: MICHAEL PARKER REQUEST FOR HEARING #ZP-14-109, Landowner, Eva Swain. (Hearing continued from September 24, 2015) On June 2, 2015, the County revoked a Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. The property is described as Tax Lot #300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

- 4. New Hearing:**

NEW HEARING: REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE REQUEST #C-1249-15, Rodney J. Rainey, Applicant/ Kevin Gray, Owner. During the public comment period, a "Request for a Public Hearing" was submitted on September 30, 2015. The property is located on the north side of Diagonal Road (State Highway No. 207) on Tax Lot #2401 of Assessor's Map 4N 29 06A. The request is to develop a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

5. Other Business:

Umatilla County Plan 4 Health Grant
Update on North Hwy 395 Economic Development Project

6. Adjournment

Next Scheduled Meeting:

Thursday, January 28, 2016, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

**DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, November 19, 2015
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon**

COMMISSIONERS

PRESENT: Randy Randall, Chair, Gary Rhinhart, Tammie Williams,
David Lee, Suni Danforth, Cecil Thorne, Don Marlatt,
Tami Green.

ABSENT: Don Wysocki.

STAFF: Carol Johnson, Bob Waldher, Brandon Seitz, Tierney
Dutcher, Gina Miller.

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

CALL TO ORDER:

Chair Randy Randall called the meeting to order at 6:30 p.m. and read the opening statement.

MINUTES:

Chair Randall asked the Planning Commission to review the minutes from September 24, 2015 and October 22, 2015 for adoption. Commissioner Danforth moved to adopt the minutes. Mr. Waldher stated that he had several clarifications he wanted added to the minutes; Page 3 of second paragraph of Sept. 24 - line should read, "proposed project would be co-located within 500 feet of an existing transmission line", Page 3 of third paragraph of Sept. 24 - line should read, "the project connects the Wallula substation to the McNary substation", Page 3 of fourth paragraph of Sept. 24 - should read " Mr. Fritz advised that Pacific Power proposes to co-locate a new 230 kV line within 500 feet of existing BPA and Pacific Power transmission lines". Commissioner Danforth moved to adopt the minutes, with corrections, and the motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

CONTINUED HEARING:

**REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST
#LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property
owners.** During the public comment period, a "Request for a Public Hearing" was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on

church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97862. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

Staff Report: Bob Waldher, Senior Planner, presented the staff report. He referred to a map on the screen, showing the subject property and the new proposed location of the cemetery by the applicant since the last hearing. He said there was a new site plan in their information packets. Mr. Waldher referenced the zoning for the subject parcel, Exclusive Farm Use (EFU), and that it provides for use as a cemetery in conjunction with a church, per Oregon Revised Statutes (ORS) 215.283 and Umatilla County Development Code (UCDC) 152.059(B). He said there was a letter from the applicant, Paul Zehr, stating that he had spoken with several neighbors. The letter also contained a new site plan and a letter from soil scientist Don Wysocki, stating that a cemetery would pose negligible risks to health if state regulations were followed. Mr. Waldher stated that he had also received a letter from another neighbor, Ryan Daggett, after the information packets had been mailed out. The letter from Mr. Daggett raised several concerns about the proposed cemetery. He distributed a copy of the letter to the Planning Commission.

Mr. Waldher advised the Planning Commission of their options for this application; they can approve the application as is based on evidence provided by the applicant, they can impose additional conditions such as moving the location of the cemetery or requiring sight obscuring screening, or they can deny the application if they feel the applicant did not meet the conditions of approval.

Mr. Waldher explained that the new site plan provided by the applicant showed a new location for the cemetery, landscaping proposals, and flush mounted grave markers that would not show a split rail fence around the cemetery, shade trees and a hedge. A letter from Mr. Wysocki was also included, stating that additional soil testing had been done.

Applicant Testimony: Jason Derstine, 83902 Winesap Road, Milton-Freewater. Mr. Derstine stated that Chad Derstine had been in contact with several of the neighbors. Chair Randall asked why the cemetery had not been moved closer to the parking lot, as suggested at the prior hearing. Mr. Derstine said the current location had been chosen after discussions with the neighbors.

Opponent Testimony: None offered.

Public Agencies: None offered.

Chair Randall closed the hearing and moved to deliberation.

Chair Randall asked to review the conditions of approval. Mrs. Johnson advised that the site plan should include setbacks for any new structures according to the zone. Vision clearance, fencing and other conditions were discussed. Mrs. Johnson said that the Planning Commission could add a condition of approval that addressed the fencing issue. This condition could specify the type of fence and that it must meet height requirements and setback standards. Discussion followed on the fence requirement and a variance to the standards.

Commissioner Rhinhart moved to approve the application, with a condition of requiring the applicant to work with the county on a site plan showing an acceptable placement of the fence. Commissioner Marlatt seconded the motion. Motion passed 8:0.

CONTINUED HEARING:

CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO MCNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant. Planning Commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

Staff Report: Bob Waldher, Senior Planner, presented the staff report. He stated that Pacificorp had provided the requested additional material from the last hearing and it was included in the Planning Commission packet. The Pacificorp consultant provided a technical memorandum on October 9, 2015 and addressed the following matters raised at the last hearing; visual impacts from the project in the historic and scenic highway program as identified in the statewide Planning Goal 5, supplemental findings related to the EFU provisions in Chapter 152, a discussion on the feasibility of double circuiting on the existing 230 kV transmission line and information on tentative cumulative impacts associated with the project. In addition to the technical memorandum, Pacificorp provided a copy of the Department of State Lands (DSL) removal/fill permit for wetlands. Mr. Waldher discussed the land owners included in this project, and reminded the Planning Commission that a total of 5 land owners had not signed off on the lease agreement and would not be considered part of this application. They would have to resubmit a new application in the future if those land owners opted to participate in the project. He had amended the findings to clearly state this requirement. Mr. Waldher handed out two letters of support that had been received via email that same day.

Commissioner Lee asked what percentage of the project was represented by the 5 land owners who had not yet signed a lease. Mr. Waldher suggested that the applicant could better respond to this question.

Applicant Testimony: Paul Hicks, CH2M Hill and Brian Fritz, Pacificorp, 825 NE Multnomah St, Portland, OR and 2121 SW 4th Ave, Portland, OR. Mr. Hicks said they wanted to discuss the technical memo information they provided that had been requested in September. He stated that their material was consistent with county code and Comprehensive Plan. They had four key topics they responded to in this material. In regards to the visual impact and historic highway, the presence of the project will not change or alter the view or character, as it will not be seen from Highway 730 and Highway 37. As it nears Hat Rock, parts can be seen but they are similar in appearance to the existing transmission line. Mr. Hicks discussed Chapter 152.617 (II) on Exclusive Farm Use (EFU), and how the project complies with 4 out of 6 criteria as detailed in the technical memo. He stated that cost was not the determining factor in siting this transmission line. They sited the route based on existing substations, and adjacent transmission lines rights-of-ways. He went on to talk about their meeting the criteria for reclamation measures as required by landowners. The project will not cause any significant changes to accepted farm practices and will not result in any significant increases of cost to farming practices, so they comply with Sub-Section 7 of Chapter 152.617. Mr. Hicks talked about the feasibility of double-circuiting on the existing 230 kV line. According to their reliability standards developed and enforced by the North American Electric Reliability Corporation, this would not be feasible. More detailed information about this reasoning was included in the technical memo.

Commissioner Lee asked why they weren't building a 500 kV line instead of the proposed 230 kV line to handle future load. Mr. Fritz explained that they look at all the lines in the area, and what would happen if a line were to go out of service. If the 530 line went out of service, it would overload voltage of the system for the 230 lines and do more harm than if they stayed with the 230 kV line. The new materials will be able to handle higher megawatts, providing more capacity and allows them to rebuild in the future without cutting service to customers. Chair Randall asked how long this line would be good for, and Mr. Fritz confirmed it would be good for nearly 50 years and that it would accommodate load growth in the meantime. He explained that many factors were considered when determining power supply, including natural resources, like solar and wind which are very hard to predict. Chair Randall asked about the 5 land owners that have not signed the lease, and Mr. Fritz explained that this represented about 22 miles total in Umatilla County and that not quite half the project was located in Umatilla County.

Commissioner Rhinhart asked about cumulative effects, like bird mortality, and were they proposing any mitigation for this. Mr. Fritz said they will be putting bird flight diverters on the lines, and the designs meet the avian standards. Commissioner Rhinhart asked if they had ever considered providing financial mitigation to the Blue Mountain

Wildlife Rehab Center. Discussion followed on bird fatalities and mitigation on federal lands.

Opponent Testimony: Randy Rupp, 176 (inaudible) Richland, WA, and Patrick Gregg, PO Box 218, Pendleton, OR, representing Mr. Rupp. Mr. Rupp briefly requested that the Planning Commission deny the application, (inaudible) and stated that the line can be built elsewhere. He stated that this big corporation was running over an individual and shouldn't have the right to steal his land.

Mr. Gregg confirmed that his client had not signed a lease with Pacificorp. He advised that Mr. Rupp owns 6-7 miles of land in the proposed project scope of 22 miles in Umatilla County. Mr. Rupp stated that he is not trying to stop Pacific Power, but he contends that they do not need another line to do it. Discussion followed on interruption of power service to customers. Mr. Gregg talked about "double-stacking" the lines, and how this would not create a bigger problem if something happened to the existing line. He stated that they believe cost to be the defining reason behind the proposed project, which does not meet the standards. He pointed out that there was very little explanation from the applicant in the additional technical memo about cost not being the defining reason behind the project. Mr. Gregg discussed various reasons why they believed that all the reasons provided by the applicant all came back to cost as the basic reason for wanting to build the line where it is. They do not believe that the applicant has sufficiently explained why cost is not the primary reason, and requested that the application be denied.

Mr. Rupp stated that there were other landowners who opposed this project but did not come to the hearing because they didn't believe that they could fight something like this because they didn't own enough land.

Public Agencies: None offered.

Rebuttal: Mr. Hicks stated that cost seemed to be the primary concern from the opponent, and they stated they did address the code in their supplemental memo. According to Chapter 152.617 (II7A2), cost alone cannot be the sole consideration for a project. He said they provided evidence that the site is within 500 feet of existing transmission lines to meet policy guidance from the State of Oregon to minimize impact to; avoid potential development in wetlands, proximity to existing structures, minimize impacts to farm ground and encroach upon active farm uses and satisfy feasibility and reliability which is the key consideration. All these points illustrate that it is not based on cost alone.

Mr. Fritz discussed what would happen if they were to lose one line, and how the second line increases their reliability of service to their customers. He stated that it does cost more to double circuit, but this is not their primary concern. They would need twice the amount of right-of-way for a larger 500 kV line, based on safety codes. He discussed in detail how they determined the best way to site this project. Discussion followed on the question of double-circuiting. Mr. Fritz said they are only double-circuiting in some

places where they are able to. He confirmed that they have lost lines before and had to replace insulators and conductors, and they lose lines to wildfires every year. In addition to catastrophic loss, it involves taking the line out of service for routine maintenance.

Chair Randall asked if there was any kind of solution for Mr. Rupp's concerns, and if double circuiting on a small portion of his land would be a viable option. He reminded the Planning Commission that the decision at this hearing would not involve Mr. Rupp's land.

Commissioner Lee asked if they had considered a buried line. Mr. Fritz said it would require much more land for a 230 kV line, and the environmental impacts are bigger as it requires more land to dig up to bury the line. Mr. Fritz talked about the requirements for burying a transmission line, and why buried lines are more difficult to maintain. It only makes sense to bury lines in urban settings as they are sited with other buried utilities.

Chair Randall closed the hearing and moved to deliberation. Commissioner Marlatt asked if this application was only dealing with the landowners who had signed the lease agreement with Pacificorp, and it was confirmed that the other landowners who haven't yet signed would have to submit a separate application. Commissioner Lee stated that the line needed an upgrade. Commissioner Danforth agreed and stated that the infrastructure needed rebuilding, and she supports energy co-location and corridors. She said she understood Mr. Rupp's position and hoped that the suggestion for the applicant to work with him would work out.

Commissioner Danforth moved to approve #C-1248-15 and LUD #185-15, and Commissioner Lee seconded the motion. Motion was approved by a vote of 6:2.

CONTINUED HEARING:

PLAN MAP AMENDMENT #P-114-15, ZONE MAP AMENDMENT #Z-305-15, AND TEXT MAP AMENDMENT #T-15-060 FOR WEBB SLOUGH QUARRY, OREGON DEPARTMENT OF TRANSPORTATION (ODOT), applicant. Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Webb Slough quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the west side of US Highway 395, at Mile Post 34.80, described as Township 3 South, Range 30½ East, Sections 12 & 13, Tax Lot 503. Standards of approval are provided in Oregon Administrative Rules (OAR) and include OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

Staff Report: Bob Waldher, Senior Planner, presented the staff report. He stated that ODOT submitted a Post-Acknowledgement Plan Amendment (PAPA) application requesting that the county include the expansion of Webb Slough quarry as a significant aggregate site. Mr. Waldher referred to a figure on the screen and noted that it was also included in the October hearing packet. The existing quarry located on Tax Lot #503 is 11.2 acres and ODOT recently expanded it by 19.98 acres with land needed from the owner of Tax Lot #500. He pointed out that our department has not yet received an application for a boundary line adjustment and said it's typically approved prior to processing the application for the plan amendment. He recommended that, as a precedent condition, the applicant will be required to complete and submit a boundary line adjustment application for Tax Lot #500 to finalize the process.

Mr. Waldher noted that the county code has not been updated with the division 23 rules for aggregate. The OAR 660-023-0180 will be used to establish findings. The application constitutes a PAPA and is subject to criteria listed in OAR 660-023-0030. Mr. Waldher advised the Planning Commission on their options for a decision. They may decide to amend the comprehensive plan to add the Webb Slough quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. Following approval of the Planning Commission this comprehensive plan and map amendment will be heard before the Umatilla County Board of Commissioners.

Chair Randall asked if the Commissioners will be hearing about this prior to the Boundary Adjustment. Mr. Waldher said that is his understanding, and as a condition of approval the county planners office would ask the applicant to submit a supplement that includes the boundary line adjustment in their application. He clarified that the tax lot #500 was deeded to ODOT but not processed through the Umatilla County Planning Dept.

The applicant, Mr. Knight, stated that he did submit an application for the boundary line adjustment after receiving the required signatures. Chair Randall requested that the applicant testimony begin so the conversation becomes part of the meeting record.

Applicant Testimony: Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Mr. Knight stated that it was his understanding that they had submitted an application for the boundary line adjustment some time ago but he is willing to resend the paperwork. It was discussed that he was working with a Planner who no longer works for the County. The office will work with Mr. Knight to locate the previously submitted application or complete a new application, if necessary. Mrs. Johnson advised that we cannot accept a copy of the document, as the signatures on the form are required to be original when they are recorded in County Records. Commissioner Rhinhart mentioned the property involved was part of George Wachter's place in an area formerly known as Ridge, OR. Chair Randall clarified that the only condition on the Staff Report was that they complete a boundary line adjustment, and Mr. Waldher confirmed this was correct.

Mr. Knight stated that the Planning Department had received a letter from a surrounding property owner who was concerned about dust and farming. Mr. Knight reminded the commission that the DEQ requires ODOT to meet all air quality standards on the property. Mr. Waldher noted that the letter received was regarding the Weston Mountain quarry, not the Webb Slough quarry. They agreed it was a matter for the next hearing.

Opponent Testimony: None offered.

Public Agencies: None offered.

Rebuttal: None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Rhinhart noted there is currently a sign indicating, “No Trespassing, No Dumping, No Shooting” as the site is located right next to the road and has been known to be an area of the highway where people have shot guns toward the highway. There was a discussion about signage in the area. He wanted to be sure the sign would remain visible to the public and he requested that it be added this as a condition to the Commission’s approval of these amendments.

Commissioner Rhinhart moved to recommend approval of Plan Map Amendment #P-114-15, Zone Map Amendment #Z-305-15, and Text Map Amendment #T-15-060 with the condition that they provide the proper signage and complete the boundary line adjustment. Commissioner Tammie Williams seconded the motion. Motion was approved by a vote of 8:0.

CONTINUED HEARING:

PLAN MAP AMENDMENT #P-115-15, ZONE MAP AMENDMENT #Z-306-15, AND TEXT MAP AMENDMENT #T-15-063 FOR WESTON MOUNTAIN QUARRY, ODOT, applicant. Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Weston Mountain quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the southeast side of State Highway 204, at Mile Post 2.2, described as Township 4 North, Range 35 East, Sections 24, Tax Lot 7303. Standards of approval are provided in OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

Staff Report: Bob Waldher, Senior Planner, presented the staff report. He stated that this issue is similar to the last issue discussed and displayed the map on the overhead

screen. Mr. Waldher referred to a letter received on October 26th from Ms. Corinne Stumbo, owner of Tax Lot #7201 & #7202. Mr. Waldher stated that in the letter Ms. Stumbo raised concerns about traffic conflicts between trucks accessing the quarry and farm equipment that will need to enter and exit the adjacent farm fields. She asked ODOT to consider improving the access approach to the farm field. The applicant is aware of the request and received a copy of the letter.

The criteria for approval for this application are the same as they were for the Webb Slough quarry. The Planning Commission may decide to amend the Comprehensive Plan to add Weston Mountain quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. The Planning Commission's recommendation will also be given to the Umatilla County Board of Commissioners for final approval.

Commissioner Rhinhart wanted to be sure they plan to use existing access and not create a new one and the applicant confirmed this to be true.

Applicant Testimony: Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Commissioner Rhinhart asked Mr. Knight if he has reviewed the letter from Ms. Stumbo and if he has any concerns about what she has brought up. Mr. Knight confirmed he has read the letter and assured the Commission that they are required to address those things within their process. There won't be any new access and no use of an underground natural gas line. Mr. Knight has not contacted Ms. Stumbo and does not plan to because they have addressed her concerns in the application and meet the criteria. Commissioner Rhinhart said it makes sense to talk to the property owner about her concerns.

Opponent Testimony: None offered.

Public Agencies: None offered.

Rebuttal: None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Williams opened a discussion about the concerns raised in the letter. Commissioner Rhinhart has seen the quarry and doesn't think the concerns are justified because they won't be creating any more dust than they already do. He noted there is a steep downhill slope and a pond is up above the site. In the area where the road enters and exits the visibility is rough. He mentioned it would be neighborly for the applicant to talk to the land owner and let them know they were doing their best to make everyone happy.

Commissioner Rhinhart moved to recommend the Plan Map Amendment #P-115-15, Zone Map Amendment #Z-306-15, and Text Map Amendment #T-15-063 to the Board of Commissioners with proper signage posted. Mr. Waldher noted the office has completed a boundary line adjustment for this application. Commissioner Lee seconded the motion.

Motion was approved by a vote of 8:0.

OTHER BUSINESS:

On behalf of Tamra Mabbott, Mr. Waldher distributed a document with information on new changes coming to the National Flood Plain Development Program through FEMA and working with NOAA.

Mr. Waldher introduced the new Planning Commission member, Tami Green. Tami gave a short bio of herself; Her family is originally from the area and recently moved back to be close to family after being in Baker County for the past 25 years. She is married and has two daughters. Tami served as County Clerk for the County of Baker for 14 years and worked for the county for a total of 17 years. She hopes to use her experience to contribute to the Commission and appreciates the opportunity to serve. Tami resides on Patty Creek Rd. The Planning Commission welcomes Tami Green.

ADJOURNMENT:

Chair Randall adjourned the meeting at 8:32 p.m.

Respectfully submitted,

Gina Miller
Secretary

(Minutes adopted by the Planning Commission on _____)

UMATILLA COUNTY PLANNING COMMISSION

December 17, 2015

CONTINUED HEARING:

**CONTINUED HEARING: MICHAEL PARKER
REQUEST FOR HEARING #ZP-14-109, Landowner,
Eva Swain.** (Hearing continued from September 24, 2015)
On June 2, 2015, county revoked Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. Property is described as tax lot 300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

UMATILLA COUNTY PLANNING COMMISSION

December 17, 2015

NEW HEARING:

REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE REQUEST #C-1249-15, RODNEY J. RAINEY APPLICANT, KEVIN GRAY OWNER.

During the public comment period, a “Request for a Public Hearing” was submitted on September 30, 2015. The property is located on the north side of Diagonal Road (State Highway No. 207) on Tax Lot #2401, in Township 04N, Range 29E, Section 06A. The request is to develop a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

TO: Umatilla County Planning Commissioners

FROM: Brandon Seitz, Assistant Planner

DATE: December 3, 2015

BS

CC: Tamra Mabbott, Planning Director

RE: **December 17, 2015, Planning Commission Hearing
The Power House Convalescent Home
Conditional Use Request #C-1249-15**

Background Information

As a result of a Umatilla County Code Enforcement visit the Planning Department learned that the applicant was operating a drug and alcohol treatment facility without land use approval. Mr. Rod Rainey, the applicant and facility manager, as a result of the Code Enforcement visit submitted a Zoning Permit to the Planning Department for approval of an existing residential treatment facility for drug and alcohol for up to 15 residents. In a letter dated June 30, 2015 Carol Johnson, Senior Planner, informed Mr. Rainey that his request could not be approved by a Zoning Permit and after discussion with Doug Olsen, County Counsel, recommended that the facility could be approved as a Conditional Use Permit for a convalescent home. A Conditional Use Request application was submitted by Mr. Rainey to the Planning Department on August 17, 2015. Public Notice was sent to affected agencies and property owners on September 9, 2015.

Public Notice and Request for Hearing

During the 21-day comment period the Planning Department received two letters from property owners opposed to the application. The Planning Department also received comments from two notified agencies, the State Fire Marshal and the Department of Environmental Quality (DEQ).

Phone comments were provided by DEQ onsite waste water specialist, Bernie Duffy. Mr. Duffy commented that the current septic system was approved by DEQ for a three bedroom single family dwelling and the treatment facility would exceed the capacity of the existing system. DEQ requested a condition of county approval that the facility meet onsite septic system standards for the operation of the facility. Included in the commission packet are copies of the written comment letters.

Memo

Planning Commission Public Hearing – December 17, 2015
The Power House Convalescent Home
Conditional Use Request #C-1249-15

Access Easement Issues

One of the disputed issues regards the access easement. A summary of the deeds and recordings relevant to the Access Easement and Road Maintenance Agreement are listed below. (Please review included Map for Tax Lot numbers)

- Bargain and Sale Deed to William and Patricia Baird from Upper Columbia Mission Society of Seventh-Day Adventists recorded November 13, 1974. (Tax Lot 2400 & 2401)
- Right of Way Easement to James and Jeanne Bennett from Bairds and Upper Columbia Mission Society recorded June 11, 1973. (12 foot easement to Bennetts on eastern property line of Tax Lot 2401)
- Warranty Deed to Ronald and Leetta Wineland from Bennetts recorded April 18, 1986. (3 Tracts listed: 1; Tax Lot 2300, 2; Tax Lot 2200, 3; 12 foot easement located on Tax Lot 2401) Note: the Bennetts did not own the 12 foot easement or Tax Lot 2401 and improperly conveyed ownership of the easement to the Winelands.
- Access Easement and Road Maintenance Agreement for Winelands and James and Thelma Carmack recorded March 17, 2010 (Includes Winelands as owning 12 foot easement on Tax Lot 2401)

Additionally, ODOT approved a road approach permit on November 14, 1976, issued to W. C. Baird. However, the appellant, James Carmack, disputes the location of this access point and the existing access road in relation to the property lines. Staff could not verify the physical location of the access point and access easement.

After discussion with County Counsel, Doug Olsen, and GIS/Mapping Manager, Tracie Diehl, it was determined that the Access Easement and Road Maintenance Agreement for the 12 foot easement (part of the applicant's Tax Lot 2401) should not have been used as proof of legal access in the Preliminary Findings.

Planning Commission's Decision

The Planning Commission may request additional information and continue the hearing or the Planning Commission may decide to approve or deny the applicant's request. A decision to approve or deny would need additional finding addressing access and the onsite septic system.

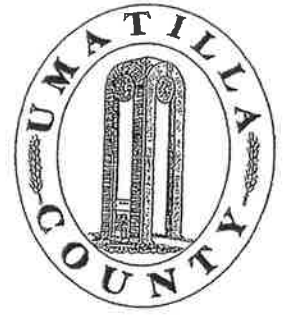
Attachments

The following attachments have been include for review by the Planning Commission:

- June 30, 2015 letter to Mr. Rainey
- Map and list of notified property owners
- Preliminary Finding and Conclusions
- Comment letter from Mr. Carlisle Harrison
- Comment letter from Mr. Ronald L. Winland
- Comment letter from Scott A. Goff, State Fire Marshal
- Hearing Request from Mr. James Carmack
- Access Easement and Road Maintenance Agreement
- Access Approach Permit
- Public Hearing Notice

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA MABBOTT

June 30, 2015

LAND USE
PLANNING,
ZONING AND
PERMITTING

Rod Rainey

COPY

CODE
ENFORCEMENT

32405 Diagonal Road
Hermiston, Oregon 97838

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Re: The Power House Residential Drug Treatment Center
Zoning Permit Request
Tax Lot # 2401, Assessor's Map # 4N 29 06A, Account # 123726
Rural Residential Zone (RR-2)

GIS AND
MAPPING

RURAL
ADDRESSING

Dear Rod:

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Thank you for your interest in operating a "Residential Facility" in Umatilla County. The Zoning Permit application you submitted for approval to operate a Drug Treatment Facility in the County Rural Residential Zone is being returned as we are not able to approve the facility with a Zoning Permit.

According to our land use code (Umatilla County Development Ordinance) a "Residential Home" is defined, in part, as caring for up to five persons; they are allowed in all of the county zones that allow single-family dwellings. Your facility is larger than 5 persons and thus we cannot approve it as a "Residential Home."

According to Oregon law, (ORS 197.660) "Residential Facilities" are defined as a place with up to 15 persons, and, they are allowed in zones that permit multi-family dwellings. The county rural residential zones do not allow multi-family dwellings and the county has not adopted provisions for permitting this type of "Residential Facility."

I discussed this with Doug Olsen, County Counsel. We reviewed the uses permitted in the Rural Residential zone and determined that your facility may be permitted as a Conditional Use under the category of "convalescent home." That term is admittedly outdated; however, it is the closest match for the category of land use you are proposing.

Returned to you today are your previously submitted Zoning Permit, Land Use Request Application and \$75 check. Also, accompanying this letter is a copy of the Conditional Use process and standards along with a new Land Use Request Application and additional documents of interest for your examination and use.

For your convenience, the Conditional Use Permit application is attached. Our applications are also available on the county website.

http://www.umatillacounty.net/planning/pdf/Land_%20Use_Application.pdf

Technically, the existing facility is in violation of the county Development Ordinance and will be until a land use permit is approved. Please contact the County Planning Department within 30-days from the date of this letter. If we do not receive a response from you within 30-days it could result in a citation from County Code Enforcement. The citation would direct you to Circuit Court for operation of a Residential Facility without a permit.

If you have questions, you may contact me at 541-278-6301 or you can email me at carol.johnson@umatillacounty.net. The general office number is (541) 278-6242.

Cordially,



Carol Johnson,
Senior Planner

Enclosures: Returned: Zoning Permit, Land Use Request Application, \$75 fee check.
RR-2 Zoning Code, Conditional Use Process (supplemental application),
Land Use Request Application, ORS 197.660 definitions for Residential
Home and Residential Facility

CC: Tamra Mabbott, Planning Director
Doug Olsen, County Counsel
Gina Miller, Code Enforcement



CONDITIONAL USE REQUEST #C-1249-15
 RODNEY RAINEY, APPLICANT
 KEVIN GRAY, OWNER
 MAP 4N2906A, TAX LOT 2401

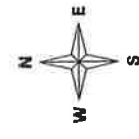
2014 AERIAL PHOTO



SUBJECT PARCEL

PROPERTY OWNERS WITHIN 250'
 NOTICE AREA OF SUBJECT PARCEL

MAP & TAX LOT	OWNER
4N2906A000700	CARMACK JAMES D & JANETT
4N2906A000701	CARMACK JAMES D & JANETT
4N2906A002100	GUERRA HECTOR
4N2906A002101	COX ROBERT T & TRASCI L
4N2906A002200	WINELAND RONALD L & LE ET TA
4N2906A002300	WINELAND RONALD L & LE ET TA
4N2906A002400	WINELAND RONALD L & LE ET TA
4N2906A002401	GRAY KEVIN J
4N2906A002500	COLUMBIA GRANGE #867
4N2906A002900	HARRISON T CARLISLE & LYDIA R
4N2906A003000	LOPEZ JUAN & DELIA
4N2906A004603	GRIGGS EDWARD & MARY (TRS)
	C/O GRIGGS CHRISTOPHER & TERRA (AGT)



DATE: 8/28/15

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Not intended for legal use. Created by J. Alford, Umatilla County Planning Department.



AGENCY NOTIFICATION CHECK-OFF LIST

Providing notice of land use requests and other actions to specific agencies

DATE MAILED: 9/9/15

APPLICATION NAME: Rodney Rainey # C-1249-15

FEDERAL AGENCIES

- BIA
- BLM
- CTUIR
- Corps of Engineers - Portland
- Corps of Engineers - Walla W.
- FEMA - Seattle
- NAS - Whidbey Island
- USDA - SCS - Pendleton
- US Fish & Wildlife-Umatilla
- US Fish & Wildlife-LaGrande
- US Forest Service - Umatilla

COUNTY OFFICES

- Assessor
- Board of Commissioners
- Code Enforcement
- County Surveyor
- County Counsel
- Emergency Management
- Public Works/Roads
- Developmental Disabilities

IRRIGATION DISTRICTS

- Hermiston
- Hudson Bay
- Stanfield
- Walla Walla
- West Extension
- Westland

STATE AGENCIES

- Building Codes
- DEQ
- DLCD - Bend
- DLCD - La Grande
- DLCD - Salem
- DSL
- ODFW
- ODF
- ODOT - La Grande
- ODOT - Pendleton
- OWRD - Watermaster
- SHPO (Historic Pres.)
- State Fire Marshall

FIRE DISTRICTS

- East Umatilla County
- Echo
- Helix
- Hermiston Rural
- Meacham
- Milton-Freewater Rural (private)
- Pendleton
- Pilot Rock FD
- Stanfield Rural
- Umatilla Rural
- Tribal

CITIES

- Adams
- Athena
- Echo
- Helix
- Hermiston
- Milton-Freewater
- Pendleton
- Pilot Rock
- Stanfield
- Ukiah
- Umatilla
- Weston

REGIONAL GOVERNMENTS

- Morrow County Planning
- Wallowa County Planning
- Baker County Planning
- Union County Planning
- Grant County Planning
- Walla Walla County Planning

Other Agencies/Offices if not already listed to Notice: 12 (2)

Oregon Dept of Human Services, Umatilla, Electric and
Charter Communication
State Addiction & Mental Health Division
500 Summer St. NE, Salem 97301-1079

**UMATILLA COUNTY PLANNING DEPARTMENT
PRELIMINARY FINDINGS AND CONCLUSIONS
RAINEY CONDITIONAL USE PERMIT REQUEST, # C-1249-15
Map # 4N 29 06 A, Tax Lot # 2401, Account # 123726**

- 1. APPLICANT:** Rodney J. Rainey, 32405 Diagonal Road Hermiston OR, 97838
- 2. OWNERS:** Kevin Gray, PO Box 928 Hermiston OR, 97838
- 3. REQUEST:** The applicant requests approval of a Conditional Use Permit for a residential adult care facility for alcohol and drug treatment, “convalescent home”, for up to 15 clients. Umatilla County Code Enforcement recently visited the subject property because of a complaint from a neighbor about people living in a Recreation Vehicle (RV). The manager of the facility stated that they were living in the RV as part of the residential facility.
- Although, the care facility has been operating for several years the facility had not obtained land use approval. As a result of the code enforcement visit the applicant is now applying for a conditional use permit.
- 4. LOCATION:** The subject property is located along Diagonal Road approximately 3 miles northeast of Hermiston.
- 5. SITUS ADDRESS:** The dwelling address is 32405 Diagonal Road Hermiston OR, 97838.
- 6. ACREAGE:** Tax Lot # 2401 = 2.1 acres.
- 7. PERMITS:** Land Use Permits:
- 1) *ZP-75-1028*: Issued April 8, 1975, for Mobile Home and Garage
 - 2) *ZP-75-1293*: Issued September 17, 1975, for 14’ x 68’ mobile home.
 - 3) *ZP-79-356*: Issued September 18, 1979, for 24’ x 60’ mobile home.
 - 4) *ZP-99-369*: Issued December 23, 1999, for 20’ x 40’ addition.
 - 5) *ZP-05-186*: Issued September 16, 2005, for 35’ x 40’ hay barn.
- 8. COMP PLAN:** The property is designated Rural Residential by the Comprehensive Plan.
- 9. ZONING:** The Property is zoned Rural Residential (RR-2) and is also located in the Hermiston Airport Hazard Overlay Zone (AH-H).

- 10. ACCESS:** The property has access from an unnamed access easement from Diagonal Road.
- 11. ROAD TYPE:** Diagonal Road is a paved State maintained Highway # 207.
- 12. EASEMENTS:** According to the property deed there is a twelve foot access and utility easement along the east property line.
- 13. LAND USE:** The subject property was developed for residential use and was converted to a residential adult care facility for alcohol and drug treatment.
- 14. ADJACENT USE:** The adjacent properties are used for residential use.
- 15. LAND FORM:** Columbia River Plateau.
- 16. BUILDINGS:** The applicant property is developed with a mobile home with an addition, garage and shop.
- 17. UTILITIES:** The parcel is served by Umatilla Electric and Charter Communication.
- 18. WATER/SEWER:** There is a domestic well and sanitary sewage disposal system serving the dwelling on the property.
- 19. FIRE SERVICE:** The property is located within the Hermiston Rural Fire District for protective services.
- 20. IRRIGATION:** The property is located within the Hermiston Irrigation District.
- 21. FLOODPLAIN:** The property is not located within a designated floodplain.
- 22. NOTICES SENT:** September 9, 2015.
- 23. CLOSING DATE:** September 30, 2015.
- 24. AGENCIES:** Oregon Dept of Human Services, ODOT, Oregon Fire Marshall, Oregon Dept of Environmental Quality, Oregon Building Codes Agency, Umatilla County Assessor, Umatilla County Public Works, Hermiston Irrigation District, Hermiston Rural Fire District, City of Hermiston, Umatilla Electric and Charter Communication.
- 25. COMMENTS:** Comments are pending.

26. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE to establish a “CONVALESCENT HOME” in an existing dwelling on RR-2 land is allowed through approval of a Conditional Use Permit as provided in Section 152.616 (UU), pursuant to Section 152.615 (A)-(L) and Section 152.560. The Following Standard of Approval for a Conditional Use Permit for a Convalescent Home are underlined, followed by responses in standard text.

152.616 STANDARDS FOR REVIEW OF CONDITIONAL USES AND LAND USE DECISIONS

(UU) Rest home, home for the aged, nursing home or convalescent home.

(1) The activity is compatible with existing adjacent land uses; The Umatilla County Planning Department finds that the application is for an existing alcohol and drug treatment facility that is believed to have been in operation for several years. The Umatilla County Development Code (UCDC) does not address the operation of a residential care facility (alcohol and drug treatment) as a land use in any rural residential zone. The closest description for the current land use in the UCDC is a convalescent home. A specific definition for a convalescent home is not provided in the UCDC. However, the generally accepted medical definition of a convalescent is “recovering from sickness or debility: partially restored to health or strength” (Merriam-Webster, Medical Dictionary). Clients treated for alcohol and drug issues would meet that medical definition and a convalescent home may be permitted with a conditional use permit. As the facility has been in operation for several years with minimal disruption to the adjacent properties the activity is considered compatible with the existing adjacent land uses.

(2) Adequate area for off street parking is provided for both employees and visitors; The Umatilla County Planning Department finds that the applicant has submitted a tentative site plan to provide adequate off street parking for both employees and visitors, a condition of approval is to comply with all applicable off street parking standards listed in Sections 152.560-152.562 of the UCDC and are addressed below.

(3) Landscaping shall be provided and maintained around the perimeter of the activity and through the open area; The Umatilla County Planning Department finds that the subject property is maintained with trees and shrubs around the perimeter of the property and open areas. The property has also been developed with outdoor space and open areas with appropriate residential landscaping.

(4) Suitable methods for fire escape are available for each room in the home; The Umatilla County Planning Department finds that the applicant has indicated that suitable methods for fire escape are available for each room. However, a condition of approval is to comply with all applicable Oregon Fire Code standards and provide verification of compliance to the Umatilla County Planning Department.

(5) Complies with other conditions as deemed necessary provided in § 152.615.
UCDC 152.615 are addressed below.

152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

(A) 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, water pollution, glare or odor; The applicant had been operating the residential adult care facility for alcohol and drug treatment with minimal disruption to adjacent properties thus far so no additional limitations are required.

(B) Establishing a special yard, other open space or lot area or dimension; The applicant has already developed the subject property with open space and appropriate landscaping.

(C) Limiting the height, size or location of a building or other structure; The subject property is located in the AH-H overlay zone and is subject to the height limitations set forth in Section 152.391 of the UCDC. No additional restriction on height, size or location of buildings on the property is required.

(D) Designating the size, number, location and nature of vehicle access points; The subject property is served by an access easement along the east boundary line with two vehicle access points off of the access easement. Maintenance, type of use and purposes for the easement are addressed in the access easement and road maintenance agreement that has been previously recorded with the County. There are no additional requirement for the vehicle access points to the subject property.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way; No improvement within the street right of way are required.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area; The applicant will be required to comply with all applicable off street parking standards listed in Sections 152.560-152.562 of the UCDC which are addressed below. No additional requirements are required.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs; There are no signs currently on the subject property. If the property were to be developed with signs the applicant would be required to comply with the sign regulation standards in the UCDC Sections 152.545-152.548. No additional restrictions are required.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding; The existing outdoor lighting consist of a porch lights and a garage/shop parking area light consistent with typical residential lighting. No additional restrictions or shielding are required.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance. No additional diking, screening or landscaping are required.

(J) Designating the size, height, location and materials for a fence; No fencing is required.

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources; The Umatilla County Planning Department finds that the subject property has a well maintained landscape consisting of trees and other vegetation. No additional measures are required.

(L) Parking area requirements as listed in 152.560 through 152.562 of this chapter. Parking requirements are addressed below.

152.560 OFF-STREET PARKING REQUIREMENTS.

(A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length. The Umatilla County Planning Department finds that the applicant has submitted a tentative site plan showing all designated parking spaces as a minimum of 10 feet wide and 20 feet long. This criterion is met.

(B) Off-street parking requirements.

(3) Rest home, hospital, convalescent home: one space per bed.

The Umatilla County Planning Department find that the proposed convalescent home would have up to 15 clients thus would be required to have 15 parking spaces. The applicants submitted tentative site plan shows 14 parking spaces. A condition of approval will be to submit site plan with the required number of parking spaces. This criterion is pending.

DECISION: THE RAINEY CONDITIONAL USE PERMIT TO ESTABLISH A CONVELASCENT HOME COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS:

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

1. Provide to the County Planning Department a copy of State licensing showing that the applicant is licensed as a residential care facility for alcohol and drug treatment in the State of Oregon.
2. Provide to the County Planning Department verification of compliance with all applicable Oregon Fire Code.

3. Submit a site plan showing the size, location and number of all parking space as required per Section 152.560 of the UCDC.

Subsequent Condition: The following subsequent condition must be fulfilled for final decision approval.

1. Obtain a County Zoning Permit from the Umatilla County Planning Department to finalize conditional use permit approval of the convalescent home.

UMATILLA COUNTY PLANNING DEPARTMENT

Dated _____ day of _____, 20____

Tamra J. Mabbott, *Planning Director*

Mailed _____ day of _____, 20____



Welcome to
Umatilla County

Brandon Seitz <brandon.seitz@umatillacounty.net>

Fwd: Conditional use request #c-1249-15

Tamra Mabbott <tamra.mabbott@umatillacounty.net>
To: Brandon Seitz <brandon.seitz@umatillacounty.net>

Tue, Sep 15, 2015 at 9:41 AM

Hello Brandon - I'm not sure what this email is about. It is directed to you. Is it in response to a notice and findings you mailed? I can help out with a response if you need, otherwise check with Carol

Thank you. Tamra

Hope you are feeling better!

----- Forwarded message -----

From: **Carlisle and Lydia** <tc1harrison@charter.net>

Date: Sun, Sep 13, 2015 at 10:16 AM

Subject: Conditional use request #c-1249-15

To: planning@umatillacounty.net

Brandon Seitz

Thanks for the information. Several months ago there were several men hitting golf balls around the yard across the street. I didn't recognize any of them, but a couple of days later I found five golf balls in my yard, one quite close to a new window that I had installed a few months earlier. I had considered going over and talking to my new neighbors, but not wanting to be the grouchy old man next door I did not. Subsequently I have found a couple of balls, which may have been from the above mentioned incident. If I had known the status of this house I would have talked to the director.

I was surprised to read this facility has been operating for several years. It has only been during the past year that I had noticed increased activity.

Sincerely,

Carlisle Harrison 4N2906A002900

-
-
Tamra Mabbott, Planning Director

Umatilla County Department of Land Use Planning

216 SE 4th ST | Pendleton, OR 97801

Phone: 541-278-6246 | 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.

To Umatilla Umatilla County Department of planning

In regards to the property of Kevin Gray and
and using it as a alcohol + Drug Rehab center
I do not think it should be in a residential
area. I do not like having it so close to my
house they are screaming + hollering at times
they park in my drive way.

as for the 12 foot cosment that was issued to
me in 1972 by the previous owners.

I don't think it was right the illegal
way Kevin Gray started it. I do not believe
it should be allowed to operate especially if
they are planning on bringing 15 people in
I don't know where they will sleep or park
these cars.

Ronald L Wineland

RECEIVED

SEP 24 2015

UMATILLA COUNTY
PLANNING DEPARTMENT



Oregon

De Kate Brown, Governor

Brandon Seitz, Assistant Planner
Umatilla County Department of Land Use Planning
216 SE 4th ST, Pendleton, OR 97801

Department of State Police

Office of State Fire Marshal
4760 Portland Rd NE
Salem, OR 97305-1760
Phone (503) 378-3473
FAX (503) 373-1825
E-mail: oregon.sfm@state.or.us
<http://www.oregon.gov/OSP/SFM/>

Re: Conditional Use #C-1249-15

Premier Public Safety Services

This property was inspected on 11/01/2013, and was re-inspected on 01/27/2014 and found to be in substantial compliance with the Oregon Fire Code at that time. They were to be limited to an occupant load not to exceed 16. The occupant load was to be determined by the minimum required square footage allowed per occupant based on the Oregon Administrative Rules of the State Licensing Agency (see attached report SAG1311010900).

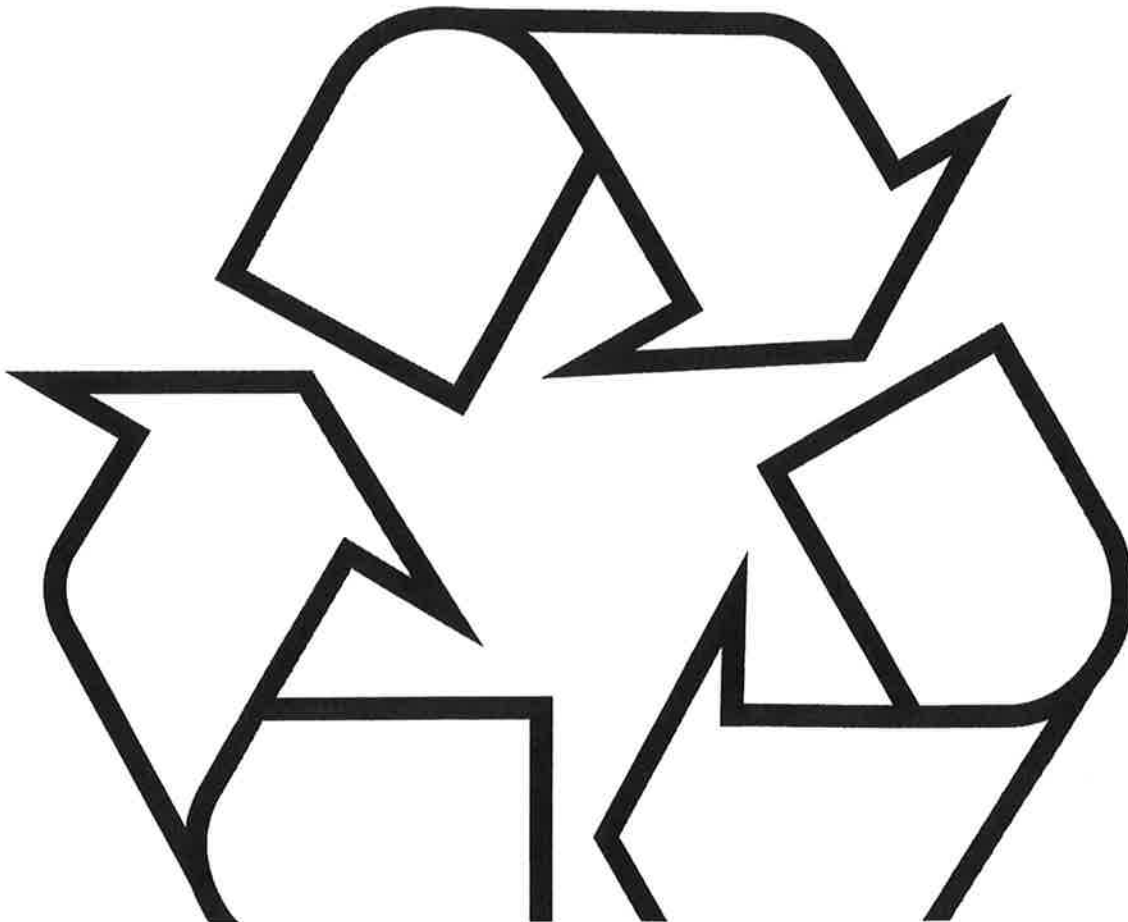
Depending on when State Licensure was obtained they will be due for another fire code inspection within approximately 2 years, or as required by their license.

There are no other comments at this time.

Sincerely,

Scott A. Goff

Protecting citizens, their property, and the environment from fire and hazardous materials.



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Page 2

Scott A. Goff, Deputy State Fire Marshal



State of Oregon
 Office of State Fire Marshal
 4760 Portland Road NE, Salem, Oregon 97305-1760

FIRE AND LIFE SAFETY INSPECTION

Notice and Order of Correction

SAG1311010900

Inspection Reinspection Other Inspection Date: November 1, 2013 Page 1 of 1
 Number of Inspections this Report: 1

Business Name and Address The Powerhouse Residential Tx. Ctr. 32405 Diagonal Rd Hermiston OR 97838 (541) 314-2781	Principal Occupancy Type R-4	County Umatilla
Responsible Person Rodney J Rainey	Fire Dept Hermiston Fire & EMS	Property Owner Rodney J Rainey

The State Fire Marshal is authorized to enforce laws and rules pertaining to fire and life safety in accordance with Oregon Revised Statutes, Chapters 476, 479, and 480. Entry and inspection of the building(s) or premises was made in accordance with ORS 476.070/150. Failure to correct the following fire safety deficiencies may result in legal action as defined under ORS 479.170. You have the right to appeal this order (ORS 479.180). To initiate an appeal contact the individual who issued this order.

Finding	Deficiency(s) Requiring Correction and/or Action	Compliance Date	Date Abated
1:	Buildings shall have approved address numbers placed in a position that is plainly legible and visible from the street or road fronting the property. (OFC 2010, Section 505.1) There is no property identification at the residence, only at the start of the driveway. There are two residences on this driveway.	12/31/2013	01/27/2014
2:	Listed single and multiple-station smoke alarms complying with UL 217 shall be installed IAW Sections 907.2.11.1 through 907.2.11.4 and NFPA 72. See also ORS 479.250-479.300 (OFC 2010, Section 907.2.11) Update smoke alarms that are more than 10 years old. Also install carbon monoxide detection in or near areas with fuel burning appliances.	12/31/2013	01/27/2014
Occupant load to meet minimum spacing requirements for the licensing agency, and not to exceed 16 per the Oregon Fire Code.			

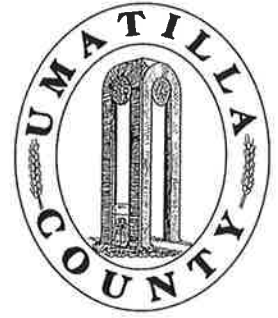
Presented to: _____ DSFM: Scott Goff (541) 276-4076
 Mailed to: Rodney J. Rainey
 Distribution: Owner/Occupant OSFM File Deputy Fire Dept Agency Other

T.M.

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

SEP 30 2015

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: #C-1249-15
- Type of Land Use Request Application: Conditional Use Request
- Decision-Making Body: Planning Director or Other Planning Commission
- For a Request of a Public Hearing, Date Notice was sent: 9/9/15

Section 2: Contact Information

Name of Submitter(s): James Carmack
Address: 32441 Diagonal Rd
City, State, Zip: Hermiston Or 97838
Telephone Number & Email Address: 541 567 7292

Date of Submittal for Request of a Public Hearing: 9/30/15

Section 3: Basis for the Request for a Public Hearing

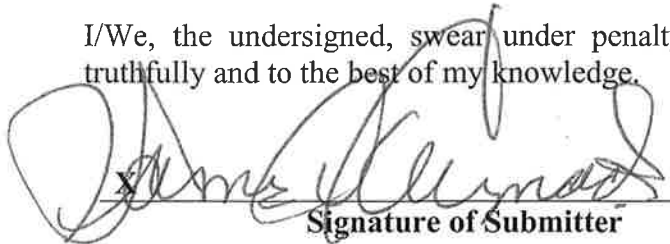
Complete only for a Request for a Public Hearing

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:

Access to property due to issues with easement
and location of facility in a residential zone.

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.



Signature of Submitter

9/30/2015

Date

James D Carmack

Printed Name of Submitter

X

Signature of Submitter

Date

Printed Name of Submitter

X

Signature of Submitter

Date

Printed Name of Submitter

X

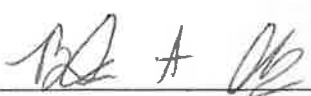
Signature of Submitter

Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: 9/30/15

Accepted by:  Brandon Scitz

Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 15725

76
7

2010 5630508



State of Oregon)
County of Umatilla)

AFTER RECORDING RETURN TO: 2010-5630508 1 of 7

David Wm. Hadley
Attorney At Law
130 SE 3rd Street
Hermiston, OR 97838

This instrument was received
and recorded on

03-17-10 at 1:45

in the record of instrument
code type DE-EAS

Instrument Number 2010-5630508
Fee 78.00

Office of County Records

Records Officer

RECEIVED

MAR 17 2010

UMATILLA COUNTY
RECORDS

**ACCESS EASEMENT
AND ROAD MAINTENANCE AGREEMENT**

This agreement is made this 16th day of March, 2010 by and between JAMES DUANE CARMACK aka JAMES D. CARMACK and THELMA CARMACK, husband and wife, ("Grantor") and RONALD L. WINELAND and LEETTA H. WINELAND, husband and wife, ("Grantee").

RECITALS

A. Grantor James Duane Carmack and Thelma Carmack, husband and wife, own the real property described in that certain deed between Richard O. Olson, Grantor, and James Duane Carmack and Thelma Carmack, husband and wife, Grantee, which deed was recorded on November 26, 1984 in Reel 119, Page 1621, and as Document No. 1984-106298, Office of County Records, Umatilla County, Oregon. The property is referred to as Tax Lot 700 on the map attached hereto as Exhibit "A" (hereinafter "Grantor Property").

B. Grantor James D. Carmack owns the real property described in that certain deed between James D. Carmack, Personal Representative, Grantor, and James D. Carmack, Grantee, which deed was recorded on December 26, 1991 in Reel 214, Page 630, and as Document No. 1991-168152, Office of County Records, Umatilla County, Oregon. The property is referred to as Tax Lot 701 on the map attached hereto as Exhibit "A" (hereinafter "Grantor Benefitting Property").

C. Grantee Ronald L. Wineland and LeEtta H. Wineland, husband and wife, own the real property described in that certain deed between James B. Bennett and Jeanne A. Bennett, husband and wife, Grantor, and Ronald L. Wineland and LeEtta H. Wineland, husband and wife, Grantee, which deed was recorded on April 18, 1986 in Reel 136, Page 1757, and as Document No. 1986-118858, Office of County Records, Umatilla County, Oregon. The property is referred to as Tax Lots 2200 and 2401 on the map attached hereto as Exhibit "A" (hereinafter "Grantee Property").

D. Grantee desires to acquire a nonexclusive access and utility easement over the Grantor Property for the benefit of the Grantee Property.



E. Grantor desires to create and reserve a nonexclusive 15 foot access and utility easement over the easement portion of the Grantor Property created herein for Grantor's Benefitting Property. Grantor further desires to create a continuation of the easement granted to Grantee over and across the western 15 feet of the Grantor Property, as an extension of the easement granted to Grantee, for use by the Grantor's Benefitting Property.

AGREEMENT

1. Easement Granted: Grantor, for valuable consideration, does forever grant to Grantee a perpetual nonexclusive access and utility easement over and along the full width and length of the premises described below:

The strip of property described on Exhibit "B" attached hereto and by this reference incorporated herein.

The easement is shown on the map marked Exhibit "C" attached and by this reference incorporated herein.

Grantor, further does forever grant unto Grantor for Grantor's Benefitting Property a perpetual nonexclusive access and utility easement over and along the entire westerly 15 feet of the Grantor Property for the benefit of the Grantor's Benefitting Property.

Both easements shall run with the land and are binding upon Grantor's and Grantee's successors, assigns, administrators, representatives, and heirs.

2. Fencing and Gates: No fences or gates may be placed within or across the easement area. The parties may construct a gate or gates along the exterior boundary of the easement to provide access to their respective properties.

3. Easement Appurtenant: The easements granted herein are appurtenant to all of the Grantor and Grantee Properties as described herein.

4. Benefitting Property: The easement is for the benefit of all or any portion of the Grantee Property and all owners or lawful users of all or any portion of the Grantee Property, including, without limitation, Grantee, its employees, independent contractors, guests and invitees, except as otherwise provided in this document. This easement also creates reciprocal benefits for the Grantor Property and the Grantor Benefitting Property over the full width and length from the Diagonal Road right-of-way to the southeast corner of the Grantor Benefitting Property.

5. Limitations on Use: This easement may not be transferred to, nor used by any party other than the owner or lawful occupant of the Grantee Property and Grantor Benefitting Property, and shall not benefit any property other than the Grantee Property and Grantor Benefitting Property, it being the intent of the parties that the easement not be extended to other properties without Grantor's and Grantee's written consent.



6. Type of Use: This easement may be used to provide pedestrian, vehicular, and utility access for the benefit of the Grantor Property and Grantee Property over, under, across, and through the Grantor Property, subject only to such restrictions as may be specified herein. No parking of any vehicles nor placement of any equipment or the storage of any type of materials shall be allowed within the easement area at anytime. It is the parties intentions to provide for unrestricted vehicular access, especially for emergency purposes, over and across the full length and width of the easements created herein.
7. Grantor's Reserved Rights: This easement is for the nonexclusive benefit of the Grantee Property, and Grantor expressly reserves: (a) the right to use the easement for all lawful purposes jointly and in common with Grantee for the benefit of all or any portion of the Grantor Property.
8. Residential Purposes: This easement and roadway is primarily for regular residential purposes as allowed under the zoning designation and is not designed for commercial purposes. Except for initial construction and maintenance and improvement of the parties respective properties no vehicles in excess of 26, 000 GVW shall be allowed to use the easement on a routine or regular basis.
9. Relocation: The easement may be relocated only with the consent of the Grantor and Grantee.
10. Duration: The easement shall be perpetual and may be terminated only by Grantee expressly in writing. The easement shall not be terminated by failure of purpose, change of circumstances, abandonment, or misuse except as and to the extent otherwise provided in this document.
11. Maintenance and Repairs: Grantee shall be solely responsible for repairing and maintaining the roadway area (described in Exhibit "B") at all times and shall bear the entire expense of all repairs or maintenance until such time as the Grantor improves the remaining easement area running to the southern boundary of the Grantor Benefitting Property. At such time as the Grantor's Benefitting Property makes actual use of the full easement the Grantor Benefitting Property shall then be required to pay 50% of the cost of maintenance or repair of the full easement area. The Grantee shall pay the remaining 50% of the cost of maintaining full easement area. The parties agree, however, that no cost may be incurred for maintenance and repairs without consent of all parties using the easement. This provision shall not limit or restrict any party from making repairs or maintenance at their own expense. It is the intent of the parties to keep the easement in a passable condition for conventional motor vehicles on a year-around basis.
12. Grantor Not Liable: Grantee shall defend, indemnify and hold harmless Grantor from and against any loss, claim or liability arising out of or attributable to use of the easement by Grantee or any other party, or to the condition of the easement or of the roadway or the Grantor Property. The Grantor shall have no liability to Grantee or any third party for any injury, loss, or damage caused by third parties or for any condition of the easement or the Grantor Property.

13. Enforcement Costs: In the event action is instituted to enforce any term of this easement, the prevailing party shall recover from the losing party reasonable attorney fees incurred in such action as set by the trial court and, in the event of an appeal, as set by the appellate courts.

Grantor:
James Duane Carmack aka James D. Carmack
James Duane Carmack aka James D. Carmack

Thelma Carmack
Thelma Carmack

Grantee:
Ronald L. Wineland
Ronald L. Wineland

LeEtta H. Wineland
LeEtta H. Wineland

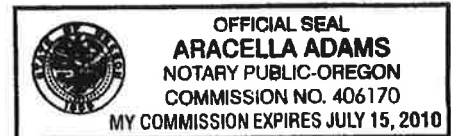


2010-5630508 4 of 7

STATE OF OREGON)
)ss.
County of Umatilla)

This instrument was acknowledged before me on March 16, 2010, ²⁰⁰⁹ by James Duane Carmack aka James D. Carmack and Thelma Carmack.

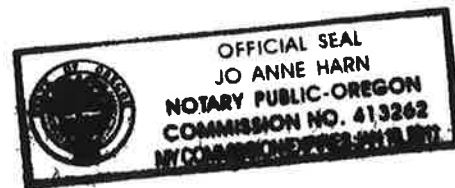
Aracella Adams
Notary Public for Oregon
My Commission Expires: 07-15-10



STATE OF OREGON)
)ss.
County of Umatilla)

This instrument was acknowledged before me on 2/16/2010, ²⁰⁰⁹ by Ronald L. Wineland and LeEtta H. Wineland.

Jo Anne Harn
Notary Public for Oregon
My Commission Expires: 2/1/10/2011



PREPARED BY:
David Wm. Hadley, OSB No. 81252
Attorney At Law
130 SE 3rd Street
Hermiston, OR 97838
carmackwinelandagreement1309



2010-5630508 6 of 7

Edwards Surveying
P.O. Box 763
Hermiston, OR 97838
541-567-3336

11/02/09

CARMACK TO WINELAND 15 FOOT EASEMENT

A strip of land in the Northwest Quarter of the Northeast Quarter of Section 6, Township 4 North, Range 29 East, Willamette Meridian, Umatilla County, Oregon, lying within the lands of James and Thelma Carmack recorded on Reel 119, Page 1621, Umatilla County Deed Records being described as follows:

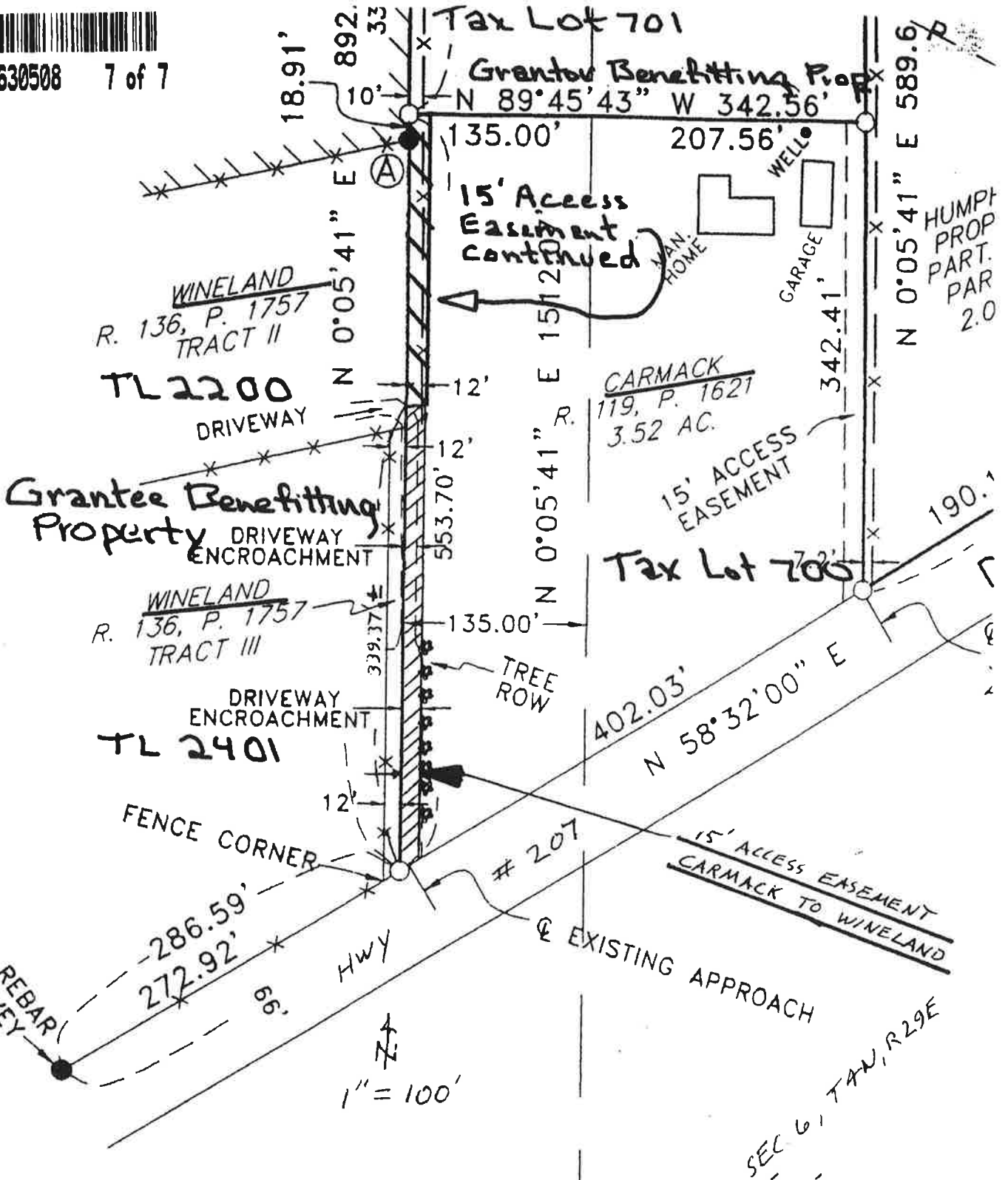
A strip of land 15.00 feet in width, the west line of which is described as follows; beginning at the southwest corner of said Carmack tract. Said point lies on the north right of way line of State Highway # 207 at a point which lies 135.00 feet west of the east line of the Northwest Quarter of the Northeast Quarter of said Section 6 when measured at right angles and running; thence North along the west line of said Carmack tract 339.37 feet to a point which lies 15.00 feet north of the southeast corner of that tract of land described as Tract Two in a deed to Ronald and LeEtta Wineland on reel 136, page 1757, Umatilla County Deed Records. Said point is the terminus of the west line of said 15 foot wide strip.

EXHIBIT B



2010-5630508 7 of 7

(1517.91' COMPUTED)



END. 1/2" I. REBAR FOR BAIRD

MAP FOR **Jim CARMACK**
 11/3/09
 EDWARDS SURVEYING
 541 567 3336

EXHIBIT C

N 89°59'11" E 1331.09' (1331.09')

LOC C-1

State of Oregon
DEPARTMENT OF TRANSPORTATION
Highway Division

Form 81-734-3307

APPLICATION AND PERMIT TO
CONSTRUCT ROAD APPROACH

Road Approach Permit No.

25895

Name and Address of Applicant

W. C. Baird
1810 SW 44th
Pendleton, OR 97801

Contact purchaser
Olin H. Lee

Applicant hereby applies to the Administrator and State Highway Engineer for permission to construct an approach road connection to the Westerly side of the Hermiston Highway Highway No. 333, Umatilla County, at Mile Post 3.999, Highway Engineers Station 212+20 as described herein.

Special Provisions

Contract No. 8922

1. Current Rules and Regulations governing Road Approach Permits as adopted by the State of Oregon, Department of Transportation, Highway Division, are by this reference made a part of this permit. Copies of said Rules and Regulations may be obtained from the District Engineer.
2. The approach(es) shall be constructed in accordance with the Type 2 Road Approach Sketch attached hereto and by this reference made a part hereof.
3. The following additional drawings are attached hereto and by this reference made a part hereof See contract plans Sheet 2.
4. Facility served by approach(es) private residence
5. Construction of the approach(es) shall commence on or after June 15, 1979, and will be completed on or before October 31, 1979.
6. Applicant or his contractor shall notify the District Engineer at (Not applicable), phone _____ prior to commencing work and after completing construction of the approach(es) covered by this permit.

The road approach is to be constructed by the State Highway Division under the Columbia River Highway--Hermiston Section Contract at no cost to the applicant.

Station	Milepoint	Width	Pipe Size and Width
212+20	3.999	16'	12"

Recommended for approval:

Walter R. Sullivan
Assistant District Engineer

William A. Valentine
Regional Engineer

Applicant declares he is the owner or lessee of the real property abutting the above described highway and has the lawful authority to apply for this permit. This permit is issued subject to the terms and provisions contained herein and attached hereto; this permit is accepted and approved by the applicant subject to said terms and provisions.

Applicant

Walter C. Baird

ADMINISTRATOR AND STATE HIGHWAY ENGINEER

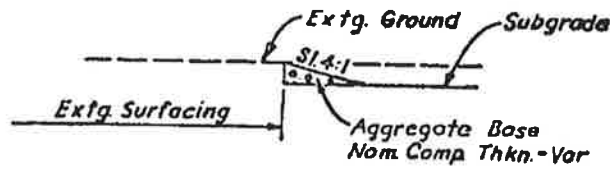
By

By W. Valentine DISTRICT PERMIT ENGINEER

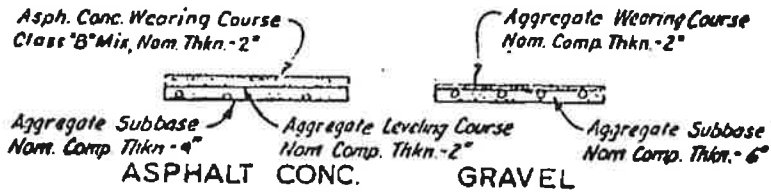
Date of Application

Effective Date 11-14-79

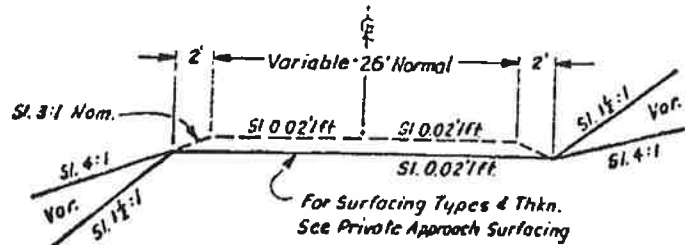
COLUMBIA RIVER HWY. - HERMISTON SECTION				SHEET
HERMISTON HIGHWAY				2
UMATILLA COUNTY				
NO. ROAD	STATE	PROJECT	FISCAL	TOTAL
10	OREGON	FR-76(2)	YEAR	SHEETS
				See Index



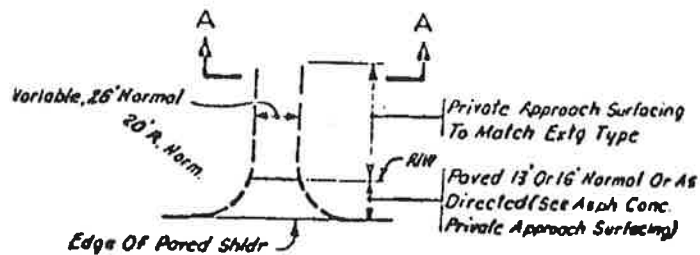
ABRUPT PAVEMENT EDGE DETAIL
(Locate Adjacent To Traffic, See Specifications)



PRIVATE APPROACH SURFACING



SECTION A-A



PLAN APPROACH

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

NOTICE OF PUBLIC HEARING UMATILLA COUNTY PLANNING COMMISSION

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, December 17, 2015 at 6:30 PM** in the Media Room of the Umatilla County Justice Center, 4700 NW Pioneer Place, Pendleton, OR 97801. The Public Hearing is in regard to **CONDITIONAL USE PERMIT REQUEST, #C-1249-15**, application submitted by **RODNEY J. RAINEY**, property owner **KEVIN GRAY**. The property is located on the north side of Diagonal Road (State Highway No. 207) on Tax Lot #2401, in Township 04N, Range 29E, Section 06A. The site address for this property is 32405 Diagonal Road Hermiston, Or 97838.

The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

For further information concerning the above proposal, please contact Assistant Planner, Brandon Seitz at the Umatilla County Planning Department, 216 SE 4th Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6249.

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes appeal to the Land Use Board of Appeals based on that issue.

Copies of applications, documents and evidence pertaining to the hearing listed above, and all relevant criteria are available for inspection at no cost and will be duplicated at printing cost. A copy of the staff report will be available for inspection or duplication at least seven days before the hearing. Hearings shall be governed by Section 152.772 of the Umatilla County Land Development Code.

DATED THIS 24th day of November 2015

UMATILLA COUNTY PLANNING DEPARTMENT