



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT

HEARING DATE: October 30th, 2018

PROJECT NUMBER: Cu-2018-105

APPLICANT: Pacific Power
Attn: John Aniello
825 NE Multnomah, #1700
Portland, OR 97232

AGENT: Cammas, LLC
Diane Barr
660 G Street, Suite C
Jacksonville, OR 97530

PROPERTY OWNERS: Apple, Inc. (tax lot 312 & 102)
Spas Lazarov
1 infinite Loop
Cupertino, CA 95014

Vitesse LLC. (tax lot 301 & 1100)
Bryce Dalley
1 Hacker Way
Menlo Park, CA 94025

Crook County (tax lot 300 & 100)
300 NE Third St.
Prineville, Oregon 97754

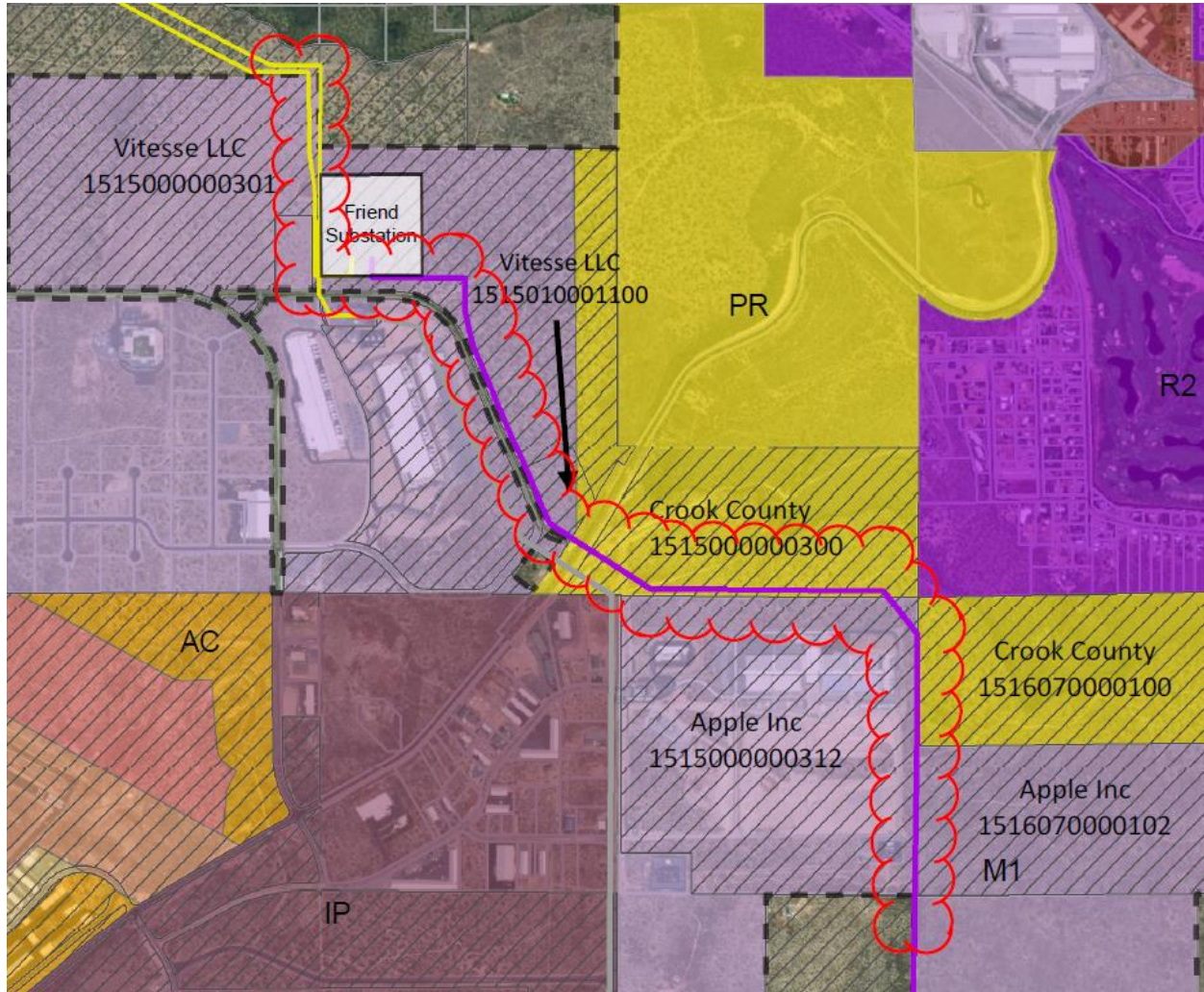
PROJECT REVIEWER: Joshua Smith
Planning Director

APPLICABLE CRITERIA: City of Prineville Code of Ordinances, Title XV, Chapters 153.009, 153.014, 153.020, 153.037, 153.038, 153.060, 153.075, 153.083(L), 153.118, 153.135 - 153.138.

FINDINGS OF FACT:

1. **LOCATION:** The proposed power lines will be located on several properties identified as Map & Tax lot 151500000300, 301 & 312; 1515010001100; 1515007000100 & 102. The proposed transmission line starts at the Friends substation and extends north outside City limits and primarily south across Hwy 126, then along the North and West boundaries of the Apple property continuing South outside City limits.

2. **ZONING:** The transmission line moves through the Light Industrial (M1) and Open Space-Park Reserve (PR) zones.
3. **SITE DESCRIPTION:** The proposed transmission line will follow existing transmission corridors and property boundaries.



4. **PROPOSAL:**

Power lines– Construct a double circuit 230/115 kV transmission line crossing into City limits on the south side, east of Baldwin Road that terminates at the Friend Substation. The ROW corridor is approximately 80 feet wide with poles approximately 100 feet tall. This line could be upgraded in the future to 230/230 kV without any new construction.

Two triple circuit lines 230/230/115 kV will extending north from the Friends Substation within City limits for a short distance. This line is primarily within County jurisdiction and will connect the Friends Substation to the new Ochoco Substation.

5. **RELATED DOCUMENTS:** C-2012-107(Apple Master Plan), C-2017-109(PRN 5&6 Friends Substation), C-2018-107(PRN 7&8).
6. **LOTS OF RECORD:** The properties have been determined to be legal parcels based on County Survey 4245, PP. 2010-04, PP. 2013-05, PP. 2014-06.
7. **COMMENTS:**
 - No comments were received from neighboring properties by the time this report was written.
 - ODOT commented that a Hwy crossing permit will be required. Staff responded that the applicant is aware of a crossing permit and that it will be a condition of approval
 - USFW asked if an avian protection plan was included with the application as they had discussed with the applicant. Staff responded that the avian protection plan was included with the submittal.
 - The County commented that easements will need to be negotiated with terms acceptable to the Crook County Court.
8. **FINDING SUMMARY:** The primary concern with this proposal is the visual impact of the lines and poles, and conflicts with other infrastructure.

The proposed transmission line is allowed as a type II conditional use to be reviewed by the Planning Commission.

The applicant's proposed power transmission line poles are exceeding the maximum height limit in the M1 & PR zones, however; transmission poles are exempt from these standards per section 153.118 discussed in Finding 2. There are 3 routing options discussed in Finding 10. As a condition of approval an ODOT crossing permit shall be required and the applicant shall meet all FAA standards and provide verification that the facilities are within compliance with FAA rules.

Design review criteria for transmission lines and poles are difficult to assess, screening is impractical and materials are limited. The PR zone; emphasizes natural resources and open space that above ground utility lines do not provide. The applicant will be conditioned to use non-reflective transmission lines on metal poles with a non-reflective coating. The proposed double circuit transmission poles will primarily be 100 feet tall to maintain required clearances and the triple circuit poles will be between 110 feet and 140 feet.

Criteria:

153.037 COMMERCIAL & INDUSTRIAL USE TABLE

*Type II conditional use: M1 - Utility Facility (Major) –Transmission lines
Type II conditional Use: PR - Public or private utility*

153.060 LIGHT INDUSTRIAL M-1 ZONE.

In an M-1 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the Light Industrial M-1 Zone is to provide for a wide range of industrial uses, but limiting or excluding those industrial uses which are generally not considered compatible with adjoining commercial or residential areas and which, in many cases, involve industrial uses which involve hazardous or nuisance creating conditions.

153.075 OPEN SPACE-PARK RESERVE PR ZONE.

In a PR Zone, the following regulations shall apply.

(A) Purpose. The purpose of the PR Zone is to protect and provide natural resources within the city and the surrounding urban area considered important for recreation, open space and quality of living amenities and to limit development in those areas considered environmentally sensitive that have been designated by the Urban Area Comprehensive Plan to have open space qualities.

Chapter 155 Natural Features Overlay District (NFOD)

155.080 Rimrock Scenic Area

1. Purpose. The Prineville Comprehensive Plan recognizes the critical importance that the rimrock plays in defining community character and livability. The purpose of this Section is to protect scenic rimrock and sloped areas from adverse visual impacts resulting from development on or above the face of the rimrock bluff and the slope below. This Section also includes standards to protect development from rock fall, erosion and slide hazards.

153.038 COMMERCIAL & INDUSTRIAL DIMENSIONAL STANDARDS

Building Height: M1 zone 50ft. / PR zone 25ft.

155.080 RIMROCK SCENIC AREA

Setback: 200ft. from rimrock edge

Finding 1: The proposed transmission line is allowed as a type II conditional use in both zones to be reviewed by the Planning Commission.

The proposed transmission line crosses through the M-1 and PR zones. The transmission line meets the purposes of the M-1 zone by providing requested power for industries within City limits. The PR zone; however, emphasize protection of natural resources that an above ground transmission line does not provide. The proposed line will follow existing lines across the Hwy within the zone and follow along property boundaries at the edge of the zone. Due to the size of the proposed poles, moving outside of the County owned PR zone onto private property within the M1 zone would not significantly alter the proposed impact to the views of the rimrock from the valley floor.

The Natural Features Overlay District (NFOD) will not be crossed by these lines however due to the height of the poles the proposed transmission line will impact the views of the Rimrock from some vantage points. Visual simulations from various vantage points have been provided by the applicant. Alternative routes are further discussed in Finding 10.

The applicant's proposed transmission line does not utilize many of traditional dimensional standards like a building would. The primary dimensional standards for this type of development in this area is height and rimrock setback. The maximum height in the M1 zone is 50 feet & in the PR zone is 25 feet, however; transmission poles are exempt from these standards per section 153.118 discussed further in Finding 2. The rimrock setback is 200ft. from the rim. The proposed plan locates all poles outside the 200ft. setback. As a condition of approval no portion of the transmission lines or poles shall be within 200 feet of the rimrock.

As a condition of approval the applicant shall meet all FAA standards and provide verification that the facilities are within compliance with FAA rules.

Criteria: 153.118 EXCEPTIONS TO BUILDING HEIGHTS.

(A) The following types of structures or structural parts are not subject to the building height limitations of this chapter: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio, cellular and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, mill related apparatus and other similar projections.

(B) The exceptions to building height limitations set forth herein are not applicable to any such structures or structural parts that are located within an Airport Approach (AA) Overlay Zone.

Finding 2: Section 153.118 of the City's land use code exempts transmission towers and similar projections from maximum building heights, though they are still subject to the Airport Approach zone and design review.

The proposed transmission poles will be approximately 100 feet for the double circuit line and between 110 – 140 feet for the triple circuit line. None of the poles within City limits fall within the Airport Approach Overlay Zone. As a condition of approval the applicant shall meet all FAA standards and provide verification that the facilities are within compliance with FAA rules. The City Airport Manager, Oregon Department of Aviation (ODA) and the FAA are aware of the project as it is currently under review. Lighting of some of the towers that cross the airport approach zone in the County is being recommended by ODA.

Criteria: 153.009 COMPLIANCE WITH OTHER RULES AND REGULATIONS.

(A) Approval of any use or development proposal pursuant to the provisions of this chapter shall require compliance with and consideration of all applicable city, county, state and federal rules and regulations.

Finding 3: There may be rules and regulations at a State and Federal level with which the applicant is required to comply with. City approval of this project does not supersede those requirements.

Criteria: 153.014 GENERAL CRITERIA.

In determining whether or not any application shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval.

(A) The proposal is compatible with the City Comprehensive Plan and applicable policies set forth thereby.

(B) *The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable combining or overlay zone, and other provisions set forth by this chapter that are determined applicable to the subject use.*

(C) *That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.*

(D) *The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this chapter.*

(E) *That no approval be granted for any use which is or expected to be found to exceed resource or public facility carrying capacities.*

(F) *For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.*

Finding 4:

A) The proposal is compatible with the Comprehensive Plan. Chapter 2, Goal 1 directly references clean industries as being preferred and Chapter 5 reinforces that by directly calling out the technology industry as being desired in the Airport area. This proposal is the result of a request by such industries within City limits to continue growth of their facilities. Additionally, the comprehensive plan prefers that utility lines be located on or adjacent to public or private rights-of-way to avoid dividing farm units (*See Chapter 8 page 146*). The poles and lines will be located on or adjacent to light industrial land, not farm land and poles will be located near the edges of property lines and rights-of-way so as to avoid dividing land units.

B) Prineville's land use code includes Utility Facilities (Major) as a conditional use in the M1 zone and Public or private Utility as a conditional use in the PR zone. The proposal is not within the Natural Features Overlay District but may still have an effect on the scenic views of the rimrock from some vantage points. The portion of the proposal within City limits is not within the Airport Approach Overlay Zone. The proposal is meeting or can meet applicable provisions through conditions of approval.

C) Construction shall be reviewed and approved as required by the Crook County Building Department. The City is not aware of any required approvals or permits from State or Federal agencies with regard to the construction of the proposed utility facility other than a "No Hazard Determination" from the FAA.

D) There are specific standards listed in section 153.083(L) that are discussed in Finding 10. Use limitations in the M1 & PR zones are discussed in Findings 7 & 8.

E) The transmission line will have no impact on the City's street, water or sewer capacities.

F) All uses are required to comply with local, state or federal pollution standards. If it is identified that such standards are being exceeded, measures shall be taken to comply.

Criteria: 153.020 SITE PLAN AND DESIGN REVIEW PROVISIONS.

(G) Design review criteria. *To ensure that the stated purposes of the design review process are met the reviewing authority shall be governed by the following criteria as it evaluates and renders a decision on a proposal.*

(2) Site design evaluation criteria. *A development shall make the most effective use possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring residential uses and to minimize*

intrusion into the character of existing developments and land uses in the immediate area. The following are additional criteria that shall be used in evaluating site development plans.

(a) The arrangement of all functions, uses and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites.

(b) In terms of setback from streets or sidewalks, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures.

(c) The design incorporates existing features, such as streams, rocks, slopes, vegetation and the like, (for example, making use of a small stream rather than placing it in a culvert).

(d) Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscape/open space in order to create a pedestrian/bike pathway and/or open system that connects several properties or uses.

(e) The arrangement of the improvements on the site does not unreasonably degrade the scenic values of the community and the surrounding area in particular.

(f) Where appropriate, the design includes a parking and circulation system that encourages a pedestrian and bicycle.

(g) The design shall screen all storage, mechanical equipment, utilities and/or waste collection facilities from view, both from within and from outside the site.

Finding 6: Design review criteria for transmission lines and poles are difficult to assess, screening is impractical and materials are limited. The applicant is proposing transmission lines on metal poles. As a condition of approval, lines and poles shall be non-reflective. The poles may be either dark or light colored depending on the Planning Commission's preference. The poles will be visible from the valley floor at multiple vantage points including the Courthouse; however, most views require someone to look through existing power lines on the valley floor anyway. Staff does not recommend any additional design elements.

Criteria: 153.060 LIGHT INDUSTRIAL M-1 ZONE.

(K) Use limitations. In an M-1 Zone, permitted uses shall be subject to the following limitations and standards.

(1) No use shall be permitted which has been declared a nuisance by action of the City, County, State, or Federal, or by a court of competent jurisdiction.

(2) No use is permitted which is reasonably expected to create a nuisance because of noise, smoke, odor, dust or gas.

(3) For uses requiring pollution or contaminant discharge permits by an agency other than the city, final approval for the use shall not be issued by the city prior to review and approval by the applicable permit reviewing authority(ies).

(4) Materials shall be stored and grounds maintained in a manner as to prevent the attraction of or aid in the propagation of insects or rodents, or in a manner as to not otherwise create a public health hazard or attractive nuisance hazard.

(5) Points of access from a public right-of-way to properties and uses in this zone shall be so located, constructed, maintained and controlled as to minimize traffic congestion, noise and dust pollution, and shall avoid directing traffic onto residential streets or onto streets passing directly through residential, school, hospital or other noise sensitive use areas and safety zones.

(6) All uses permitted in this zone may be required to be screened from abutting residential zones.

(7) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise or otherwise adversely affect land uses in the affected residential zone.

(8) *Except as approved otherwise by the city in accordance with applicable access management provisions, there shall not be more than 1 ingress and 1 egress from properties accommodating uses permitted by this section. To minimize the number of the accesses within any given street section, permitted uses may be required to provide for shared ingress and egress or provide frontage roads.*

Finding 7:

- 1)2) Transmission power lines are not a declared nuisance or expected to create a nuisance.
- 3) A contaminant discharge permit is not required for this use.
- 4) There is not expected to be a need to store materials on site that would attract insects, rodents or otherwise create a hazard
- 5) The transmission line will be accessed from easements and rights-of-way for maintenance purposes. The transmission line will not cause any traffic congestion.
- 6)7) There are no adjacent residential zones.
- 8) This criteria is not applicable to this type of development.

Criteria: 153.075 OPEN SPACE-PARK RESERVE PR ZONE.

(M) Use limitations. In a PR Zone, permitted uses shall be subject to the following limitations and standards.

(1) Uses which are found to exceed resource carrying capacities based on qualified technical resource data and information shall not be permitted.

(2) Special project designs may be required to insure or otherwise maximize the preservation and/or protection of riparian habitats and other wildlife, public recreation or open space values.

(3) Points of access from a public street or way to a use permitted in this zone shall be so located, constructed, maintained and controlled as to minimize traffic congestion, noise and dust pollution and to protect scenic views and vistas.

(4) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining area. In no case shall the location of the off-premises area require pedestrian crossing of an arterial or major collector street or highway to obtain access to the subject use except as otherwise approved by the city.

(5) All uses permitted in this zone may be required to be screened and/or fenced from abutting residential zones and uses.

Finding 8:

- 1) This type of use will not contribute to the resource carrying capacity of the zone. Once constructed very little activity will be present in the zone.
- 2) Transmission lines and poles have limited design capability. Screening is impractical and materials are limited, other than color of poles and non-reflective coatings, which will be specified in conditions. There are no riparian habitats in this area, an avian protection plan has been provided, recreational opportunities will not be limited but open space values may be degraded in some cases due to visual impact. Staff does not have a recommendation for special project designs in this case.
- 3) The transmission line will be accessed from easements and rights-of-way for maintenance purposes. The transmission line will not cause any traffic congestion.
- 4) No off street parking is required for this project.
- 5) There are no adjacent residential zones. Residential uses are within the County portion of this transmission line. It is impractical to screen transmission lines.

Criteria: 153.060 LIGHT INDUSTRIAL M-1 ZONE.

(M) Additional requirements. As a condition of approval of any use proposed within an M-1 Zone, the city may require the following.

- (1) An increase in required setbacks.**
- (2) Additional off-street parking and loading facilities.**
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.**
- (4) Additional landscaping, screening and other improvements.**
- (5) Any other conditions considered necessary to achieve compliance with the intent and purposes of this chapter and policies of the Comprehensive Plan.**

153.075 OPEN SPACE-PARK RESERVE PR ZONE.

(N) Additional requirements. As a condition of approval of any use proposed within this zone, the reviewing authority may require the following.

- (1) Increases in required setbacks and/or reduced height limitations.**
- (2) The preservation and/or enhancement of existing vegetative, scenic views and vistas and other natural resources, and may even consider requirements relative to building colors, placement and maintenance.**
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.**
- (4) Additional landscaping, screening, fencing and other improvements.**
- (5) Any other conditions considered necessary to protect existing and future open space and other natural resource values and qualities of the area.**

Finding 9: As stated in Finding 6, poles and lines shall be non-reflective. While the poles won't be painted, the Planning Commission can choose between a light grey color such as galvanized, or a brown color such as those that are allowed to rust.

Based on the findings in this staff report, property owner consent and no comments from neighboring properties, Staff does not recommend additional requirements other than those mentioned above.

Criteria: 153.083 STANDARDS FOR SPECIFIC USES.

A use shall comply with the standards of the zone in which it is located, with the specific standards that may be applicable thereto as set forth by this section, with any additional standards and conditions that may be set forth by the reviewing authority and with any other applicable local, state and/or federal regulations.

- (L) Public or private facilities, utilities and services.**
- (1) Public facilities including, but not limited to, utility substations, sewage treatment plants, storm water and water lines, water storage tanks, radio and television transmitters, cell towers, electrical generation and transmission devices, fire stations and other public facilities shall be located so as to best serve the community or area with a minimum impact on neighborhoods, and with consideration for natural aesthetic values.**
 - (2) Structures shall be designed to be as unobtrusive as possible.**
 - (3) Wherever feasible, all utility components shall be placed underground.**
 - (4) Public facilities and services proposed within a wetland or riparian area shall provide findings of the following.**
 - (a) The location is required and a public need exists.**
 - (b) Dredging, fill and other adverse impacts are avoided, minimized or mitigated to the maximum extent reasonable.**
 - (5) Co-locating on existing utility poles or cellular towers is required unless demonstrated that it is not feasible.**

Finding 10:

1) The applicant looked at 3 routing options for the proposed transmission line. City staff primarily looked at protecting the airport, keeping the poles and lines outside of the 200 foot rimrock setback and ensuring the line follows existing corridors and property lines. The routing options are as follows:

- The proposed route follows the Old Houston Lake road south across the Hwy and then along the north and west sides of the Apple property (tax lot 312) cutting across the NE corner near the rimrock. The proposed line then runs south outside City limits.
- The alternative 1 route was rejected because it came too close to the rim. This route did not cut across the NE corner of the Apple property (tax lot 312) near the rimrock. This brought the line very close to the 200 foot rimrock setback. Staff felt it was reasonable to eliminate the pole nearest the rim and require the line to span the distance across the NE corner of the property.
- The alternative 2 route would have used the Baldwin Road ROW but was rejected primarily because there is no remaining room in this corridor to provide an 80 foot ROW. It would also bring more of the 100' poles closer to and within the Airport Approach Zone.

2) The applicant shall be required to use non-reflective transmission lines and non-reflective metal poles. This is consistent with other approved lines and poles in the area.

3) Transmission lines at 115kV or higher are not generally placed underground due to the associated cost of construction, lengthy down time when repairs are needed and engineering constraints that require extensive excavation, insulation and fault protection.

4) The proposal is not within a riparian or wetland area.

5) Co-location is not available on existing infrastructure for these types of lines. Much of the line will co-locate along existing above ground infrastructure, just not on the same poles. The proposed 115kV side of the double circuit poles can be upgraded to 230kV without additional infrastructure.

Criteria: 153.136 SPECIFIC CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this subchapter, this chapter and other applicable local, county, state and/or federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area, the city as a whole and the general public. No condition may be imposed which violates federal or state law with regard to needed housing. The conditions may include, but are not limited to, the following.

(A) Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.

(B) Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.

(C) Limiting the height, size or location of a building or other structure or use.

(D) Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.

(E) Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.

(F) Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.

(G) Requiring diking, screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.

(H) Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or manmade significant resources.

Finding 11: Above is a list of options the Planning Commission may consider when making a final decision.

Recommended Conditions of Approval: If approved the following conditions are recommended for application **Cu-2018-105** to allow the construction of a transmission line in the M1 and PR zones. Such an approval is subject to the submitted plans, findings stated in the staff report, those conditions contained within and the following conditions of approval set forth below:

Recommended Conditions of Approval

1. The applicant shall adhere to the dimensional standards as set forth in the submitted site plans. In no case shall the proposed poles or lines be within 200 feet of the rimrock.
2. The applicant is responsible for the execution of all easements across private and public property and coordinating use of public rights-of-way associated with the project. The applicant shall specifically negotiate easements across Crook County owned property with terms acceptable to the Crook County Court. Legal descriptions shall be reviewed and verified by the Crook County Surveyor.
3. The applicant shall obtain a permit from the Oregon Department of Transportation (ODOT) to cross the Hwy and comply with ODOT requirements.
4. The applicant shall meet all FAA standards and provide verification that the facilities are within compliance with FAA rules.
5. The applicant shall use non-reflective wire and non-reflective poles as stated in the applicant's burden of proof.
6. The applicant shall not negatively impact any existing easements and shall be responsible for relocating other utilities if made necessary by this application.
7. The applicant is required to comply with all applicable requirements of the M1 & IP zones and relevant portions of the City of Prineville Code of Ordinances and secure any permits required by the Crook County Building Department or State and Federal agencies.


MOTION IN FAVOR

The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Favor of this Application. I Move that the application be **APPROVED**, subject to the Conditions of Approval as they have been finalized, and based upon the Findings of Fact in favor of the application.

MOTION IN OPPOSITION

The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Opposition to this Application. I Move that the request be **DENIED** based upon Findings of Fact in opposition to the application.

Written By:


Joshua Smith
Planning Director