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Conditional Use Permit (Type III) CUP-20-03

STAFF REPORT

Date Submitted: Wednesday April 15th, 2020

Agenda Date Requested: April 21st, 2020

To: John Day Planning Commission

From: Nick Green
John Day City Manager

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

Location: 107 Skyline Drive
Map: 13S31E26BC Tax Lot: 400

Type of Action Requested:

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

1. BACKGROUND

Russell and Jennifer Reimers are the owners of 107 Skyline Drive (Map Number 13S31E26BC Tax Lot 400). This property is zoned Residential General (RG). Mr. Reimers is requesting a Conditional Use Permit to build an accessory structure exceeding the height requirement permitted by the city development code. The Code allows accessory structures with a permitted use to be built no taller than 14 ft. and no larger than 1,000 sq. ft. of building footprint without a Conditional Use Permit. This proposed building would be 24x36 ft. (864 sq. ft.) with a height of 30 feet. Staff has reviewed this proposal and determined that the increase in height would not have a detrimental effect on neighboring properties. The proposed building is not permitted to be used for commercial or industrial purposes.

2. APPLICABLE CRITERIA

The City of John Day Development Code (the Code) governs the procedure for reviewing Conditional Use Permits. 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 March 10th, 2020. The City must make a final decision, including a final city council decision on any appeal, within 120 days, or by July 8th, 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 on 20 days before the hearing date. At least 14 days before the hearing, notice of the hearing was printed in The Blue Mountain Eagle.

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 20-03**. 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)

- Site Location (Exhibit B)

All of the above documents are 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.

A. 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 for this 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 sewer connections are not requested for this project. If owner seeks to install electrical connections, electrical permits will be obtained through the Grant County Planning department.

- 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.

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 CUP application provides sufficient information to evaluate the proposal.

C. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use 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;*
Not applicable to this application.
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 are anticipated as a result of this project.
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;*
The structure height, size, lot coverage, and location are limited to what is proposed in the application. The proposed height at 30-feet is 15 ft. higher than what is permitted for accessory structures without a conditional use permit.
5. *Designating the size, number, location and/or design of vehicle access points or parking and loading areas;*
Current parking and loading areas are adequate.
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;*
Not applicable to this application.
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*

The structure is not permitted to be used for commercial or industrial purposes.

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-20-03 based on applicable public testimony along with the findings and subject to the conditions of approval contained in the staff report."

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

Respectfully submitted this 15th day of April, 2020.



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

Attachments: Application (Exhibit A)
Site Location (Exhibit B)