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## Conditional Use Permit Staff Report CUP-19-02

### STAFF REPORT

**Date Submitted:** November 7, 2019

**Agenda Date Requested:** November 12, 2019

**To:** John Day Planning Commission

**From:** Nick Green  
John Day City Manager

**Subject:** ODFW Conditional Use Permit (Type III Quasi-Judicial)

**Location:** 357 Patterson Bridge Road  
Map: 13S31E22C Tax Lot: 1801

**Type of Action Requested:**

<input type="checkbox"/>	<b>Resolution</b>	<input type="checkbox"/>	<b>Ordinance</b>
<input checked="" type="checkbox"/>	<b>Formal Action</b>	<input type="checkbox"/>	<b>Report Only</b>

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### 1. BACKGROUND

The Oregon Department of Fish and Wildlife (ODFW) is the owner of 357 Patterson Bridge Road in John Day (Map Number 13S31E22C Tax Lot 1801). This property is zoned General Industrial (GI). Owner is requesting a Conditional Use Permit to install two (2) recreational vehicle parking pads on site with power/water/sewer connections. These pads are intended for the use of hosts, seasonal, and intermittent employees. The Planning Commission will consider this request under the code amendments proposed in AMD-19-03. If approved, the Commission's decision will be predicated on adoption of Ordinance No. 19-179-03 by the John Day City Council and will take effect upon approval of said ordinance.

### 2. APPLICABLE CRITERIA

The City of John Day Development Code (the Code) All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in Chapter 5-4 of the Code. The procedure "type" assigned to each application governs the decision-making process for that permit or approval.

An application for a new conditional use shall be processed as a Type III procedure, per Section 5-4.1.040 of the Code. The application shall meet submission requirements in Section 5-4.4.030, and the approval criteria contained in Section 5-4.4.040.

Staff has reviewed the application pursuant to the Code and the requirements for a conditional use permit. The application was deemed technically complete (ready for review) on October 21, 2019. The City must make a final decision, including a final city council decision on any appeal, within 120 days, or by February 18, 2020.

### **3. PUBLIC NOTIFICATION**

The City of John Day mailed public hearing notices to the applicant and property owners within 100-feet of the subject site 20 days before the hearing date. At least 14 business days before the hearing, notice of the hearing was printed in The Blue Mountain Eagle. No responses were received from adjacent property owners.

### **4. BURDEN OF PROOF**

The applicant has the burden of demonstrating that the proposal meets all applicable Code requirements. The applicant is also responsible for complying with building code requirements and applicable state or federal requirements. It is the Planning Commission's responsibility to interpret the Code based on findings of fact.

### **5. PLANNING COMMISSION AND CITY COUNCIL CONSIDERATIONS**

The Planning Commission's review must focus on the relevant code criteria and follow the public hearing requirements for a Type III procedure under section 5-4.1.040.

### **6. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission **approve the request for conditional use permit CUP 19-02.** It is the applicant's responsibility to demonstrate compliance with the conditions of approval.

### **7. APPROVAL CRITERIA AND FINDINGS**

John Day Development Code Section 5-4.4.040 Conditional Use Permits – Criteria, Standards and Conditions of Approval contains the applicable approval criteria for the conditional use permit application. The Planning Commission's evaluation of the project must focus on the relevant code criteria under Section 5-4.4.040 and follow the public hearing procedures for Type III (quasi-judicial) review under Section 5-4.1.040.

The applicable code criteria are provided below in *italics* typeface; staff's findings follow each code provision in regular typeface. The findings, which are based on information submitted by the applicant, are preliminary. The plans, exhibits, and narrative submitted by the applicant and used in making the findings are attached to this report and include:

- Application (Exhibit A)

The above document is hereby incorporated and made part of the public record.

The application and staff report findings may be modified based on factual information entered into the public hearing record before the close of the record. Members of the public who have questions about the proposal or who would like to submit oral or written testimony are encouraged to appear at the public hearing or provide written testimony before the close of the hearing. Testimony should respond directly to the following criteria.

#### ***5-4.4.040 Conditional Use Permits – Criteria, Standards and Conditions of Approval***

*The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the standards and criteria in A-C.*

##### ***1. Use Criteria***

- 1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.*

**Findings:** The size, dimensions, location, topography and access are adequate for the proposed use.

- 2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval.*

**Findings:** No public comments were received in response to the application.

- 3. All required public facilities have adequate capacity or are to be improved to serve the proposal, consistent with City standards.*

**Findings:** Water and septic connections shall be appropriately installed to service the RV pads. These facilities shall comply with city standards.

- 4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 5-2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.*

**Findings:** The proposed use is consistent with Article 5-2 and is neither expressly allowed nor expressly prohibited.

*B. Site Design Standards. The Site Design Review approval criteria (Section 5-4.2.060) shall be met. The Planning Official may waive the application requirements for the Site Design Review upon determining that the Conditional Use Permit application provides sufficient information to evaluate the proposal.*

**Findings:** The provided application meets the approval criteria.

*C. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the uses is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:*

- 1. Limiting the hours, days, place and/or manner of operation;*

No time, place or manner restrictions are requested at this time.

- 2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;*

No environmental impacts from the proposed improvements are anticipated.

- 3. Requiring large setback areas, lot area, and/or lot depth or width;*

Not applicable to this application.

- 4. Limiting the building or structure height, size, lot coverage, and/or location on the site;*

Not applicable to this application.

- 5. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;*

Not applicable to this application.

- 6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.*

Not applicable to this application.

- 7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;*

Not applicable to this application.

- 8. Limiting the number, size, location, height and/or lighting of signs;*

No signage has been requested at this time.

- 9. Limiting or setting standards for the location, design, and /or intensity of outdoor lighting;*

Not applicable to this application.

- 10. Requiring berms, screening or landscaping and the establishment of standard for their installation and maintenance;*

Not applicable to this application.

11. *Requiring and designating the size, height, location and/or materials for fences;*

Not applicable to this application.

12. *Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands.*

Not applicable to this application.

13. *Requiring dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with adopted plans, or requiring the recording of a local improvement district non-remonstrance agreement for the same. Dedication of land and construction shall conform to the provisions of Chapter 5-3.1, and Section 5-3.1.030 in particular;*

Not applicable to this application.

14. *Establish a time table for periodic review and renewal, or expiration, of the conditional use to ensure compliance with conditions of approval; such review may be subject to approval by the Planning Official or Planning Commission through a Type II*

*Administrative Review or Type III Quasi-Judicial process at the discretion of the decision making body.*

The City reserves the right to review the conditional use permit as needed in order to ensure compliance with conditions of approval. The City Planning Official will determine if the review should be a Type II or Type III at the time of the review.

15. *Other Conditions of Approval*

None unless requested by the Commission.

## **8. PLANNING COMMISSION MOTION**

After hearing the applicant's presentation and any public testimony, the Planning Commission must allow the applicant an opportunity to rebut any opposing testimony. Then the Commission will close the hearing and deliberate. The following motion is suggested:

"I move to approve the Conditional Use Application CUP-19-02 based on the findings and subject to the conditions of approval contained in the staff report [with conditions, if any]."

*The staff report may be amended during the course of the hearing.*

Respectfully submitted this 7<sup>th</sup> day of November, 2019.



Nicholas Green, City Manager/City Planning Official  
City of John Day

Attachments: Application (Exhibit A)