

STAFF REPORT

Planning Department File No. 2023-06-011

**CONDITIONAL USE APPLICATION
FOR
Commercial Activity in a Rural Service Center Zone
&
Recreational Vehicle Park in a Rural Service Center Zone**

Planning Commission Meeting Date: July 27, 2023

- 1. OWNER OF RECORD:** **Brian Tseng**
1100 El Rojo Grande
Winnemucca, NV 89445

- 1. APPLICANT:** **Brian Tseng**
1100 El Rojo Grande
Winnemucca, NV 89445

- 2. PROPOSED ACTION:** Conditional use approval for commercial activity and recreational vehicle park in a Rural Service Center zone.

- 3. PROPERTY IDENTIFICATION:** Tax Lot 1300, T41S, R43E, Sec. 18D; Assessors Map 41S43E18D; Malheur County Reference #12815.

- 4. PROPERTY LOCATION AND DIRECTIONS:** The property is located along the Nevada border on Cordero Mine Road. Turn right off of Hwy 95 S onto Cordero Mine Road and travel 0.10 miles. The property will be on the right.

- 5. ZONING:** C-RSC (Rural Service Center).

- 6. PARCEL SIZE:** The parcel is 5.35 acres.

- 7. PARCEL USE:** The parcel is currently vacant, although it was historically the site of the White Horse Inn.

- 8. SURROUNDING USE:** To the west and north/northeast the property is surrounded by Exclusive Range Use. The east is surrounded by rural service center. Directly south is the Nevada border and the town of McDermitt.

- 9. ACCESS:** Via Cordero Mine Road.

- 10. SANITATION REQUIREMENTS:** Water and sewer will be provided by the City of McDermitt, Nevada

11. FIRE PROTECTION: The property is located in an area with no fire coverage, although the McDermitt Fire Department may respond to a fire if necessary.

12. NATURAL HAZARDS: There are no natural fire hazards.

13. ZONING HISTORY: There is no historic zoning history. This property was once the site of the White Horse Inn.

I. MALHEUR COUNTY CODE 6-6-7: General Criteria to Evaluate Suitability

In considering the suitability of proposed conditional uses, the planning commission shall base its decision upon the following criteria:

A. Comprehensive Plan Goals: Comprehensive plan goals and policies, as applicable.

PROPOSED FINDING: The proposed recreational vehicle park, travel lodge, tiny homes and amenities will provide guests with access to the many recreational activities associated with southern Malheur County.

B. Specific Plans: Specific plan recommendations.

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

PROPOSED FINDING: Notice was sent out to properties within 250 feet of the proposed parcel and published in the Argus Observer on July 7, 2023. No comments were received.

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

PROPOSED FINDINGS:

ROADS: Existing roads that access the property are paved and adequate to provide access to the development.

FIRE & POLICE PROTECTION: There is currently no fire district which provides service to the subject property. McDermitt Fire Department may provide service when needed. The Malheur County Sheriff's Office would respond as needed. The subject parcel may be subject to an IGA with Humboldt County Nevada.

SEWER & WATER: Sewer and water will be provided by McDermitt Nevada.

ELECTRICAL & TELEPHONE: Electrical is provided by Harney Electric. Telephone will be either cellular or wireless service.

SOLID WASTE DISPOSAL: Solid waste disposal will be provided by local disposal companies and/or removal from the site with the applicants trucking resources. There will be dumpsters located on site.

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

PROPOSED FINDING: The overall effect will be overwhelmingly positive. The development will provide quality RV spaces and hookups and tiny house living accommodations. The development will add to the cultural value of the area, provide good jobs and wages to locals, serve the incoming lithium mining community and increase tourism and traffic.

- F. Fish and Wildlife: It does not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the fish and wildlife habitat protection plan for Malheur County.

PROPOSED FINDING: This development is located in the community of McDermitt and is zoned rural service center. There will be no impact on fish and wildlife in the area.

- G. General Criteria:

1. Increasing setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances.

PROPOSED FINDING: The property will have adequate setbacks as shown on the plot plan to avoid overshadowing adjoining properties. Lighting will be designed to minimize impacts to surrounding properties.

2. Landscaping improvements for the visual benefit of the subject site and for the improved appearance of the neighborhood and county.

PROPOSED FINDING: Proposed landscape improvements are shown on the attached plot plan. The park will have several grass areas.

3. Location and size of driveway access points and right of way widening and improvement for present and future traffic circulation consistent with the adopted county road standards or the standards of the appropriate road district and the access management standards of the Malheur County transportation system plan.

PROPOSED FINDING: Driveway access is shown on the attached plot plan. All driveway access is 20' wide and is adequate to accommodate proposed traffic and consistent with County road standards.

4. Visual Screening of outdoor waste and storage areas.

PROPOSED FINDING: Dumpsters will be located at the northwest corner of the site as shown on the plot plan. Screening will be provided to minimize visual impact of trash receptacles.

5. Control and focusing of outdoor lighting to avoid glare being directed beyond property limits.

PROPOSED FINDING: Outdoor lighting will be placed to illuminate the park areas and reduce glare beyond the property limits.

6. Special criteria listed below, as applicable.

H. Allowance of Certain Uses: A use allowed under section 6-3A-3 of this title shall be approved only where it is found that the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
2. Significantly increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

PROPOSED FINDING: The proposed development is located on a parcel that has been excepted from County and Statewide Planning Goal 3. This criterion does not apply.

II. MALHEUR COUNTY CODE 6-6-8-7: Recreational Vehicle Parks

A. Performance And Dimensional Standards: A recreational vehicle park shall conform to state standards in effect at the time of construction and the following conditions:

1. The space provided for each recreational vehicle shall be not less than seven hundred (700) square feet exclusive of any space used for common areas such as roadways, general use structures, walkways, parking spaces for vehicles other than recreational vehicles and landscaped areas.

PROPOSED FINDING: All standard RV spaces are 1,290 square feet as shown on the attached plot plan. Tiny home spaces are 600 square feet.

2. Roadways shall be not less than thirty feet (30') in width if parking is permitted on the margin of the roadway, or not less than twenty feet (20') in width if parking is not permitted on the edge of the roadway and shall be covered with crushed gravel or paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each recreational vehicle space.

PROPOSED FINDING: All roadways will be gravel surfaced and provide easy access to the RV spaces as shown on the plot plan. Parking will not be permitted on the margin of the roadway. All roadways are 20' in width.

3. A space provided for a recreational vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide for the control of runoff of surface water. The part of the space which is not occupied by the

recreational vehicle, not intended as an accessway to the recreational vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.

PROPOSED FINDING: All RV spaces will be covered with gravel. Access driveways will also be gravel to prevent dust or mud.

4. A recreational vehicle space shall be provided with piped potable water service. Unless the park is designed for self-contained recreational vehicles only, each recreational vehicle space shall also be provided with sewage disposal service. Sewage disposal service when required by this section shall consist of all spaces equipped for full sewage hookup or a minimum of twenty five percent (25%) of the available spaces equipped for full sewage hookup and a recreational vehicle dumping station on site.

PROPOSED FINDING: Each space is provided with potable water and sewage disposal from McDermitt water and sewage system.

5. A recreational vehicle space shall be provided with electrical service.

PROPOSED FINDING: Electrical hookups will be available at all sites.

6. Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and of such capacity that there is no uncovered accumulation of trash at any time.

PROPOSED FINDING: Trash receptacles will be located at the northwest corner of the site as shown on the plot plan. Trash will be removed as needed to avoid uncovered accumulation.

7. No recreational vehicle shall remain in the park for more than thirty (30) days in any sixty (60) day period.

PROPOSED FINDING: The purpose of the development is to be a travel lodge, as well as a standard RV park, so that people can stay in the same spots for months at a time. This will allow the park to provide worker housing for the lithium mining operations. The development will also provide tiny homes to help address the regional housing shortage.

8. The total number of parking spaces in the park, except for the parking provided for the exclusive use of the manager or employees of the park, shall be one space per recreational vehicle space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.

PROPOSED FINDING: The parking area on the property is covered with crushed gravel. There is more than the single space required for the single, self-

contained, recreation vehicle allowed. At all times, there will be at least one space available for a single, self-contained, recreational vehicle guest.

9. Unless the park is designed for self-contained recreational vehicles only, the park shall provide one toilet and one lavatory for each sex for each fifteen (15) recreational vehicle spaces.

PROPOSED FINDING: Restrooms facilities will be available in the remodeled White Horse Inn structure.

10. The park shall provide one utility building or room containing one clothes washing machine, one clothes drying machine and fifteen (15) square feet of space for clothes drying lines for each ten (10) recreational vehicle spaces or any fraction thereof, unless such facilities are available within a distance of three (3) miles and are adequate to meet these standards.

PROPOSED FINDING: The proposed development will include a laundromat that meets these conditions.

11. Building spaces required by subsections A9 and A10 of this section shall be lighted at all times of the night and day, shall be ventilated, shall be provided with heating facilities which shall maintain a minimum room temperature of sixty-five degrees Fahrenheit (65°F), shall have floors of waterproof material, and shall have sanitary ceiling, floor and wall surfaces. Floor drains adequate to permit easy cleaning are recommended but not required.

PROPOSED FINDING: The utility room containing the clothes washing machine and clothes drying machine is well lit at all times of the day and night. It is well ventilated and heated with a minimum room temperature of greater than 65 degrees Fahrenheit. The floors are ceramic tile and therefore waterproof and sanitary. The ceiling and wall surfaces are finished, primed and painted drywall in good repair and sanitary.

12. A neat appearance shall be maintained at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

PROPOSED FINDING: The park will have policies prohibiting residents from storing materials or equipment outside of their trailers/vehicles. Park equipment and supplies will be stored indoors. Maintenance staff will ensure the park area has a neat appearance at all times.

13. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

PROPOSED FINDING: The applicant will provide this certificate promptly

upon approval of the requested permit and/or as required by Oregon law.

14. Access to the recreational vehicle park shall be from an arterial or collector street. (Ord., 11-8-1994)

PROPOSED FINDING: Access to the park is from Cordero Mine Road. Cordero Mine Road is a collector street and Margarita Road is an arterial street. Cordero Mine Road will provide the primary access to the park, and is adequate to support the proposed development.

III. MALHEUR COUNTY CODE 6-3F-5: Commercial Activity in a Rural Service Center Zone

In all RSC zones the performance standards contained in section 6-3G-4 of this chapter shall apply to all nonresidential and all nonagricultural activities. (Ord. 86, 12-7-1993)

MCC 6-3G-4: PERFORMANCE STANDARDS

Each structure of use permitted or conditionally permitted in a commercial zone shall meet the following performance standards: (Ord. 86, 12-7-1993)

- A. Physical Appearance: With the exception of gasoline pumps, all operations other than pick-ups and deliveries shall be carried on within an enclosed building: provided, that new materials or equipment in operable condition may be stored in the open, such as a sales lot. Normal daily wastes may be stored in containers outside of a building when such containers are not readily visible from beyond the property line. The provisions of this subsection shall not be construed to prohibit the display of merchandise or vehicles for sale or rental, or the storage of automobiles, farm machinery, trailers, manufactured dwellings or similar equipment in operable condition when in association with a permitted use. This required yard areas other than driveway openings shall be landscaped. (Ord. 147, 4-14-2004)

PROPOSED FINDING: The proposed physical appearance is indicated on the attached plot plan. RV spaces will be laid out as shown. Laundry facilities, etc. will be in the enclosed building. Landscaped grass areas will be as shown on the plot plan. All roadways will be graveled and maintained.

- B. Hazard: No operation shall be established which fails to meet the state fire and electrical codes and any other applicable state or federal codes related to safety. This provision shall not be construed to prohibit the use of normal heating fuels, and other volatile materials when handled in accordance with applicable codes.

PROPOSED FINDING: All remodels will follow Oregon Building Code. No hazardous or noxious materials will be used or stored on the premises.

- C. Noise: No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise

shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

PROPOSED FINDING: The proposed use will be conducted during normal business hours and noise levels will be kept to a minimal.

- D. Sewage And Liquid Waste: All operations shall comply with any applicable regulations of the county, state or federal agencies responsible for pollution control. NO wastes of a chemical, organic or radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers.

PROPOSED FINDING: The proposal will use the McDermitt sewage system for sewage disposal. There will be no other liquid waste.

- E. Smoke, Particulate Matter And Gases: No use shall be established which fails to meet the air quality regulations of the Oregon department of environmental quality pertaining to emissions of smoke, particulate matter, fugitive dust, gases and other air contaminants.

PROPOSED FINDING: The project will not generate smoke, particulate matter or gases and will have no negative impacts on local air quality.

- F. Odor: The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odor. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious.

PROPOSED FINDING: The project will not result in emission of odors other than normal cooking odors from RVs. There will be a trash receptacle on the site that will be dumped regularly to prevent any trash odors.

- G. Vibration: All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line.

PROPOSED FINDING: The project will not create any vibration.

- H. Glare And Heat: Any glare producing operations, such as welding arcs, shall be shielded so that they are not visible from the property line. Surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line.

PROPOSED FINDING: The project will not create glare or heat.

- I. Dust: All surfaces used in the operation of the use shall be graveled or paved with a dust free surface. Gravel surfaces shall be watered down when conditions of use or weather cause dust to travel toward structures on adjacent properties.

PROPOSED FINDING: All roadways and RV areas will be graveled to prevent dust. All graveled areas will be watered when conditions warrant to maintain dust control.

- J. Interpretation: Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments. Until such evidence or engineering data is supplied and proves to be convincing, the judgment of the planning director shall be the determining factor. (Ord. 86, 12-7-1993)

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

PROPOSED CONDITIONS OF APPROVAL

1. The conditional use permit granted by the County is valid for a period of two years from the date the permit becomes effective, which is 10 days after the notice of decision is sent provided there is no appeal.
2. Must meet all Building Codes and state statutes
3. Applicant must work with Humboldt County to draft an IGA acceptable by Malheur County Legal Counsel which outlines jurisdiction for building codes, planning, and environmental health.
4. No work may start until permits are issued.
5. Applicant must obtain all required Oregon Health Authority permits through Malheur County Environmental Health.

EXHIBITS

1. Conditional Use Permit application