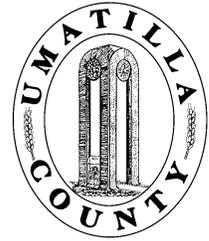


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, October 28, 2021, 6:30 PM

VIRTUAL MEETING

IF YOU WISH TO PARTICIPATE IN THE HEARING PLEASE SUBMIT COMMENTS BY 4PM, OCTOBER 28, 2021, TO planning@umatillacounty.net OR CONTACT THE PLANNING DEPARTMENT AT, 541-278-6252.

Planning Commission

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

Jon Salter
Lyle Smith
Cindy Timmons
Sam Tucker

Planning Staff

Bob Waldher, Planning Director
Carol Johnson, Senior Planner
Megan Green, Planner II/ GIS
Gina Miller, Code Enforcement Coordinator
Tierney Cimmiyotti, Administrative Assistant

1. **Call to Order**
2. **Continued Hearing (from August 26, 2021):**

CONDITIONAL USE PERMIT REQUEST #C-1342-21: KEVIN & HEATHER JAMES, APPLICANTS/ OWNERS. The applicants request approval for the use of a Recreational Vehicle as a Temporary Hardship Dwelling on property located at 53613 Rosebud Lane, Milton Freewater, Oregon 97862, northeast of the City of Milton Freewater and on Assessor's Map 6N3525D, Tax Lot 103. The applicable Land Use standards for a Temporary Hardship Dwelling on EFU Zoned land are found in the Umatilla County Development Code Section 152.617(I)(V) & Sections 152.013, 152.060 & 152.615.

3. **Adjournment**

UMATILLA COUNTY
PLANNING COMMISSION **CONTINUED HEARING**
OCTOBER 28, 2021
JAMES CONDITIONAL USE PERMIT, #C-1342-21
PACKET CONTENTS

1. PC Memo Dated October 20, 2021, pages 1 & 2
2. Notice Map, page 3
3. Goggle Map dated June 13, 2019, page 4
4. Applicant's Goggle Map Plan, page 5
5. PC Memo Dated August 16, 2021, pages 6 – 8
6. Staff Report/Findings, pages 9 - 16
7. Notified Property Owner Comments, Photos & Business Information – pages 17 - 25
8. Code Enforcement Comments, page 26
9. Notified Property Owner Comment, page 27
10. Notified Property Owner Comments & Photos, 28 - 31
11. Letter of Medical Hardship, pages 32 & 33

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

October 20, 2021

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

CODE
ENFORCEMENT

To: Umatilla County Planning Commissioners

From: Carol Johnson, Senior Planner *CJ*

SOLID WASTE
COMMITTEE

Re: October 28, 2021, Continued Planning Commission Hearing,
Kevin and Heather James, Applicants/Property Owners
James Conditional Use Permit, #C-1342-21
Map #6N 35 26D, Tax Lot #103, Account #134692

SMOKE
MANAGEMENT

CC: Robert Waldher, Planning Director

GIS AND
MAPPING

RURAL
ADDRESSING

At the August 26, 2021, the Planning Commission continued the James conditional use permit request to the Planning Commission hearing scheduled at 6:30 pm on October 28, 2021. During this continuation staff visited with County Counsel in regard to sharing hardship medical information, staff was advised that medical information was needed for the Planning Commission to make a factual determination a medical hardship exists.

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

The continuance also provided time to Kevin James' parents to meet with their doctors and obtain medical documentation to present as evidence to the Planning Commission. Additionally, applicant, Kevin James, was advised that testimony from his parents expressing the care they need and/or the things they cannot do for themselves would be very helpful; therefore, their participation was encouraged.

Kevin James has supplied two letters from Robert G. Morasch, MD. One of the letters is on behalf of his father Kenny James and the second on behalf of his mother, Lenora James. Both letters are enclosed for the Planning Commission's consideration at the October 28, 2021 continued hearing.

As review, the Exclusive Farm Use (EFU) rules for a temporary hardship home allow for residential use of a recreational vehicle for the term of a medical hardship, where a medical hardship is suffered by the existing resident or relative of the resident, pursuant to Umatilla County Development Code Section 152.617 (I)(V).

The hardship dwelling approval standards require the following:

- A legitimate medical hardship must exist for either the resident or a relative of the resident of the property and the stated hardship must be supported by medical documentation.
- Connection of the temporary hardship dwelling must be to the same subsurface sewage disposal system as used by the existing dwelling.

- The permit authorizing the hardship dwelling must be reviewed every two years. This review consists of information from the applicant about the continued need for the use of the temporary hardship dwelling; and
- once the hardship ends, the recreational vehicle used as the hardship dwelling must either be removed or disconnected from water and septic and properly stored on the property.

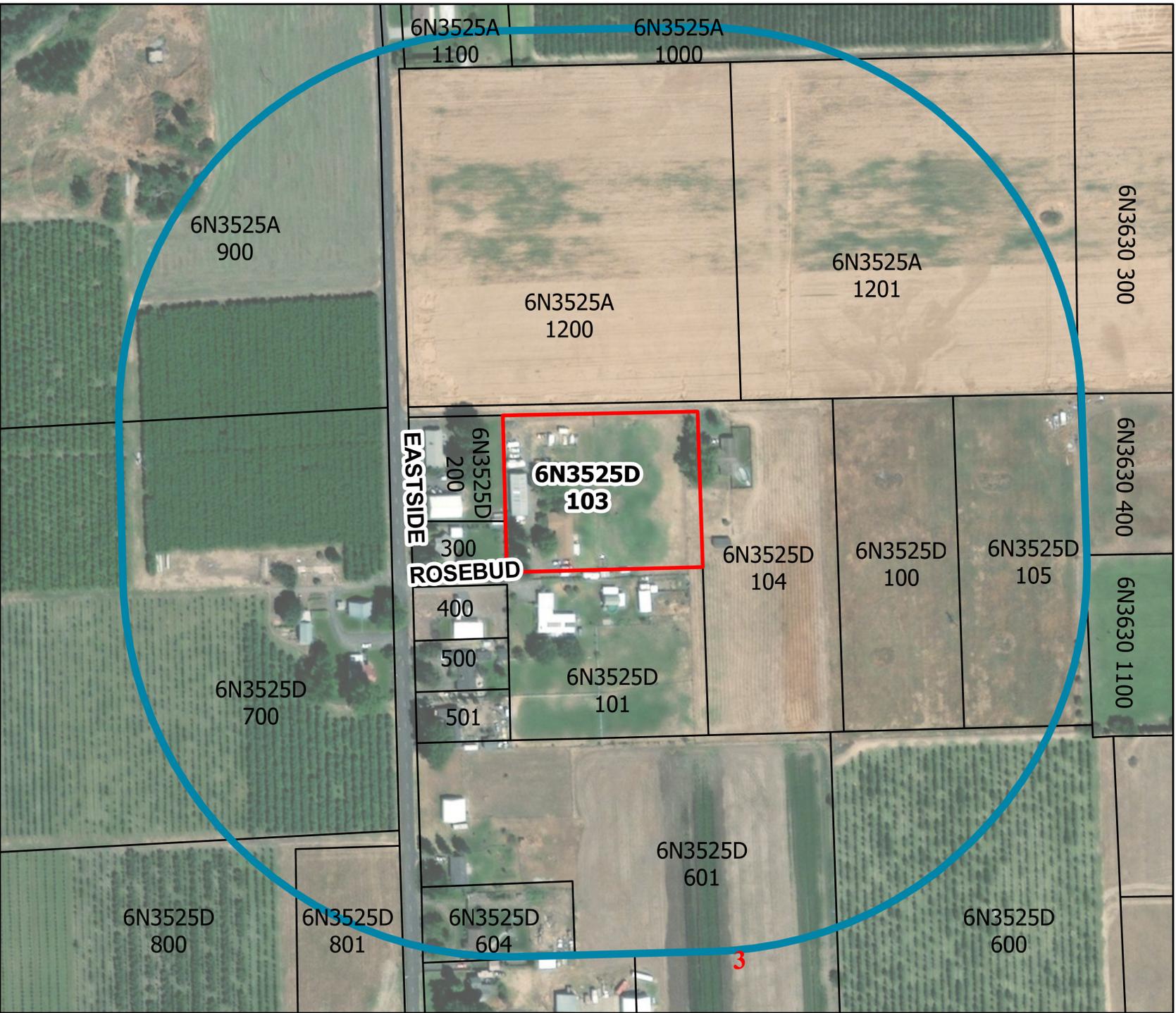
Lastly, the Planning Commission may approve or deny the applicants' request, based on the facts in the record. The Planning Commission's decision is final unless the decision is timely appealed to the County Board of Commissioners.

APPLICANT & OWNERS: KEVIN & HEATHER JAMES
MAP: 6N 35 25D TAX LOT: 103

#C-1342-21



Notified Property Owners with 750 feet of Subject Parcel



MAP	TAX LOT	OWNER
6N3525A	900	LARSON SCOTT
6N3525A	1000	COPELAND STEVEN R & CHERYL D
6N3525A	1100	COPELAND THOMAS R & TWILA J
6N3525A	1200	GRABER GARY & DEBBIE
6N3525A	1201	GRABER GARY & DEBBIE
6N3525D	100H	VELAZQUEZ OCHOA ENRIQUE
6N3525D	101	HEIN MELANIE S
6N3525D	103	JAMES KEVIN J & HEATHER LYNN
6N3525D	104	MASON BLANCHE I
6N3525D	105H	VELAZQUEZ OCHOA ENRIQUE
6N3525D	200	KRENZLER MICHAEL RAY
6N3525D	300	ROBERTS DAVID L & SALLY M
6N3525D	400	KING CODY T & LINDAY D
6N3525D	500	SHINNER EDWARD W JR
6N3525D	501R	ANDERSON KARRY & PAMELA
6N3525D	600	ROLOFF FARMS INC
6N3525D	601	BURMEISTER RICHARD A
6N3525D	604	AGUAYO SARA & FLORES
6N3525D	700	LARSON JAMES
6N3525D	800	LARSON TRACY L
6N3525D	801	RAKESTRAW MIKAYLA LYNN & KYLE C
6N3630	300	AMALGAM LLC
6N3630	400H	VELAZQUEZ OCHOA ENRIQUE
6N3630	1100	KIMBALL JODI R & STEVEN L

- Legend**
- Property Boundary
 - Subject Parcel
 - 750 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. Green, Umatilla County Planning Department
 Date: 5/27/2021

Tax Lot 103, Map 6N 35 25D, Aerial Dated June 13, 2019

Write a description for your map.

Legend

 53613 Rosebud Ln



Google Earth

© 2021 Google Rosebud Ln

4

100 ft



Google Map

Location of 5th Wheel

Applicant's
Plan



Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

August 16, 2021

MEMO

To: Umatilla County Planning Commissioners

From: Carol Johnson, Senior Planner *COJ*

Re: August 26, 2021, Planning Commission Hearing,
Kevin and Heather James, Applicants/Property Owners
James Conditional Use Permit, #C-1342-21
Map #6N 35 26D, Tax Lot #103, Account #134692

CC: Robert Waldher, Planning Director

Background and Request:

The subject property is located along the north side of Rosebud Lane, approximately 200-ft from the intersection of Rosebud Lane and East Side Road, northeast of the City of Milton-Freewater. Rosebud Lane is an easement listed in Deed Book 304, Page 545, as access to the applicant's property and to the property located to the south of the applicant's property, Tax Lot #101.

The applicants, Kevin and Heather James, are requesting a Conditional Use Permit for use of an RV as a Temporary Hardship Home for Kevin James' parents, Kenny and Lenora James. Kenny and Lenora James are currently residing in their RV on the subject property. The application for the Conditional Use Permit was submitted as a result of a Code Enforcement Warning Ticket for the occupancy of an unpermitted RV on the James property. Other code violations on the property include solid waste for several (old) vehicles located in a field on the property.

Administrative Notice:

On June 9, 2021, administrative notice of the applicant's request was mailed for comment to agencies and to owners of properties located within 750-ft of the perimeter of the subject property. As a result, Planning staff received two comments. One from a notified property owner, Melanie Hein, and one from County Code Enforcement. Due to these comments, the Planning Commission has been asked to review and decide the James Conditional Use Permit request.

EFU Zone Temporary Hardship Home Standards:

In part, the Exclusive Farm Use (EFU) rules for a temporary hardship home allow for residential use of a recreational vehicle for the term of a medical hardship, where a medical hardship is suffered by the existing resident or relative of the resident, pursuant to Umatilla County Development Code Section 152.617 (I)(V).

The hardship dwelling approval standards require the following:

- A legitimate medical hardship must exist for either the resident or a relative of the resident of the property and the stated hardship must be supported by medical documentation.
- Connection of the temporary hardship dwelling must be to the same subsurface sewage disposal system as used by the existing dwelling.
- The permit authorizing the hardship dwelling must be reviewed every two years. This review consists of information from the applicant about the continued need for the use of the temporary hardship dwelling; and
- once the hardship ends, the recreational vehicle used as the hardship dwelling must either be removed or disconnected from water and septic and properly stored on the property.

Received Comments:

One phone comment was received from notified property owner, Melanie Hein. Ms. Hein followed up with written comments and provided several property photos. Both, the written comments and photos are included in the Commissioners packets. One agency comment was received from County Code Enforcement. Code Enforcement currently has an active enforcement case on the James property which consists of a violation for unpermitted use of the RV as a dwelling unit and solid waste for several old vehicles on the property.

Summary of the Hein comments include:

- status of the easement named Rosebud Lane,
- use of the James property as a business,
- storing, and location of certain materials on the James property, and
- whether Kenny and Lenora James have the type of hardship required for approval of the James Hardship Dwelling Conditional Use Permit request.

Code Enforcement:

The comments from County Code Enforcement provide history and current status of the Code violation on the James property. Code Enforcement also included information previously provided by the applicant, Kevin James, to Code Enforcement regarding his parents, Kenny and Lenora James.

Staff has researched and gained information on some of the comments. The easement, Rosebud Lane, believed by Melanie Hein to only serve her property (Tax Lot #101) also serves and provides lawful access to the James property, Tax Lot #103. The Hein photos showing garbage cans along Rosebud Lane appear to be outside of the improvement driveway path. The cans appear to be a temporary placement of cans ready for pickup, as is likely the case elsewhere in the greater Milton-Freewater area on garbage pickup day. If this is not the case and the cans are permanently placed in the easement, then staff recommends neighborly consideration by the parties and would add that the Planning Department would not be directly involved in civil matters.

The business operating from the James property is of interest and may be a code violation on the James property. Staff has confirmed information for Bulz-I Plumbing,

Inc., at 53613 Rosebud Lane, Milton-Freewater, OR 97862, listed as a Principal Office Mailing Address by the Washington Corporation Filing System.

Comments regarding the level of medical need for a Temporary Hardship Dwelling can be subjective. Persons with a medical issue and yet able to live on their own with supervision from a nearby relative are the persons most often who qualify for approval of a temporary hardship dwelling. These qualifying persons may not drive and need transport to appointments, need help with daily medications and/or help with regular meal preparations.

Some qualifying persons may be able to do some of the things listed above for themselves and yet need other assistance. The form or type of assistance can and does vary for each hardship need. However, consistently the hardship warranting the need for the temporary hardship dwelling is for year-around assistance and not for certain months or times of the year, or when the qualifying person or persons are not traveling.

Conditions and Decision:

Approvals for Conditional Use Permits include a set of Precedent and Subsequent Conditions of approval. The current James Preliminary Findings consist of a set of these conditions. This set of conditions may be added to or changed by the Planning Commission, based on the standards of approval for a Temporary Hardship Dwelling.

Lastly, the Planning Commission may approve or deny the applicants' request, based on the facts in the record. The Planning Commission's decision will become final unless the decision is timely appealed to the County Board of Commissioners.

**UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
TEMPORARY HARDSHIP DWELLING
JAMES CONDITIONAL USE PERMIT REQUEST, #C-1342-21
Map #6N 35 25D, Tax Lot #103, Account #134692**

1. APPLICANT: Kevin and Heather James, 53613 Rosebud Lane, Milton-Freewater, Oregon 97862
2. OWNERS: Same as above.
3. LOCATION: The subject property is located along the north side of Rosebud Lane, approximately 200-ft from the intersection of Rosebud Lane and East Side Road, to the northeast of the City of Milton-Freewater.
4. REQUEST: The applicants, Kevin and Heather James, are requesting a temporary hardship dwelling. The temporary hardship dwelling would be for a hardship suffered by Kevin's parents, Kenny and Lenora James. Kenny and Lenora James would temporarily reside in a 5th-wheel RV located on Kevin and Heather's property.
5. SITUS: There are currently two addresses on the property, one address for the existing frame built home, 53613 Rosebud Lane, and a second address for a manufactured dwelling, 53621 Rosebud Lane. The applicants are not requesting an address to be issued for the RV site to be used as Kenny and Lenora's temporary hardship dwelling.
6. ACREAGE: Tax Lot #103 is 2.56 acres.
7. COMP PLAN: Orchard District
8. ZONING: Exclusive Farm Use, EFU-10
9. ACCESS/
ROAD TYPE: Access to the property is via Rosebud Lane, a private access road.
10. EASEMENTS: No easements were listed on the property.
11. LAND USE: The property is developed with a pasture area and as a residence.
12. ADJACENT USE: The surrounding properties are zoned EFU. The larger EFU parcels are farmed and the smaller EFU parcels are mainly used as home sites.
13. LAND FORM: Walla Walla Valley
14. BUILDINGS: The property is developed with an on-site constructed dwelling, several out buildings and a 1974 "Kit" manufactured dwelling. This manufactured dwelling was previously approved by the Planning Commission as a Hardship Dwelling and later reapproved by the Planning Commission to stay on the

property as a permanent second dwelling.

15. UTILITIES: The property is served by Milton-Freewater Power.
16. WATER/SEWER: The property is developed with a well and septic system and has some irrigation water rights.
17. FIRE SERVICE: The applicants subscribe to the Milton-Freewater Rural Fire Department.
18. IRRIGATION: The property is located in either Hudson Bay or the Walla Walla Irrigation District.
19. FLOODPLAIN: The property is not located within a FEMA determined flood hazard area.
20. NOTICES SENT: August 6, 2021
21. HEARING DATE: August 26, 2021
22. AGENCIES: State Building Codes Agency, State Water Resources, Umatilla County Assessor, Umatilla County Environmental Health, County Code Enforcement, Umatilla County Public Works, Hudson Bay, Walla Walla Irrigation District, City of Milton-Freewater Power and Century Link
23. COMMENTS: Comments from Melanie Hein in opposition and one email comment in support of the James request.

24. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR CONDITIONAL USE PERMITS to establish a TEMPORARY HARDSHIP DWELLING on lands zoned EFU, a use in Section 152.060 (J) and the applicable conditional use restrictions in Sections 152.013, 152.060 and 152.615. Also, a County Zoning Permit must be obtained following the approval of the hardship home conditional use permit pursuant to §§ 152.612 (D) and 152.025. The following standards are underlined (below) and responses are provided in standard text.

§ 152.617 (D)(V) TEMPORARY HARDSHIP DWELLINGS.

(1) The purpose of this section is to establish temporary hardship dwellings in the EFU Zone. A hardship dwelling is one manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. UNDUE HARDSHIP shall refer to unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel. The aged or disabled person must require direct personal care in order to qualify for a temporary hardship dwelling. If the hardship is suffered by the existing resident, then a non-relative caregiver may live in the temporary hardship dwelling. Nothing in this section shall be construed to require the granting of such temporary hardship dwelling.

(2) Conditions. The following conditions shall be applied in evaluating an application for a Temporary Hardship Dwelling:

(a) The temporary manufactured dwelling or park model home shall be connected to the same subsurface sewage disposal system used by the existing dwelling. If the temporary hardship dwelling will use a public sanitary sewer system, such condition will not be required; A public sewer system is not available. Therefore, the applicants are required to serve the RV with sanitation by connecting the RV to Kevin and Heather's existing septic system connected to their home.

Umatilla County Planning finds as a condition of approval the applicant must obtain authorization from Umatilla County Environmental Health to connect the RV to Kevin and Heather James existing septic system.

(b) Approval shall be for a period of two years, which may be renewed; additional doctor's certification may be required to confirm the continued existence of a medical hardship. The manufactured dwelling or park model home shall be removed within 90 days after the original need has ceased; Approval of the RV for the term of a hardship suffered by Kenny and Lenora James is for a period of two years (and could potentially cease sooner if the hardship no longer exists for Kenny and Lenora James). At the close of the two-year period the approval may be renewed for another two-year period. At the two-year renewal time period, the applicants must confirm the on-going need for the RV based on a continuing hardship suffered by Kenny and Lenora James.

The condition of approval requiring a two-year review of the hardship home approval to confirm the continued need for a hardship suffered by Kenny and Lenora James is imposed.

Disconnection of the RV used as the temporary hardship home from the septic and ceasing the use of the RV as a temporary dwelling, within three months (90-days) after the hardship no longer exists for Kenny and Lenora James, is a requirement of the James Conditional Use Permit approval for a temporary hardship home.

The condition of approval to disconnect the RV from services within 90-days of the end of the hardship suffered by Kenny and Lenora James is imposed. And the condition of approval to sign and record a covenant declaring the RV *will be* disconnected from septic and no longer used as a temporary hardship home (dwelling unit), once the hardship no longer exists for Kenny and Lenora James, is a condition of approval.

(c) The Planning Director or designated authority may require doctor's certification for applications based upon family member dependency due to medical reasons;

The applicants' information includes a declaration letter provided by Kenny James' physician affirming Kenny and Lenora have multiple chronic medical problems related to age and their overall physical conditions, and that by the couple living on their son's property would allow them needed assistance. The criterion is satisfied.

(d) The location of a temporary hardship manufactured dwelling or park model 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 not apply;

The applicants plan to use the existing access onto the property. The location of the RV will be temporary and must consist of room for one parking space. The parking space is required to be placed on the applicant's site plan used to approve the Zoning Permit. The Zoning Permit is issued pursuant to UCDC Section 152.025.

(e) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Removal or proper storage of the RV used as the temporary hardship dwelling within three months (90-days) after the hardship for Kenny and Lenora James no longer exists, and/or when Kenny and Lenora James no longer reside on the property in the RV, is a requirement of the James conditional use permit approval for a Temporary Hardship Dwelling.

The condition of approval to remove or disconnect and properly store the RV used as hardship dwelling within 90-days of the end of the hardship suffered by Kenny and Lenora James is imposed.

The condition of approval to sign and record a covenant declaring the approved temporary hardship use of the RV either must be removed or disconnected and properly stored on the property once the hardship no longer exists for Kenny and Lenora James is a condition of approval.

(f) A temporary hardship dwelling approved under this sub-section is not eligible for replacement. The temporary hardship RV is not eligible to qualify for replacement as a permanent dwelling on the James zoned land. The condition of approval restricting the temporary hardship home from becoming a permanent dwelling on the property is imposed.

§ 152.061 STANDARDS FOR ALL CONDITIONAL USES ON EFU ZONED LAND.

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. All of the surrounding lands are zoned for farm use with most of the parcels too small to be devoted to farm uses and commercial levels of farming. The lands surrounding the subject property include two smaller farm zoned parcels adjacent to the west and located north of Rosebud Lane. One of these parcels is just under ½ acre in size and one is just under 1-acre in size, both parcels are developed with home sites and have yard areas. South of Rosebud Lane and immediately south of the two previously described parcels are three more small farm zoned parcels, all three of these parcels are under ½ acre in size and all are developed with homes and yards. Immediately south of the subject parcel is a similar sized property of 2 ½ acres, this parcel is

likewise developed with a home and has pasture ground.

Land to the east is just over 4-acres in size and also is developed with a home and has a small acreage of pasture and/or hay ground. The access driveway to this 4-acre parcel is adjacent to the north of the subject parcel. North of this adjacent access driveway is a farm parcel of between 9 and 10-acres in size. This parcel has been farmed in various crops over the years and is devoted to farm uses.

Some typical farm use practices include planting, spraying, irrigation and harvesting a crop. These farm practices include the use of tractors, sprayers and various trucks and harvesting equipment. Farm practices occur at specific times and have continued to be practiced in this area within the current development pattern of small parcels developed with homes, yards and pasture. This pattern has been present in this area since prior to the current applied farm zoning. The applicants' request is for the use of an RV as a Temporary Hardship Dwelling. Since the property, devoted to farm use, has continued in farm use operating these many years in an area just north of an existing pattern of developed home sites on smaller farm zoned parcels, the use of the RV as a temporary dwelling on one of these smaller parcels should not cause a significantly change or significant increase in the costs of farm practices on the land devoted to farm use.

Unless something is brought forward to show otherwise, approval of the temporary use of the RV as a hardship home will not result in significant impacts to accepted farm practices or increase the costs associated with such practices to raise a crop.

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

- (A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such an environmental effect as noise, vibration, air pollution, glare or odor; The conditional use permit is for the approval of a temporary hardship dwelling and is not a request for a business where the above restrictions likely could apply.
- (B) Establishing special yard, other open space or lot area or dimension; The RV and two dwellings will share the existing development site area on the property.
- (C) Limiting the height, size or location of a building or other structure; The proposal is a request to approve a temporary hardship dwelling, no other buildings or structures are proposed where size limitations may be imposed.
- (D) Designating the size, number, location and nature of vehicle access points; The existing access point will be used for the RV temporary hardship dwelling and both existing dwellings on property. Additional access points are not necessary.
- (E) Increasing the required street dedication, roadway width or improvements within the street right of way; The approval request is for a temporary hardship dwelling and does not result

in a requirement to upgrade a public road or add additional right of way width.

- (F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area. Parking area near the RV, used as a temporary hardship dwelling, will require one parking space for one vehicle. Designating one parking space will be required to be shown on an updated site plan prior to issuance of the Zoning Permit.
- (G) Limiting or otherwise designating the number, size, location, height and lighting of signs; No signage is proposed. The conditional use request is for the approval of an RV for the term of a temporary hardship and not for a business use. No signage is proposed or necessary.
- (H) Limiting the location and intensity of outdoor lighting and requiring its shielding; The conditional use permit is for an approval of an RV on the property for the term of the hardship, no outdoor lighting is proposed or necessary.
- (I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance; No diking or screening between the subject property and neighboring properties is required. The RV approved for the term of the hardship will share a developed area on the property along with the existing home sites currently on the property.
- (J) Designating the size, height, location and materials for a fence; No additional fencing is planned or required.
- (K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources; The area selected for the RV is located where there are no trees, or other significant natural resources.
- (L) Parking area requirements as listed in Sections 152.560 through 152.562 of this chapter. Parking requirements for a residence requires one parking space or area. The aerial site map of the property shows adequate area on the property to add one parking space area near the RV site. As a condition of the approval the applicant's site plan, accompanying the Zoning Permit, must be updated to show the one parking space near the RV site.

§ 152.013 MOBILE HOMES.

(A) Siting. Mobile homes may be maintained for residential purposes in the unincorporated portions of the county only as provided herein:

(3) Temporary mobile home placement in conformance with § 152.576 or § 152.617 (I) (V) of this chapter. See standards under §152.576

(B) Application. An application for a zoning permit for a mobile home shall be made to the Planning Department. Except as provided herein, the Planning Department shall issue zoning permits for mobile homes and accessories thereto as authorized by other sections of this chapter upon compliance with the following requirements:

(1) The site and location of a mobile home shall meet area, frontage, access, setback and other requirements of this chapter; Since the application is for a temporary hardship dwelling the requirements for lot area and frontage do not specifically apply, see UCDC Section 152.576.

(2) The mobile home shall be served by an approved water supply; The water supply for the existing home is a domestic well, an approved water supply. The RV is or will be connected to this water source.

(3) The mobile home shall be served by a sewage disposal system approved by the [County Environmental Health] Department of Environmental Quality; Sewage disposal for Kevin and Heather's existing home is via an existing on-site septic system. The applicants are required to obtain authorization from County Environmental Health to connect the RV to this existing septic system. A condition of approval is imposed to require the connection of the RV to the existing septic system and obtain authorization for this connection from County Environmental Health. Satisfaction with the criterion is pending.

(4) All plumbing, electric and gas service connections shall be made according to instructions approved by the State Department of Commerce; Permits for plumbing, electric and/or gas connections are issued through State Building Codes Agency. As a condition of approval, the applicants are required to comply with State requirements if any, prior to continuing the occupation of the RV as a temporary hardship home. Satisfaction of the criterion is pending.

(5) The mobile home unit shall be manufactured after January 1, 1972, and bear the Oregon Department of Commerce "Insignia of Compliance." The temporary hardship home approval is for an RV; therefore, this criterion does not apply.

(6) The mobile home shall be skirted on its lower perimeter by a fire resistant material. The applicant is required to comply with State Building Codes requirements, if any, prior to continuing to occupy the RV at the approved location on the James property.

DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY PLANNING COMMISSION APPROVES THE JAMES LAND USE REQUEST, UPON COMPLETION OF THE CONDITIONS LISTED BELOW.

Precedent Conditions: The following precedent conditions must be satisfied prior to issuance of the County Zoning Permit.

1. Sign and Record a Covenant Statement for either the removal or disconnection and proper storage of the approved RV once the hardship for Kenny and Lenora James ceases and/or they no longer reside in the temporary hardship RV on the James property. (Covenant provided by the Planning Department.)
2. Obtain and submit authorization from County Environmental Health to connect the RV to the

existing septic system

Subsequent Conditions: The following subsequent conditions will continue to apply to the approval of the temporary hardship dwelling until such time the hardship ends and the temporary hardship dwelling (RV) is removed or properly stored as required in Condition 5 below.

3. Obtain a County Zoning Permit for the establishment of the RV approved by the conditional use permit for the term of a hardship suffered by Kenny and Lenora James. The updated site plan must accompany the Zoning Permit and show parking for one vehicle near the location of the RV, used as the temporary hardship dwelling. Obtain any required State permits for connections or setup of the RV as a temporary hardship dwelling prior to continuing to occupy the RV.
4. Approval of the James Conditional Use Permit request is for a two-year period and may be renewed. Renewal is subject to county review and the applicable renewal fee. To renew, the applicants/property owners must confirm to the County Planning Department that the hardship still exists for Kenny and/or Lenora James and the presence of the RV used as the temporary hardship home is necessary for an ongoing hardship due to medical conditions.
5. Once the hardship ceases for Kenny and Lenora James, the applicant/property owners have 90-days in which to remove, or disconnect and properly store, the RV used as the temporary hardship dwelling. Notice must be provided to the Planning Department the hardship for Kenny and Lenora has ended and that the RV has been disconnected and is no longer being used as a temporary hardship dwelling.
6. The RV approved as the temporary hardship dwelling is not be eligible for replacement as a permanent dwelling on the James property.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 20_____

Suni Danforth, *Planning Commission Chair*

JUN 24 2021

UMATILLA COUNTY
PLANNING DEPARTMENT

To whom it may concern,

I am writing in response to a public notice dated June 9th, 2021, regarding the request for a conditional use request at Kevin and Heather James residence. I have several concerns regarding this notification, including driveway access, use of a residence as a business, current disclosure of structures/trailers existing on the property, and the true state of health for Kenny and Lenora James.

First, in this notification, there are notations that the conditional use dwelling will “use the existing access point as the residence” and that “additional access points are not necessary.” My sister and I have lived in our residence for 11 years. The residence in question was purchased by Mr. and Mrs. James approx. 5 years ago. The single lane driveway to my residence exists on an easement and it is our understanding disclosed from the selling owner, that during the sale of the residence the easement was not extended to Mr. and Mrs. James. It was instead expressed that they would need to establish their own driveway, which they have not done. Mr. and Mrs. James already have an abundant amount of traffic to/from their location as they frequently have guests (including Kenny and Lenora James) staying in their existing camp trailers and secondary dwelling. The increased traffic is a burden to my sister and I, given this impairs our ability to utilize the existing driveway (only one way traffic allowed at a time). This also increases the wear and tear on the roadway, in which Mr. James has made abundantly clear, we are responsible for the upkeep of. Retaining the dwelling in its proposed manner is likely to increase and prolong this undue burden on us without an adequate driveway provided, which Mr. and Mrs. James were already expected to establish. Furthermore, Mr. James leaves multiple garbage cans (one large industrial size left on a trailer attached to his four-wheeler, as well as up to two others on the ground near it) parked along the driveway. This further impedes the ability to navigate the driveway. (Pictures enclosed)

To further complicate the traffic issue, I also have a strong suspicion that Mr. James is also running his business, “Bulz-I Plumbing,” out of his home as well. As noted on the attached Business license provided by Washington state, the office street address is that of Postal Annex, which serves to provide individuals with a physical address when they do not otherwise have one to supply. This is not a physical building that is operating as a location or point of contact for his business. Furthermore, we have observed multiple vans frequently parked at his residence. On a regular basis in the mornings, individuals arrive in their personal vehicles and immediately depart in vans. They come and go throughout the day, and then leave the vans at the residence in the evenings. We have also observed large trucks coming going with plumbing supplies (see pictures provided). This also increases the hardship given the current situation with the driveway.

In addition to the trailer mentioned in the disclosed letter that is expected to reside beside the shop, Mr. and Mrs. James have another camp trailer that is placed inches from our property line (located on the southern border of the James property). There is no acknowledgement of property offsets, and it has been located there for several years. (Its location is observed in the google map images and pictures provided.) Furthermore, they also have the camp trailer that belongs to Kenny and Lenora James, which is actively utilized. Lastly, there are already a significant number of utility trailers, vans, and disabled vehicles throughout the property. (Pictures enclosed)

On the topic of the health and well being of Kenny and Lenora James, it is my understanding that they must be infirm and unable to care for themselves in order to qualify for the conditional use dwelling. This would imply also that they are not able to freely come and go from the location under their own power. Contrary to this definition, Kenny and Lenora travel to and from, including hauling their camping trailer as recent as the last couple months. (Pictures enclosed) It is not uncommon for them stay at Mr. and Mrs. James' residence in their camp trailer for long durations and then depart for equally long durations with their trailer.

For these reasons, I respectfully request that you reconsider the approval noted in these sections and require a new access point to the property as initially stated during the sale of the house.

Thank you,

Melanie Hein

A handwritten signature in cursive script that reads "Melanie Hein".

Garbage
examples



Kenny and Lenora arriving with
their personal camp trailer
(August 2020)

*older trailer
brought in*



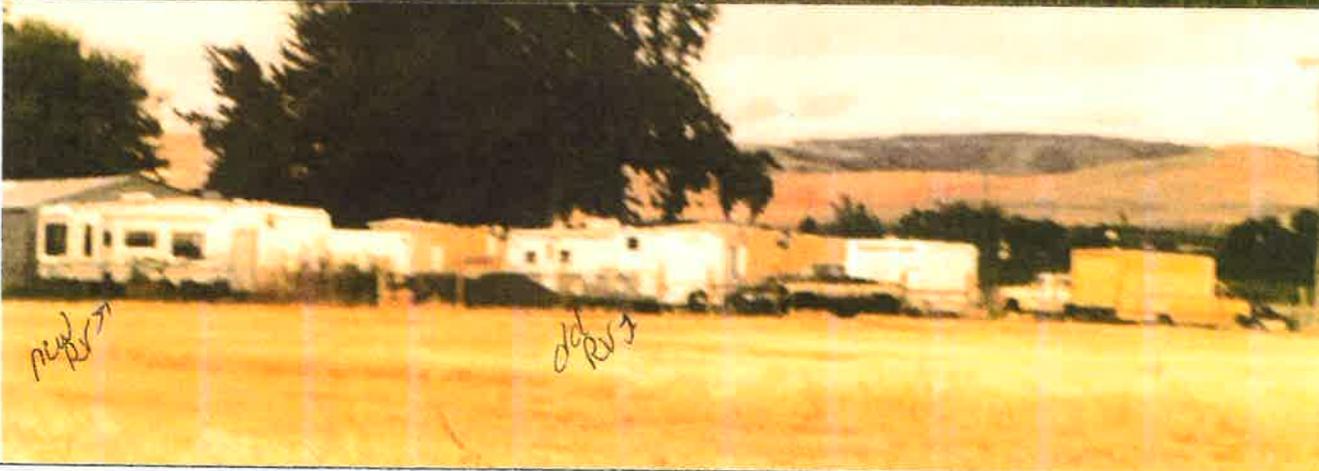
Large shipment vehicle (August
2020)



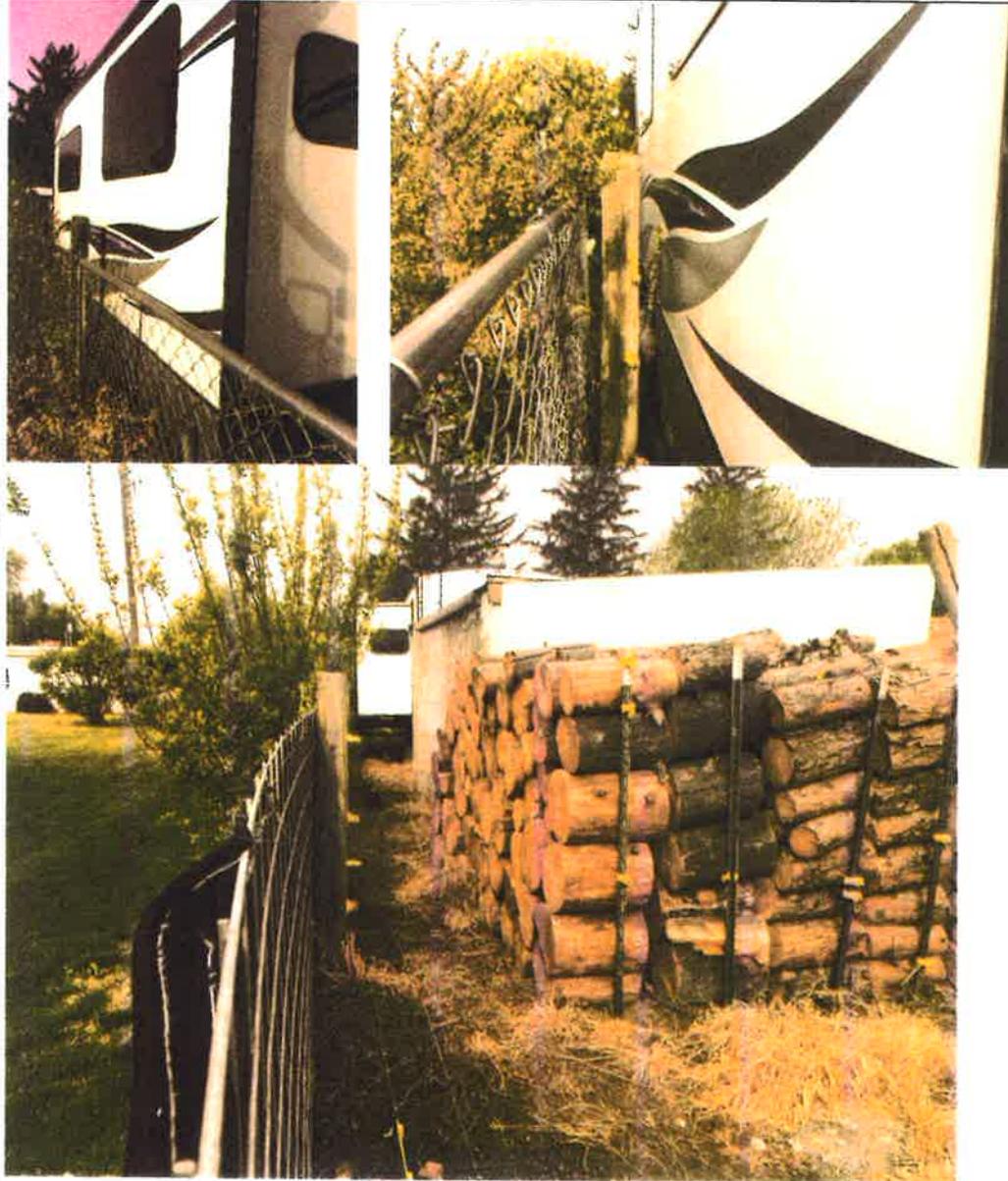
Utility Vans, utility trailers, disabled vehicles, and one camp trailer north of Shop



Two camp trailers, utility vans, utility trailers and disabled vehicles north side of shop



Camp trailer on south side of property
against fence line





Business Lookup

License Information:

Entity name: BULZ- PLUMBING INC

Business name: BULZ- PLUMBING INC

Entity type:

UBI #: 603-193-948

Business ID: 001

Location ID: 0001

Location: Active

Location address: 53613 ROSEBUD LN
OFC
MILTON FREEWATER OR 97362-7087

Mailing address: 1644 PLAZA WAY ← (Postal Annex)
125
WALLA WALLA WA 99362-4925

Excise tax and reseller permit status:

Secretary of State status:

Endorsements

Endorsements held at this location	License #	Count	Details	Status	Expiration date	First issuance date

Secretary of State status:

Endorsements

Endorsements held at this location	License #	Count	Details	Status	Expiration date	First issuance date
					40-30-2022	Mar-12-2019

Governing People May include governing people not registered with Secretary of State

Governing people	Title
JAMES KEVIN	

Registered Trade Names

Registered trade names	Status	First issued
BULZ- PLUMBING INC	Active	Mar-07-2019

The Business Lookup information is updated nightly. Search date and time: 6/17/2021 7:17:53 PM

BUSINESS INFORMATION

Business Name:

BULZ-I PLUMBING, INC

UBI Number:

603 193 948

Business Type:

WA PROFIT CORPORATION

Business Status:

ACTIVE

Principal Office Street Address:

1644 PLAZA WAY # 125, WALLA WALLA, WA, 99362-4325, UNITED STATES

Principal Office Mailing Address:

53613 ROSEBUD LN, MILTON FRWTR, OR, 97862-7087, UNITED STATES

Expiration Date:

04/30/2022

Jurisdiction:

UNITED STATES, WASHINGTON

Formation/ Registration Date:

04/01/2012

Period of Duration:

PERPETUAL

Inactive Date:

Nature of Business:

CONSTRUCTION, OTHER SERVICES

REGISTERED AGENT INFORMATION

Registered Agent Name:

HEATHER JAMES

Street Address:

1644 PLAZA WAY # 125, WALLA WALLA, WA, 99362-4325, UNITED STATES

Mailing Address:

1644 PLAZA WAY # 125, WALLA WALLA, WA, 99362-4325, UNITED STATES

GOVERNORS

Title	Governors Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL		KEVIN	JAMES

Umatilla County

Department of Land Use Planning

RECEIVED

JUN 25 2021

UMATILLA COUNTY



DIRECTOR
Robert Waldher

June 25, 2021

LAND USE
PLANNING,
ZONING AND
PERMITTING

To: Planning Department
Carol Johnson, Senior Planner

CODE
ENFORCEMENT

From: Gina Miller, Code Enforcement Officer

SOLID WASTE
COMMITTEE

Re: #C-1342-21 Temporary Hardship home request
Kevin and Heather James

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

In the spring of 2020, Code Enforcement received an anonymous complaint regarding an accumulation of solid waste and occupation of a recreational vehicle (RV). Following a site visit by the Code Enforcement Officer, it was confirmed that an RV was present with custom built steps and appeared to be connecting utility hoses and cords. There were also several vehicles and trucks on the north side of the property that were either out of current license tag or inoperable.

Code Enforcement mailed a Warning Notice of the violation to the property owner on 09/25/2020, providing the property owner 30 days to bring the property into compliance. The property owner, Kevin James, contacted Code Enforcement on 10/12/2020 to discuss the Warning Notice. The officer explained the substance of the violation and advised the property owner to cease full time occupation of the RV. Mr. James explained that the RV belonged to his parents, who occupied the RV when visiting. He further explained his parents used another RV when traveling south for the winter. There was discussion of the status of the inoperable/unlicensed vehicles in the north side pasture. Mr. James was advised Code Enforcement could provide him with "Junk Slips" so the vehicles could be disposed. Later in 2020, Code Enforcement was limited in performing active fieldwork due to the County's COVID-19 response. At this time, the property remains in violation.

Code Enforcement has concerns about Mr. and Mrs. James' application for a conditional use permit for a temporary hardship home, and the actual need for the home. Mr. James has expressed to Code Enforcement that the RV was only used part of the year by his parents when they are not traveling. Code Enforcement has years of experience in processing annual reviews of temporary hardship home permits and never has had a permit review where the hardship home was approved to be occupied only part time, or part of a year. Code Enforcement questions the actual need for a temporary hardship home based on the information shared to Code Enforcement by property owner, Kevin James.

Gina Miller 
Code Enforcement Coordinator

Kevin and Heather James Conditional Use Permit Request #C-1342-21 We are writing to express our support for the above request. Our home is lot 300 in front of the James property. There is plenty of room for the recreational vehicle and a medical hardship is all the more reason to allow it. Kevin James wants to help his parents and should be allowed to do it. Please approve his request. David and Sally Roberts 84789 Eastside Rd. Milton afterwards, OR. 97862

1 message

david roberts <robertsdism@gmail.com>
To: "carol.johnson@umatillacounty.net" <carol.johnson@umatillacounty.net>

Thu, Aug 26, 2021 at 2:31 PM

RECEIVED
AUG 26 2021
UMATILLA COUNTY
PLANNING DEPARTMENT

OCT 20 2021

UMATILLA COUNTY
PLANNING DEPARTMENT

To Whom it may concern,

I am writing to express my continued concern with allowing the James residence to utilize a hardship dwelling. During the hearing there was significant discussion regarding the health of the James' parents, which I believe was to be able to prove or disprove whether they would indeed qualify for the hardship.

I have worked in nursing for approx. 50 years, 20 of which were in home health care. In my experience, patients in need of in-home care are individuals who cannot care for themselves, whose bodies don't work as well as they used to, and who are no longer able to have or enjoy the liberties of living on their own. In my experience, there are varying degrees of care needed. Those that need basic help like cooking, cleaning, assistance getting groceries or running errands, and those that need more intense care such as assistance bathing, dressing, medicating, and general mobility. Individuals receiving both levels of care do not typically travel or drive. Most can't enjoy something as simple as a walk down the street or even to the mailbox to get their mail. These patients were all "infirm" (of poor or deteriorated vitality, feeble from age). It is my belief that the Umatilla County had these individuals in mind when they developed the criteria for the hardship dwelling permits. Based what I observe in the day-to-day activities at the James' residence, the parents do not display the activity levels or physical behaviors of an individual that would typically need this level of care. As expressed in our previous letter, we regularly see the parents come and go at their leisure. This has continued to occur in the past two months since the hearing. During the hearing, Mr. James himself stated that the parents drive back and forth to Hermiston and go camping regularly. This is not typical behavior of someone who is infirm.

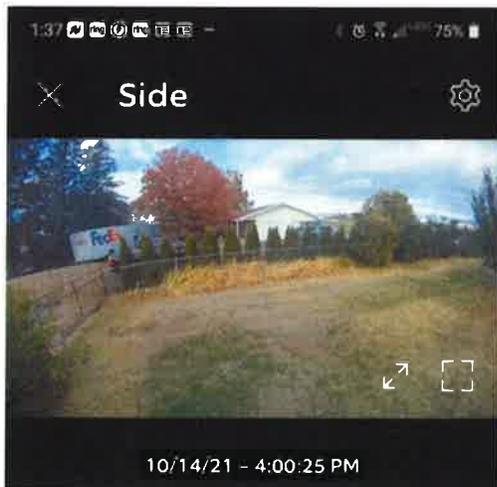
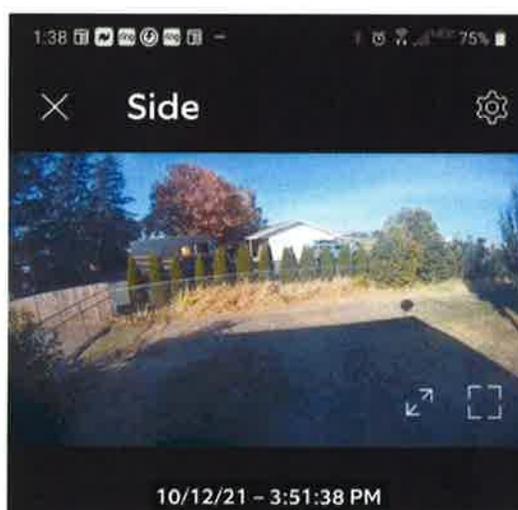
Additionally, during the hearing the James' confirmed the parents had already been living in the trailer for lengths of time prior to the request for the hardship dwelling and without any physical ailments. In fact, it would appear that they only filed for this hardship dwelling after the inspector informed them they could not use the trailer as they had previously. This is a strong coincidence in timing.

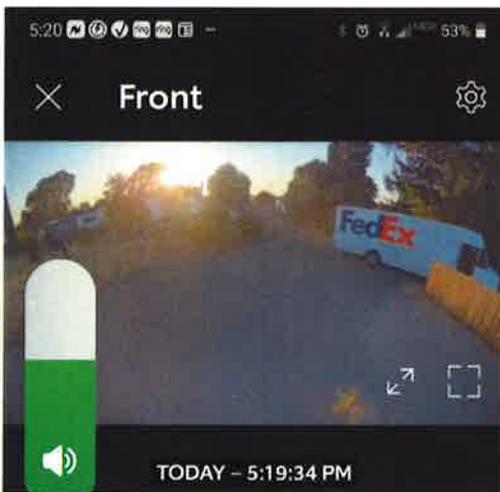
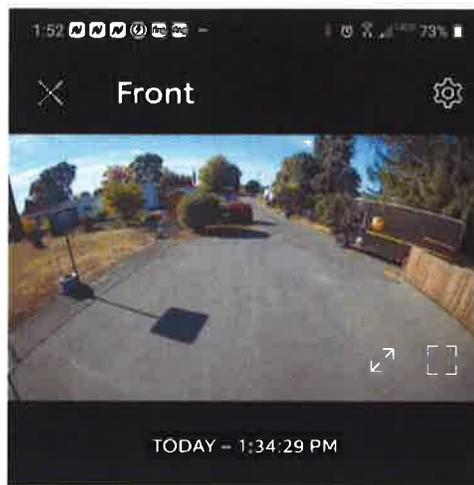
As mentioned previously, traffic on the private single-lane roadway continues to be heavy, with both work and residential vehicles for the James residence, and frequent deliveries. Mr. James claims that I exaggerated my statement of observing deliveries nearly daily, sometimes multiple in one day. I have enclosed pictures (pages 2 & 3) from the last two weeks to serve as credibility of my statements. Traffic is further exacerbated not only by daily morning and evening vehicle swaps as noted in my previous letter, but also mid-day trips in and out with the work vans and large trucks to which Mr. James denied occurrences of. (A small sampling provided on page 4). While the James' have an alternate driveway to the North side of the residence, they do not use it for their primary travel. As part of the hardship dwelling review, it was noted that the hardship would utilize existing access points to the residence. If granted, the traffic will surely continue to increase the degradation of the single-lane drive. This may seem a mundane issue to most. However, my sister and I are both nearing our 70's and as mentioned in my previous letter, Mr. James remains adamant that it is my responsibility to tend to the quality of the road. Moreover, Mr. James does not seem to be bothered by the impact his utilization has on the lane or that it makes it harder for me to keep in good repair, especially the older I get.

Sincerely,

Melanie Hein

UPS/FedEx Deliveries





(Photos noted as "today" are from 10.19.2021)



(Photos noted as "today" are from 10.19.2021)

PROVIDENCE MEDICAL GROUP SE WA FAMILY MEDICINE SOUTHGATE 1017
1017 S 2ND AVE STE 1
WALLA WALLA WA 99362-4183
Phone: 509-897-8520
Fax: 509-897-5885



October 11, 2021

Kenny Leroy James
32158 Myrtlewood Ln
Hermiston OR 97838-7567

RECEIVED

OCT 11 2021

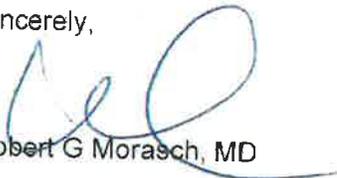
**UMATILLA COUNTY
PLANNING DEPARTMENT**

To Whom it May Concern

My patient has multiple chronic medical problems related to age and overall physical condition that affect balance, mobility, strength and impact MRADL's. He is a high risk for falls and is unable to lift heavy objects. This necessitates intermittent assistance from a caregiver/family member and requires the couple to park their travel trailer on their Son's lot in the rural Milton-Freewater, Oregon area. This will avoid undue hardship.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,



Robert G Morasch, MD

PROVIDENCE MEDICAL GROUP SE WA FAMILY MEDICINE SOUTHGATE 1017
1017 S 2ND AVE STE 1
WALLA WALLA WA 99362-4183
Phone: 509-897-8520
Fax: 509-897-5885



October 11, 2021

Lenora Faye James
32158 Myrtlewood Ln
Hermiston OR 97838

RECEIVED

OCT 11 2021

**UMATILLA COUNTY
PLANNING DEPARTMENT**

To Whom it May Concern

My patient has multiple chronic medical problems related to age and overall physical condition that affect balance, mobility, strength and impact MRADL's, She is at high risk for falls and is unable to lift heavy objects. This necessitates intermittent assistance from a caregiver/family member and requires the couple to park their travel trailer on their Son's lot in the rural Milton-Freewater, Oregon area. This will avoid undue hardship.
If you have any questions or concerns, please don't hesitate to call.

Sincerely,

A handwritten signature in blue ink, appearing to be "Robert G Morasch", written over a circular scribble.

Robert G Morasch, MD

DRAFT MINUTES

CONDITIONAL USE REQUEST

#C-1342-21

**KEVIN & HEATHER JAMES,
APPLICANTS & OWNERS**

**REQUEST APPROVAL FOR THE USE OF AN RV AS
A TEMPORARY HARSHIP DWELLING**

53613 ROSEBUD LANE, MILTON FREEWATER

CONTINUED HEARING SCHEDULED FOR OCT. 28, 2021

PLANNING COMMISSION HEARING

AUGUST 26, 2021

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, August 26, 2021, 6:30pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
VIRTUAL MEETING VIA ZOOM

** **

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Hoot Royer, Jon Salter, Tami Green & Sam Tucker

ABSENT: Tammie Williams, Lyle Smith & Cindy Timmons

STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner & 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 6:30pm and read the Opening Statement.

NEW HEARING

CONDITIONAL USE REQUEST #C-1342-21; KEVIN & HEATHER JAMES, APPLICANTS/ OWNERS. The applicants request approval for the use of a Recreational Vehicle (RV) as a Temporary Hardship Dwelling on property located at 53613 Rosebud Lane, Milton Freewater, Oregon 97862. The subject parcel is northeast of the City of Milton Freewater and can be found on Umatilla County Assessor’s Map 6N3525D, Tax Lot 103. The applicable Land Use standards for a Temporary Hardship Dwelling on Exclusive Farm Use Zoned land are found in Umatilla County Development Code (UCDC) Section 152.617(I)(V) and Sections 152.013, 152.060 & 152.615.

STAFF REPORT

Carol Johnson, Senior Planner, presented the staff report. Mrs. Johnson stated that the applicants, Kevin & Heather James, request approval for the use of an RV as a Temporary Hardship Dwelling based on a medical need for Mr. James’ parents, Kenny & Lenora James. The property is a 2.5 acre EFU Zoned parcel located at 53613 Rosebud Lane in Milton Freewater. She added that there is a correction of note to the applicant’s address in the Preliminary Findings and Conclusions on page 5 of the Commissioner’s packet. The city has been corrected to Milton Freewater and she will include that change in the Final Findings.

Ms. Johnson stated that the specific Hardship Dwelling Conditional Use standards can be found in the UCDC under Section 152.617(I)(V). Staff’s Preliminary Findings outline the applicable criteria including; the medical need for justification of the hardship, authorization to connect the hardship dwelling to the existing septic system, ongoing review of the Conditional Use Permit

for compliance, and removal or proper storage of the RV used as the Temporary Hardship Dwelling once the hardship no longer exists.

Mrs. Johnson stated that administrative review of the request was mailed on June 9, 2021 as notice to surrounding property owners and affected agencies. The notice resulted in two comments; one from a notified neighbor in opposition to the request and another informational comment provided by Umatilla County Code Enforcement (page 13-23 in the commissioner's packets). She added that an additional comment was received via email the day of the hearing from a neighbor in support of the James's request. That comment was emailed to Commissioners prior to the start of the hearing

Mrs. Johnson stated that comments from the opposing neighbor included concerns regarding; the status and use of the easement named Rosebud Lane, use of the James property as a business (Bulz-I Plumbing), storage and location of certain materials on the property, and questions whether Kenny and Lenora James have the type of hardship required for approval of this request.

Code Enforcement's comment letter includes information pertaining to; the active code violation on the property, the occupied RV on the property and questions concerning the hardship dwelling use for only part of the year. Mrs. Johnson explained that the need for a Temporary Hardship Home can be subjective and the level of needed assistance can vary. She added that the medical need which qualifies an individual for a Temporary Hardship Dwelling is expected to imply the need for consistent year-round assistance.

Mrs. Johnson stated that the Planning Commission may approve or deny the applicants' request. Approval must be based on meeting all of the criteria outlined in staff's Preliminary Findings and Conclusions on pages 11 & 12 of the hearing packets. She explained that staff has a suggestion to modify Precedent Condition #1 on page 11 of the Commissioner's packets and she has plans to discuss this in more detail later in the hearing.

Commissioner Tucker asked if the applicant would be willing to provide evidence concerning the medical need associated with this request. Mrs. Johnson stated that staff received a letter from a physician stating that assistance is recommended for Kenny and Lenora James. She added that she was hesitant to divulge additional details pertaining to the medical need due to privacy standards established under the Health Insurance Portability and Accountability Act (HIPAA) to protect sensitive health information from being disclosed without one's consent or knowledge. The physician's letter was intentionally not included in the meeting materials available to the Planning Commissioners and public.

Commissioner Wysocki asked if both dwellings on the property are connected to the same septic system. Mrs. Johnson stated that she does not know, but assumes both dwellings are served by the same septic system because the manufactured home on the property was originally approved as a Temporary Hardship Dwelling. At a later date, the Planning Commission approved a request for the manufactured home to remain on the property as a second dwelling. She pointed out that

Mr. James acquired the subject property after these decisions were made and he was not the applicant for those requests. She added that if this request is approved the RV will be required to connect to an existing septic system on the property. The process will include inspection and approval of the septic system by Umatilla County Environmental Health.

Chair Danforth asked when the Planning Commission approved the request for the manufactured home to be used as a permanent second dwelling on the property. Mrs. Johnson stated that the request was approved in 1996.

Commissioner Tucker asked staff if the applicant would be willing to waive their protections under HIPAA and share more about the medical needs associated with the hardship request. Mrs. Johnson stated that she would discuss the matter with Doug Olsen, Umatilla County Counsel, prior to making any decisions related to disclosing additional medical information.

Commissioner Wysocki asked if the physician's letter expresses enough information to demonstrate that the applicant clearly requires assistance. Mrs. Johnson stated that she will need to consult with County Counsel before she can provide an answer to that question. She explained that if the Planning Commission has additional questions about whether there is a legitimate medical need, they have the option to continue the hearing. This would allow for staff to consult with County Counsel and the applicant about disclosing more details pertaining to the physician's letter and medical needs.

Chair Danforth pointed out that there is an error on page 8 of the Commissioner's packets, addressing Temporary Hardship Dwelling Conditions under UCDC Section 152.617(I)(V)(2)(e). The last paragraph of the response reads, "...once the hardship no long exists...", and should be changed to, "no longer exists". Also in the packets on page 10, addressing Additional Conditional Use Permit Restrictions under UCDC Section 152.615(H), the response reads, "...property for a the term...", but the 'a' should be removed. Mrs. Johnson agreed to make those edits before producing the Final Findings and Conclusions.

Commissioner Wysocki asked if this request were approved, would staff consider a request in the future to replace the RV for a larger model. Mrs. Johnson stated that there are no specific restrictions tied to the model or size of the RV. She explained that here are property line setback standards applicable to where the RV is placed on the parcel. Other than that, the only restriction to the size of the RV would be related to the parcel size and land space available.

Commissioner Tucker asked if the applicant could submit a future request to replace the RV with a manufactured home. He also asked for more clarification about parcel size limitations concerning this specific request. Mrs. Johnson stated that this request is for approval of an RV. However, if the applicant wanted to swap the RV for a manufactured home in the future, they would need to amend this Conditional Use Request. Additional considerations would be applied to any new request including proof of septic system viability and setback standards. With regard to parcel size limitation, she stated that the subject property is a 2.5 acre parcel with existing

structures including two dwellings, some outbuildings and storage. The applicant has placed the RV next to the larger outbuilding located on the west side of the property. She explained that if they wanted to amend the request to replace the RV with a larger manufactured home, they would be required to demonstrate to staff that there is adequate space to accommodate the larger structure. Additionally, if or when a Conditional Use Request is amended the applicant is required to submit new paperwork addressing all standards applicable to the new request.

Commissioner Green inquired about regulations for setback standards with regard to statements made in the comment letter from Melanie Hein (Commissioner's packet page 13-14). Ms. Hein stated, "...Mr. and Mrs. James have another camp trailer that is placed inches from our property line (located on the southern border of the James property)." Commissioner Green asked if there will be a condition of approval to require that the applicant relocate the camp trailer further from the fence line. Mrs. Johnson stated that the RV referred to in Ms. Hein's comment is a different RV which is being stored on the property near the southern property line and she is unsure who the owner is.

Applicant Testimony: Kevin James, 53613 Rosebud Lane, Milton Freewater, Oregon, 97862. Mr. James stated that he is applying for the Temporary Hardship Dwelling for his parents, Kenny and Lenora James. He stated that his parents are getting older and their health is not good. He explained that they are able to live on their own but they still need help on occasion. He stated that they have been going back and forth between his home and his sister's home. He expressed that he believes his parents would be better off living on his property because his family is home most of the time. He stated that he and his wife, Heather, plan to take care of his parents along with help from his son who occupies the manufactured home on the same property.

Mr. James clarified that the property contains two separate septic systems. He also stated that he and his wife own the camp trailer being stored on the south side of his property and nobody is living there.

Commissioner Danforth asked which septic system will serve the RV used for the Temporary Hardship Dwelling. Mr. James stated that the septic system serving the manufactured home is closest to the RV site. However, he plans to work with Umatilla County Environmental Health to test septic viability for both systems and the results will determine which system they utilize.

Commissioner Tucker asked if the RV will be permanently placed on the property or if his parents have plans to occasionally use the RV for travel. Mr. James said it will be hooked up and permanently stationed on the site. Commissioner Tucker asked if his parents use a second RV for travel. Mr. James confirmed that is correct and the second RV that his parent's use for travelling it is also stored on the property. He stated that they used the RV to travel with family, last fall. Commissioner Tucker asked when the last time his parents traveled alone in the RV was. Mr. James stated that his parents last used the RV alone approximately two to three years ago. Mr.

Tucker asked where his parents live at this time. Mr. James stated that his father lives in Hermiston and his mother lives in the Tri-Cities area.

Commissioner Tucker asked Mr. James what his position would be with regard to releasing additional medical records in support of his request. Mr. James asked Commissioner Tucker to clarify if he is providing legal representation to someone at the hearing. Commissioner Tucker explained that he is a Planning Commissioner and as a member of the Planning Commission it is his responsibility to ask relevant questions in order to make a decision. Mr. James stated that he will speak with his parents to determine if they are comfortable releasing the physician's letter to the Planning Commission.

Commissioner Tucker asked Mr. James if his parents plan to stay in the RV for the foreseeable future, or if this is a temporary action with plans to eventually move into more permanent dwelling. Mr. James stated that it depends on the state of his parents health.

Opponent Testimony: Melanie Hein, 53608 Rosebud Lane, Milton Freewater, Oregon, 97862. Ms. Hein stated that she has concerns about the high volume of vehicles using the shared driveway. She believes this is due to the applicant operating a business the property. She claimed to witness a minimum of 20 trips in and out of the property daily. She stated that she saw Mr. James's parents driving vehicles recently and she is aware that they lived in the trailer on the subject property for approximately 6 months last year. She claimed that Mr. James's property is crowded with many older vehicles and she has had trouble using the single-lane driveway which provides access to her property.

Chair Danforth asked which property belonged to Ms. Hein. She replied that she lives on Tax Lot #101, located to the south of the James property and added that both properties utilize Rosebud Lane as an access point.

Ms. Hein stated that she wants to know if Mr. James's parents have a driver's license because she believes the answer would show ability or inability for them to get around independently and care for themselves. Chair Danforth stated that she feels that matter is out of the Planning Commission's purview. Commissioner Wysocki agreed and added that it would be considered personal information. The only way the Planning Commission would know the answer to that question would be if the applicant volunteered the information. Ms. Hein argued that a driver's license is public information.

Public Agencies: Gina Miller, Code Enforcement Officer/ Program Coordinator, Umatilla County Code Enforcement, 216 SE 4th Street, Pendleton, Oregon, 97801. Officer Miller stated that she provided comments which were included in the Commissioner's packets on page 23. She added that she is available to provide clarity or answer any additional questions the Planning Commission may have at this time.

Commissioner Wysocki asked if the violations on the property are still in effect today. Officer Miller confirmed that the violation is still active and Code Enforcement continues to investigate the case on a regular basis. However, she explained that when a person in violation submits an application for Land Use Approval intended to resolve the violation, all further enforcement action is paused.

Commissioner Tucker asked for clarification regarding the statement in Officer Miller's comments that reads, "Mr. James explained that the RV belonged to his parents, who occupied the RV when visiting. He further explained that his parents used another RV when travelling south for the winter." Commissioner Tucker asked if this activity took place in the past, or if this is something they have been doing recently. Officer Miller stated that she located the subject RV while conducting a site visit which was prompted by a complaint received by Code Enforcement. While inspecting the property she observed a wooden deck and steps (in addition to other permanent features) implying occupation of a recreational vehicle, which is not an allowed use in this zone. She noticed other issues on the property as well, and issued a Code Enforcement Warning to the owners, Kevin and Heather James. After receiving the Warning, Mr. James contacted Code Enforcement and explained that the RV belonged to his parents. He said his parents store the RV on his property and use their second RV when they travel south. She explained that she got the impression Mr. James was describing his parents as snowbirds, travelling to warmer areas during the winter months. She added that Mr. James did not mention any medical needs or hardship pertaining to his parents during that initial conversation.

Applicant Rebuttal: Mr. James stated that his parents do not go south for the winter. He explained that they sometimes take the RV to his sister's property in Hermiston and also use it for family hunting trips. He insisted that he did not intend to imply that his parents are snowbirds and maintained that they never travel south for the winter.

Chair Danforth asked Mr. James if he operates a business on his property. Mr. James stated that he does have a business which is licensed in the State of Washington, but did not know it was against the law to keep his work vehicles at his house. He stated that he has business supplies delivered to his property a couple times a month, but asserted that there is nowhere near the volume of traffic that Ms. Hein described. He added that he was not aware that delivery of business supplies to his home was a violation, and now that he knows he will stop the activity.

Chair Danforth asked Mr. James if his business is located in Walla Walla. He replied no, his business does not have a physical location. He rents a post office box at the Postal Annex in Walla Walla.

Commissioner Wysocki stated that before making a final decision he would like additional clarity with regard to the physician's letter. He added that he recognizes privacy laws are important, but feels more details are needed to make a decision about this particular request.

Mrs. Johnson explained that the Planning Commission can choose whether or not to keep the record open for a period of time. Keeping the record open would allow additional time for staff to determine if the requested information can be shared with the Planning Commission. She added that they can also choose whether to continue the hearing to a later date or make a final decision on the matter today. Ultimately, she explained that it is up to them to decide how they would like to proceed.

Commissioner Tucker pointed out that page 6 of the Commissioner's packet includes the standards applied to Conditional Use Permits in order to establish a Temporary Hardship Dwelling on EFU Zoned lands. The standards state that, "UNDUE HARDSHIP shall refer to unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel. The aged or disabled person must require direct personal care in order to qualify for a temporary hardship dwelling." (UCDC 152.617(I)(V))

Commissioner Tucker stated that he is not certain this standard has been met. He feels that the applicant has not provided enough evidence to prove that they meet the definition of undue hardship and more details are required to make an informed decision either way.

Chair Danforth asked if there were any requests for this hearing to be continued or for the record to remain open.

Commissioner Salter made a motion to continue the hearing for Conditional Use Request #C-1342-21 to the October 28, 2021 Planning Commission meeting to provide adequate time for the applicant to produce additional evidence requested by the Planning Commission.

Commissioner Wysocki stated that he hopes the motion for a hearing continuance will not create additional difficulties for Mr. James or his family. Chair Danforth agreed but added that the more information the Planning Commission receives, the better equipped they will be to make a decision.

Commissioner Green seconded the motion to keep the record open and continue the hearing for Conditional Use Request #C-1342-21 to the Planning Commission meeting scheduled for October 28, 2021 at 6:30pm. Motion passed with a vote of 6:0. Chair Danforth closed the hearing.

The continued hearing is scheduled for Thursday, October 28, 2021 at 6:30pm. All those who wish to attend the continued hearing must contact the Umatilla County Planning Department in advance at 541-278-6252 for video or audio login details.

OTHER BUSINESS

Mr. Waldher stated that the next Planning Commission hearing on September 23, 2021 will have three agenda items. The first is a subdivision Replat request and the other two are requests for

Goal 5 protections to be applied to Oregon Department of Transportation (ODOT) aggregate sites.

Mr. Waldher explained that ODOT has submitted applications requesting to amend the Umatilla County Comprehensive Plan to list the Butter Creek Quarry and Vinson Canyon Quarry as significant sites protected by Goal 5. The requests include amendments to the Comprehensive Plan Map to identify the site as ‘significant’ and to apply the buffer area to limit conflicting uses. Approval of these requests would also amend the Umatilla County Zoning Map by applying the Aggregate Resource (AR) Overlay Zone to the mining sites.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:39pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant

DRAFT MINUTES

PATTERSON REPLAT REQUEST

LAND DIVISION; TYPE III #LD-2N-204-21

JASON WELLS, APPLICANT

**LARRY & JAYNE PATTERSON, JOSEPH ZAWORSKI & KATHARINE
HUNTER- ZAWORSKI, OWNERS**

VINSON CANYON QUARRY

TEXT AMENDMENT #T-21-085

PLAN AMENDMENT #P-128-21

ZONE MAP AMENDMENT #Z-317-21

**OREGON DEPARTMENT OF TRANSPORTATION,
APPLICANT/ OWNER**

BUTTER CREEK QUARRY

TEXT AMENDMENT #T-21-086

PLAN AMENDMENT #P-129-21

ZONE MAP AMENDMENT #Z-318-21

**OREGON DEPARTMENT OF TRANSPORTATION,
APPLICANT/ OWNER**

PLANNING COMMISSION HEARING

SEPTEMBER 23, 2021

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, September 23, 2021, 6:30pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
VIRTUAL MEETING VIA ZOOM

** **

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Hoot Royer, Jon Salter, Cindy Timmons, Sam Tucker, Tammie Williams & Tami Green

ABSENT: Lyle Smith

STAFF: Bob Waldher, Planning Director & 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 6:35pm and read the Opening Statement.

NEW HEARING

TYPE III LAND DIVISION, REPLAT REQUEST #LD-2N-204-21; Jason Wells, Applicant, Larry & Jayne Patterson and Joseph Zaworski & Katharine Hunter-Zaworski, Owners. The applicant requests approval of a replat of Lots 6 & 7 of the Fieldcrest Addition. Lot 6 is also identified as Tax Lot 200 and Lot 7 is identified as Tax Lot 300 on Assessor’s Map 2N3234B. The applicant’s replat proposal moves the shared lot line between Lots 6 & 7. The property is located on the west side of State Highway 395 and to the west of McKay Dam, approximately 2.5 miles south of the City of Pendleton. Replat approval standards are found in Umatilla County Development Code (UCDC) Section 152.697(C).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report

STAFF REPORT

Bob Waldher, Planning Director, presented the staff report for Planner, Carol Johnson. Mr. Waldher stated that the applicant requests a Replat (Patterson Subdivision Replat) of Lots 6 and 7 of the Fieldcrest Addition to reconfigure the lots and move the shared lot line to the west. The subject property is located on the west side of Oregon State Highway 395 and McKay Dam, approximately 2.5 miles south of the City of Pendleton.

Mr. Waldher stated that notice of the applicant’s request was mailed on September 3, 2021 to agencies and owners of properties located within 250 feet of the subject property. Notice was also published in the *East Oregonian* newspaper on September 11, 2021 to notify the public of the applicant’s request before the September 23, 2021 Planning Commission meeting.

Mr. Waldher explained that the Standards of Approval are covered in UCDC Section 152.697(C), Type III (Replat) Land Divisions. The Standards generally consist of complying with the Rural Residential (RR-2) Zone development requirements (lot size, setbacks, etc.) and conformance to the existing development scheme in the area, including existing roads and any public facilities within and on adjoining sites. Additionally, the applicant is required to supply a survey plat meeting county and state regulations.

Mr. Waldher stated that this is a very straight forward request. Typically, boundary adjustments are processed as a Type V Land Division, Property Line Adjustment, which is handled administratively by staff. However, when the change is located in a Subdivision the request becomes a Type III Land Division, Replat, and is required to go before the Planning Commission.

Mr. Waldher referred to the map on page 2 in the Commissioners packets and explained that the applicant is simply requesting to move the property boundary to the west. Both tax lots involved will continue to meet the minimum parcel size for the zone and access to both properties will not be affected.

Applicant Testimony: No comments.

Opponent Testimony: No comments.

Public Agencies: No comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Tucker made a motion to approve Patterson Replat, #LD-2N-204-21 based on the foregoing Findings of Fact and Conclusions of Law. Commissioner Williams seconded the motion. Motion passed with a vote of 8:0.

NEW HEARING

TEXT AMENDMENT #T-21-085, PLAN AMENDMENT #P-128-21 & ZONE MAP AMENDMENT #Z-317-21; Oregon Department of Transportation (ODOT), Applicant/Owner. The applicant requests to add an existing quarry (Vinson Canyon Quarry) to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the north side of Oregon State Highway 74, identified on Assessor's Map as Township 1 South, Range 30 East, Tax Lot 1901. The property is 8.03 acres and zoned Exclusive Farm Use (EFU).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. Mr. Waldher stated that the applicant, ODOT, requests to add an existing quarry site, Vinson Canyon Quarry, to the Umatilla County Comprehensive Plan list of Goal 5 Protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the north side of Oregon State Highway 74, identified on Assessor's Map as Township 1 South Range 30 East Tax Lot 1901. The tax lot is 8.03 acres and is zoned Exclusive Farm Use (EFU). The criteria of approval are found in Oregon Administrative Rule (OAR) 660-023-0040 – 0050, 660-023-0180(3), (5) & (7), and UCDC Sections 152.487 – 488.

The process of approval involves review by the Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision whether or not to adopt the proposed amendments. A public hearing before the BCC is scheduled for Wednesday, October 20, 2021 at 9am.

Mr. Waldher pointed out a few errors in the Commissioner's packets; page 4, first sentence of the last paragraph, should say Vinson Canyon Quarry, not Butter Creek; page 19, first sentence of the second paragraph, should say Vinson Canyon Quarry, not Butter Creek and should say 525,000 tons instead of 525,000 cubic yards; page 28 Public Notice Map is of the Butter Creek Quarry site, should be the Vinson Canyon Quarry site. The Vinson Quarry Public Notice map was sent to the Planning Commissioner's via email before the hearing today. Commissioner Tucker pointed out that on page 3, under the title, Hearing Date, it says the hearing will be on September 26, 2021, but should be September 23, 2021. Mr. Waldher stated that he will make the revisions.

Mr. Waldher stated that this request is to add 13.6 acres of property owned by ODOT located on Tax Lot 1901 of Assessor's Map 1S30, to the Umatilla County list of significant sites. This action would provide necessary protections under Goal 5 including limiting conflicting uses within the buffer area, and applying the Aggregate Resource Overlay Zone to the subject property, with the objective to allow mining, processing, and stockpiling at the site. The site is currently listed in the Umatilla County Technical Report on page D-183 as a 3C Significant Site which requires Umatilla County to limit conflicting uses adjacent or near this site.

The Oregon Department of Transportation (ODOT) intends to excavate aggregate, process and batch that aggregate for public road projects, and to stockpile unused aggregate material for current and future use.

Applicant Testimony: Carla McLane, Consultant, Carla McLane Consulting, 170 Van Buren Drive, Umatilla, Oregon, 97882. Ms. McLane indicated that she represents the applicant, ODOT. Ms. McLane stated that the applicant's request is for Umatilla County to protect this site, approve mining, stockpiling and processing and apply the Aggregate Resource (AR) Overlay

Zone to the subject property. These actions will ensure there is not future encroachment on the site and help limit conflicting uses on properties in close proximity.

Ms. McLane stated that this application is to amend the Umatilla County Comprehensive Plan to list the Vinson Canyon Quarry as a significant site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as significant and to apply the buffer area to limit conflicting uses. Approval of this request will also amend the Zoning Map by applying the AR Overlay Zone to the mining site. She explained that ODOT has owned this property since 1953. ODOT has always intended to use the aggregate at this site for regional maintenance and safety improvements to the road network, but nothing has happened to date. ODOT has identified two access points for future use, but they have not developed as they have not yet extracted rock from the site.

ODOT has plans to use the site to excavate aggregate, then process, batch and stockpile the aggregate. The intent of this request is to protect this site so it is available for future use in maintenance, preservation and safety projects on state and regional highways in and around Umatilla County.

Ms. McLane stated that this site does meet the requirements to be considered significant. Vinson Canyon quarry has an approximately one million cubic yards of available basalt and an inventory estimated that it contains 525,000 tons of available material. ODOT standards for use require that a site be inventoried to have a minimum of 500,000 tons, so this condition has been met. She stated that the basin was formed in an area where a great deal of basalt flow developed over a long period of time. As a result, the basalt rock in this area is considered to be solid and of high quality. She added that this request also meets air degradation requirements for coarse and fine materials.

Ms. McLane stated that Scott Billings, ODOT Senior Engineering Geologist, is present at the hearing tonight to answer any technical questions. He has also submitted a letter included in the application materials (Commissioner's packet page 33) designating Vinson Canyon quarry as a Significant Aggregate Site.

Ms. McLane stated that this quarry site is very remote and the nearest dwelling is two miles away. Surrounding land is being used for grazing and there is dryland wheat fields located to the north of the site. There are no activities within the 15,000 ft. impact area and no approved land uses have been identified within the buffer area. The only infrastructure present at this time is Highway 74, which runs from the southeast to the northwest toward Morrow County.

Ms. McLane explained that the objective under the Goal 5 process is to protect the mine from uses that may create conflict. ODOT acknowledges that there could be impacts, but there are no uses in the area that would be problematic relative to this operation. She added that ODOT will obtain necessary air discharge permits, comply with noise standards and if they are unable to maintain stormwater on site, they will obtain other permits related to water.

Ms. McLane stated that ODOT pits differ from commercial pits. In a commercial environment mining occurs quite regularly to support regional development and industrial activities. Activity at ODOT quarries only occurs to support regional or state highway projects located near the quarry. In this case, the quarry would support a project that may occur on Highway 74 or Highway 395 and those projects tend to happen every 10-15 years. Therefore, mining activities occurring at the site would be temporary and sporadic; there could be no activity for a number of years.

Ms. McLane stated that traffic impacts due to activity at the mine would be similar to impact created by harvest activities. There may be a lot of traffic for a short period of time while the project is happening. The projects tend to occur in the Spring & Fall. The UCDC does have a requirement for a Traffic Impact Analysis when a project reaches 250 average daily trips. Similar regional projects demonstrate that the activity on this site would not come close to reaching that number. Additionally, there are no public airports and no other known Goal 5 resources within the impact area.

The agricultural practices in the area are limited and there is a history of the land being used for grazing. Property located several miles to the north of the site is used for dryland wheat farming. South of the property is forest land and to the west, the nearest homes are located along Butter Creek in the canyon approximately two miles away.

Ms. McLane explained that the primary reason for this request is to avoid additional impacts on mining activity in the future. The applicant would like to ensure that Vinson Canyon does not see a growth boom and start to develop homes. Although it might be nice to have additional housing in the area, this is a remote location and ODOT feels it is in their best interest to seek protections to limit conflicting uses within the buffer area (1,500 ft. from the potential impact area). The key issue to be decided is whether or not the Planning Commissioners choose to deem this site as Significant. Without the designation of being considered a Significant site, they cannot move forward with next steps to protect the activity. Ultimately the intent is not to disallow potentially conflicting activities, but rather for the applicants with plans for conflicting land use activities to be made aware of the potential conflict and waive their rights to remonstrance against impacts made by aggregate mining activities in the region.

Ms. McLane stated that once the site is determined to be Significant, ODOT can look at the list of possible future uses in the area, identify the conflicts and limit those conflicting uses. UCDC 152.063(D) requires that, “[a] dwelling shall not be located within 500 ft. of an existing aggregate mining operation unless the owner of the property of the proposed dwelling: (1) Obtains a written release from the adjacent mining operation allowing a closer setback; and (2) Waives his or her rights to remonstrate against normal aggregate mining activities allowed by permits issued under this chapter.”

Ms. McLane pointed out that this site is included in the list of Inventory of Rock Material Resources in Umatilla County in the Umatilla County Comprehensive Plan Technical Report (page D-183, table D-XXII). She stated that ODOT will be submitting a Surface Mining Permit application to the State of Oregon Department of Geology and Mineral Industries (DOGAMI) once the Planning Commission request is approved, as it is a requirement prior to mining at the site. They will also be required to improve the site's access points and obtain ODOT State Highway Approach permits.

Chair Danforth asked for clarification about what the next steps would be if this request were to be approved. Ms. McLane stated that the first step is deeming the site to be Significant. Next, the applicant will request to allow mining at the site and the result could be one of three possibilities; allow mining without conflicting uses, allow mining with conflicting uses in the manner presented, or to prohibit mining. She pointed out that the site can be deemed Significant and still not receives authorization to mine.

Commissioner Green asked for clarifications about the prohibitions that would be attached to dwellings and other gathering spaces. She stated that she is aware of gatherings that take place in that area when ranchers gather to do brandings, for example. Ms. McLane stated that she wanted to be clear that ODOT is not requesting for limitations on uses allowed outright (ie. farming & ranching activities) in the EFU Zone. Regular agricultural activities will be allowed to continue in the area. Limitations would only be placed on applicants who submit permits for development or activities that would not be considered an outright use in the zone. Additionally, the limitation would not necessarily prohibit conflicting activity. The Goal 5 protection would simply ensure that applicants are made aware of the potential conflict of use and waive their rights to remonstrance against impacts made by aggregate mining activities in the region.

Commissioner Timmons asked about the DOGAMI permitting process. She wanted more information about the requirements for reclamation including contouring and revegetation. Ms. McLane stated that the mine will need to meet sloping standards as part of ending the mining operation, when that day comes. Vegetation will not apply much to this mine because there was not much vegetation there before the mining operation came into play. She explained that they remove the top layer of soil at the site and build it into berms as part of their mining operations. At the time of reclamation, the top soil is spread back out over the site and they reseed the area with native plant species. Ultimately, the owner of the mining operation is responsible for returning the site as close as possible to its natural state.

Chair Danforth asked if the mining operations will impact the creek on the site. Ms. Mc Lane explained that the stream on the site is an ephemeral stream, which has flowing water only during the spring season. ODOT will be responsible for protecting the creek and will be required to address impacts during the mining application process.

Chair Danforth asked if there was a timeframe in which ODOT plans to commence mining operations at the site. Ms. McLane deferred to Scott Billings with ODOT to respond.

Applicant Testimony: Scott Billings, ODOT Region 4/5 Senior Engineering Geologist, Region 4 Tech Center, 63034 OB Riley Road, Bend, Oregon, 97703. Mr. Billings stated that ODOT has two quarries in use at this time. Franklin Hill Quarry is located approximately 11 miles southwest of this site and Nye Junction Quarry located at the junction of Highway 74 and Highway 395. Both sites have been used regularly but they will not be available forever. ODOT is making future plans to have alternative sites available to take the place of these existing mines when they are no longer available for extraction. ODOT hopes to get their DOGAMI permit approved in the next nine months. They do not have any plans to start mining operations at Vinson Canyon Quarry at this time. They are just seeking protections to ensure it will be available in the future.

Chair Danforth asked more about blasting impacts. She saw language in the commissioner's packets which indicates that minimizing blasting impacts will be accomplished using best practices within acceptable limits. Chair Danforth asked for more clarification on what that means. Mr. Billings stated that there are two major impacts from blasting as part of mining operations. The first is ground vibration measured in inches per second, which must be kept at a safe and acceptable level. The second impact is noise, including actual sound and sound shockwaves. Acceptable noise levels are determined by the distance between the blasting site and other developments or uses. For example, they are authorized to be louder if there are no homes nearby and must regulate noise levels more heavily when there are homes near a site. ODOT has a policy to provide advance notice to surrounding land owners 48-hours before they blast at a site. They want to give ranchers enough time to relocate livestock if they feel it is necessary. Chair Danforth asked about how far they go, distance wise, in noticing landowners before blasting. Mr. Billings stated that they notify adjacent land owners. He added that the Planning Commission could add additional Conditions of Approval if they would like more owners to receive the blasting notice.

Commissioner Royer asked if this is a typical process as part of requesting Goal 5 protections on a mining site in Umatilla County, or is there something that makes this request special or different compared to others. Chair Danforth stated that she recalls other applications with similar requests in the past, and this seems to be the same process as the others.

Applicant Testimony: Teresa Penninger, ODOT Region 5 Planning Manager, 3012 Island Avenue, La Grande, Oregon, 97850. Ms. Penninger stated that ODOT has been working with Umatilla County to get several mining sites on the record for many years. Today's request includes a few of the last sites they will be seeking to protect as they work to secure their network of aggregate mining sites in Umatilla County.

Commissioner Green asked more about the seasonal creek on the site. She stated that the creek is used for stockwater systems to provide suitable water to livestock during the spring grazing season. She wants to ensure the stream will be left unobstructed. Mr. Billings stated that DOGMAI is focused on both environmental protections and reclamation as part of their permitting process. ODOT plans to build a berm on the north side of the creek to ensure the work does not impact the creek. If they have operations while the creek is running with water they will install a small culvert to pass over the creek and avoid going through it. He asserted that ODOT and its contractors would never remove water from the creek to use in operations. He explained that they have various methods for obtaining water, including the purchase of water from adjacent land owners or trucking it in from the city.

Commissioner Green asked if blasting will affect existing wells in the region and if ODOT is aware of issues associated with blasting near wells. Mr. Billings stated that it is possible if the well is very close to the site of the blast. He added that utilities near quarries are noticed before blasting. Commissioner Green stated that she is very familiar with the area and lives in the region so she appreciates all the information provided by the applicant.

Proponent Testimony: No comments.

Opponent Testimony: No comments.

Public Agencies: No comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Chair Danforth moved to add a Condition of Approval to require blast notification 48-hour in advance to any landowner located within 1,500 ft. of the quarry, not just adjacent land owners. Commissioner Wysocki seconded and the motion passed by consensus.

Commissioner Tucker made a motion to recommend approval of the Text Amendment #T-21-085, Plan Amendment #P-128-21 & Zone Map Amendment #Z-317-21; Oregon Department of Transportation, applicant/ owner to Amend the Umatilla County Comprehensive Plan to list the Vinson Canyon Quarry as a Significant Site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as Significant and to apply the buffer area to limit conflicting uses; and amend the Zoning Map by applying the Aggregate Resource Overlay Zone to the mining site, and to add a Condition of Approval requiring blast notification 48-hours in advance for any landowner located within 1,500 ft. of the quarry, to the Board of County Commissioners. Commissioner Timmons seconded the motion. Motion passed with a vote of 8:0.

A public hearing before the BCC is scheduled for Wednesday, October 20, 2021, 9am at the Umatilla County Courthouse.

NEW HEARING

TEXT AMENDMENT #T-21-086, PLAN AMENDMENT #P-129-21 & ZONE MAP AMENDMENT #Z-318-21: ODOT, Applicant/ Owner. The applicant requests to add an existing quarry (Butter Creek Quarry) to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the northeast side of Butter Creek Road, identified on Assessor's Map as Township 2 North, Range 27 East, Tax Lot 2700. The property is 4.76 acres and is zoned EFU. The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180(3), (5) & (7), and UCDC Sections 152.487 – 488.

Chair Danforth read the Opening Statement and called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. Mr. Waldher stated that the applicant, ODOT, requests to add Butter Creek Quarry to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant sites, and apply the AR Overlay Zone to the entire quarry site. The property is located off the northeast side of Butter Creek Road on Tax Lot 2700 of Assessor's Map 2N 27. The subject property is 4.76 acres and zoned EFU.

Mr. Waldher stated that the approval process for this request is similar to the Vinson Quarry request. The Planning Commission will make a recommendation to the BCC. He pointed out an error in the Memo on page 1, under the Butter Creek Quarry section of the Commissioner's packets. The hearing date reads, "September 16, 2021" and should be today's date, September 23, 2021. He stated that he will make the correction in the Final Findings.

Applicant Testimony: Carla McLane, Consultant, Carla McLane Consulting, 170 Van Buren Drive, Umatilla, Oregon, 97882. Ms. McLane indicated that she represents the applicant, ODOT. Ms. McLane stated that the applicant's request is very similar to the last hearing request. However, there are additional impacts in the Butter Creek area that were not present in the Vinson Canyon request. She stated that she would like to pinpoint the dissimilarities in the Butter Creek Quarry request and explain how and why they matter.

Ms. McLane stated that Butter Creek Quarry is a smaller site at 4.76 acres, but it does meet the requirements to be deemed as a Significant site. There is an estimated 540,000 tons of available basalt at the site and samples taken in 2014 determined the site meets the standards for resistance to degradation, soundness and coarseness.

Ms. McLane stated that the biggest difference between Vinson Canyon and Butter Creek is the way the land is being used in and around the sites. In terms of conflicting uses, the analysis for

Butter Creek was much more critical. She stated that some agricultural structures are nearby, but no dwellings are located within 1,500 ft. impact area boundary and the nearest home is 1,560 ft. away. She referred to the map on page 31 of the Commissioner's packets which displays a satellite image of the site with overlays representing the 750 ft. advance notice boundary and the 1,500 ft. blasting impact area. She stated that the agricultural uses in the area include dryland farming to the north, circle pivot irrigation farming in the valley and potential for livestock grazing.

Ms. McLane stated that there are no current uses within the buffer area that would be affected by the noise, dust or other discharges from the proposed mining activity. She added that there is a slight increase in traffic on the access road for Butter Creek than for Vinson Canyon, but the impacts would be comparable. The state has designated this site to be part of the Butter Creek Critical Groundwater Area (CGWA). Therefore, the quarry is subject to regulations and standards imposed by the Oregon Water Resources Department (OWRD) including a complex series of administrative rules to ensure groundwater is adequately protected.

Ms. McLane stated that Butter Creek Quarry is included in the list of Inventory of Rock Material Resources in Umatilla County in the Umatilla County Comprehensive Plan Technical Report on page D-180 and classified as a 1A Site. It is the objective of this request to determine that the site is Significant and does deserve protection of mining activities under Goal 5.

Ms. McLane explained that, prior to engaging in mining activity ODOT will obtain a Permit for Construction of Road Approaches onto County & Public Roads (Access Permit) from Umatilla County Department of Public Works. As part of the permitting process, ODOT will enlarge the access point for safe ingress and egress from Butter Creek Road. She acknowledged that the site is located on a slight curve of the road, but maintained that sight-distance is good in both directions.

Ms. McLane explained that stormwater on the site will be either collected and held onsite or executed in accordance with management standards set by the National Pollutant Discharge Elimination System (NPDES) permit program.

Ms. McLane stated that ODOT intends to excavate, process and batch aggregate for public road projects and to stockpile unused aggregate material for current and future use at Butter Creek Quarry. The applicant's goal through this request is to ensure that this quarry site can avoid additional future impacts on mining activity. ODOT and feels it is in their best interest to seek protections to limit conflicting uses within the buffer area (1,500 ft. from the potential impact area). She explained that the Planning Commission is tasked with making a recommendation to the BCC on whether or not to deem this site as Significant.

Commissioner Tucker asked if the measurement taken to determine the 1,500 ft. distance between the blast site and nearby structures and parcels is measured from the north edge of the

mining activity or by starting from the center of the property. Ms. McLane stated that they measured starting from the edge of the property boundary to determine the 1,500 ft. impact area.

Chair Danforth reminded the Planning Commission that the Goal 5 protection request for Butter Creek Quarry will not prohibit conflicting activities in the area. Instead, it would impose requirements for applicants with plans for potentially conflicting land use activities or development near the site to waive their rights to remonstrance against impacts made by aggregate mining activities in the area.

Chair Danforth asked if this request is approved, how landowners already in the area would be affected. She asked whether it would impose a requirement for those with pre-existing dwellings and other structures to also sign documents waiving their rights to remonstrance against impacts made by aggregate mining activities. Mr. Waldher stated that is not an issue in this request because there are no pre-existing conflicting uses within the 1,500 ft. impact area at this time. He further clarified that the requirement for land owners to waive rights to remonstrance against mining impacts will only apply to future requests for activities or development with potential for conflict located within the established 1,500 ft. buffer zone.

Opponent Testimony: John Luciani, 27633 Butter Creek Road, Echo, Oregon 97826. Mr. Luciani stated that he does not feel that ODOT should consider this site for mining due to the close proximity to his home, his daughter's home and a neighbor's home, Mr. Price, which is located 60 ft. outside of the 1,500 ft. impact area. He believes there are other rural sites available in the county for blasting and mining activities which are located further away from residences.

Mr. Luciani questions ODOT's claim that they are running out of rock at current mining sites because he has driven by active quarries in the area and seen a lot of rock there. He does not understand why ODOT would want to mine at this location when they know it is located on a curve in the road and close to three dwellings.

Mr. Luciani stated that he is concerned about damage to his underground cement cistern and the wells on his property. He is also concerned about how the blasting will affect his goats, horses, chickens and cows. He expressed frustration with the proposal and stated that he never imagined he would have to deal with something like this near his home. He urged the Planning Commission to make a site visit before making a final recommendation to the BCC.

Commissioner Green asked for clarification on which property was owned by Mr. Luciani. Ms. McLane stated that Mr. Luciani's property is located southeast of the aggregate site, outside the 1,500 foot impact area, but inside the additional notice boundary area (map in Commissioner's packets, page 31).

Commissioner Wysocki asked Mr. Luciani how long he has lived on his property. Mr. Luciani stated that the home his daughter currently lives in was built by his father in 1965. He built his own home on the site in 1999. Commissioner Wysocki asked if Mr. Luciani has ever seen or

heard any mining activity occur at the Butter Creek Quarry site since he has lived in the area. Mr. Luciani replied no, he has not.

Commissioner Timmons asked if Mr. Luciani's neighbor, Mr. Price, received notification of this Goal 5 request as part of the public notice process. Mr. Waldher explained that the state requires public notice be sent to land owners within 750 feet of the subject property. Umatilla County has a provision that requires at least five individual land owners to receive notice. As a result, the public notice area for this request was expanded to include landowners within about ¾ mile of the quarry. Mr. Waldher referred to the list of landowners that received public notices on page 31 of the Commissioner's packets. He pointed out that the name "Price" is not on the list, but there are several corporations and limited liability companies (LLC) listed as surrounding land owners, so Mr. Price may own land under another name.

Chair Danforth thanked Mr. Luciani for calling attention to the curve in the road leading to the site. After reviewing the maps she shares his concern about dangerous conditions in accessing the site off of Butter Creek Road. Mr. Luciani once again urged the Planning Commission to make a site visit before making a recommendation to the BCC.

Applicant Rebuttal: Carla McLane, Consultant, Carla McLane Consulting; Scott Billings, ODOT Senior Engineering Geologist; and Teresa Penninger, ODOT Planning Manager.

Ms. McLane stated that ODOT has owned this site for over 75 years and it is identified in the County's Comprehensive plan as a 1A site. She reiterated that the applicant meets the requirements for quality and quantity of aggregate materials at the site.

Ms. McLane explained that ODOT has quarries located throughout the region because they must ensure that they maintain an adequate inventory of materials available for current and future road projects. She pointed out that regional roads will continue to require maintenance over the next several decades and the need for materials will not subside. Although ODOT has not yet used Butter Creek Quarry for mining operations, they are trying to plan for the future. They know they will eventually need to relocate active operations to new sites as materials become less available at current mines. They feel this site is Significant and hope the Planning Commission agrees.

Ms. McLane acknowledged that the road has some curves, but she insisted that you can see for quite a distance.

Ms. Penninger pointed out that the access point will be off a county road and they will be required to obtain an Access Permit from the County Road Department. The process of approval for the Access Permit will ensure that all aspects of the curvature of the road and any sight restrictions that may apply will be taken into account at that time. She stated that safety is important to ODOT and they will comply with all applicable safety standards pertaining to access.

Chair Danforth asked about the estimated lifespan of an average 4 ½ acre mine. Mr. Billings stated that there are a number of factors that come into play in making that estimate. The lifespan of the mine will depend on a number of factors including; the number of highways serviced, the size of each highway and how much traffic those highways get.

Commissioner Wysocki stated that there are seven formations of basalt in this region (The Columbia River Basalt Group) and some sites yield better quality rock than others. The formations are subdivided into formal and informal members and flows. He asked which member Butter Creek Quarry is part of. Mr. Billings stated that this site is part of the Wanapum Basalt Formation, Frenchman Springs Member.

Chair Danforth stated that she has not been to the location and asked staff if it would be appropriate for the Planning Commission to make a site visit before making a decision. Mr. Waldher stated that it is a gray area because site inspections performed alone could be considered to be a form of ex-parte contact. He explained that arranging a group visit could be possible, but he warned that the public perception might become problematic so he discouraged the notion.

Public Agencies: No additional comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Williams made a motion to recommend denial of the Text Amendment #T-21-086, Plan Amendment #P-129-21 & Zone Map Amendment #Z-318-21; Oregon Department of Transportation, applicant/ owner to Amend the Umatilla County Comprehensive Plan to list the Butter Creek Quarry as a Significant Site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as Significant and to apply the buffer area to limit conflicting uses; and amend the Zoning Map by applying the Aggregate Resource Overlay Zone to the mining site, to the Board of County Commissioners. Commissioner Royer seconded the motion. Motion passed with a vote of 5:3.

A public hearing before the BCC is scheduled for Wednesday, October 20, 2021, 9am at the Umatilla County Courthouse.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the July 22, 2021 meeting. There were none. Commissioner Tucker moved to approve the minutes as presented. Motion carried by consensus.

Minutes from the August 26, 2021 Planning Commission hearing for Kevin & Heather James Conditional Use Request #C-1342-21 will be included in the Commissioner's packets for the continued hearing on October 28, 2021.

OTHER BUSINESS

Mr. Waldher stated that he sent information about an upcoming training opportunity to all the Planning Commissioners. The Oregon Planners Network Fall 2021 Virtual Meeting is scheduled for September 29-30, 2021. The training on Wednesday, September 29, 6-8pm is titled, "Keeping Out of Hot Water: Land Use Decision-making for Planning Commissioners, Elected Officials, City Administrators, and Planners". Mr. Waldher encouraged all Planning Commissioners to attend, if possible. All members of the Planning Commission confirmed they will attend. Tierney Cimmiyotti, Administrative Assistant to the Planning Department, stated that she will finalize registrations on Friday and the Umatilla County will cover the fees for Planning Commissioners.

ADJOURNMENT

Chair Danforth adjourned the meeting at 8:55pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant