



City of Prineville

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

HEARING DATE: December 15th, 2020

PROJECT NUMBER: Cu-2020-104

APPLICANT/OWNER: Elmer Rivera
2856 SW Timber Ave.
Redmond OR 97756

PROJECT REVIEWER: Joshua Smith,
Planning Director

APPLICABLE CRITERIA:

City of Prineville Code of Ordinances, Title XV, Chapter 155 section 155.060 & Chapter 153 including but not limited to sections 153.009, 153.014, 153.016, 153.036, 153.037, 153.051, 153.080-153.096, 153.135-153.138, 153.190 – 153.200.

FINDINGS OF FACT:

1. **PROPOSAL:** Seeking approval to place a single family home with garage on a property zoned General Commercial C2. Specific site plan to be approved at a later date by Commission or Staff based on final conditions of approval.
2. **LOCATION:** 486 NE 13th St., Map & Tax lot 14-16-32CB 01400 (parent lot)
3. **ZONING:** The subject property is split zoned between General Commercial (C2) and Limited Residential (R1). The home is proposed in the C2 zone. A boundary adjustment approved in February of 2020, adjusted the property west into the commercial zone to provide a buildable area north of the wetland.
4. **SITE DESCRIPTION:** The property is located near the bottom of the Hudspeth Drainage, with an identified wetland that traverses through the property. The property is accessed through a 30ft. road easement that is named 13th St. for addressing purpose. On the property there are currently two shipping containers, a RV, and a small structure potentially within the wetland setback area. A 2018 aerial image of the site (outlined in red) is shown below.



5. **LOTS OF RECORD:** The parcel is a legal lot of record by deed. The boundary was adjusted with City of Prineville Boundary Adjustment Application BA-2020-100. County survey number 4389.
6. **COMMENTS:** No property owners within the required 100 ft. notice area submitted comments. The City did receive verbal comments concerned with potential zone changes, subdivisions and roads being built in the drainage area. The City stated that this approval does not constitute a zone change and the drainage has protections under City code which largely limits development in the area.

The Fire Department commented there must be a fire hydrant installed within 600 feet of the farthest portion of the home as measured by vehicle travel distance per Universal Fire Code (UFC) requirements.

City staff commented that the wetland and required setback areas would need to be preserved through an easement, a sewer connection will be required and a public utility easement to the City would be needed to extend a City water line for fire protection.

7. **FINDING SUMMARY:** The applicant is requesting approval to place a single family home with a garage on a split zoned property zoned General Commercial (C2) and Limited Residential (R1). The portion of the property where the home is proposed to be located is zoned General Commercial (C2). The property is designated Open Space on the Comprehensive Plan. City sewer services will need to be extended to the property in accordance with City & County standards and a City fire hydrant must be within 600 feet of the furthest part of the home as required by the Crook County Fire Department. The applicant shall provide or obtain from other land owners any necessary easements for public or private utilities to serve the property.

A wetland delineation has been completed along the portion of the property adjacent to the proposed home and has been acknowledged by the Department of State Lands (DSL). A delineation through the remainder of the property shall be completed in order to determine the usable area of the entire property outside of the drainage area and required setbacks per section 153.192 of the City code. This delineation identifies the primary resource that is required to be protected and the starting point for required

setbacks from the resource. If the wetland and drainage with required setbacks are maintained through a dedicated easement to the City, staff believes the proposal is compatible with Chapters 2, 3 and 4 of the Comprehensive Plan.

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.

(B) The compliance shall be evident prior to the final approval of any affected land use or development proposal; for example, the compliance may be set forth as a condition of final approval.

(C) Specific city, county, state and federal rules and regulations that may affect a specific land use or development for which compliance therewith is required if applicable include, but are not necessarily limited to the following.

Finding 1: The applicant shall comply with all City, County, State and Federal rules and regulations. These rules and regulations include but are not limited to, meeting the City's standards and specifications for all public infrastructure, meeting Crook County Building Department requirements for all onsite construction and City and State (DSL) regulations regarding wetland preservation and hazard mitigation due to the Hudspeth drainage.

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.

Finding 2:

A) The comprehensive plan designation for this area is "Open Space". In this case the comprehensive plan is identifying the need for open space in this general area due to the identified wetland, the potential hazard of being in the drainage area of the Hudspeth Reservoir and a plan for a public trail system identified in the Parks Master Plan. A wetland delineation has been completed for a portion of the property that has been acknowledged by the Department of State Lands (DSL). This delineation identifies the primary resource that is required to be protected and the starting point for required setbacks from the resource. A delineation through the remainder of the property shall be completed in order to determine the usable area of the entire property. If the wetland and drainage with required setbacks are maintained through a dedicated easement to the City, staff believes the proposal is compatible with Chapters 2, 3 and 4 of the Comprehensive Plan. The Planned trail connections would likely follow existing sewer easement in the future, so it would not be effected by this proposal.

B, D) Through conditions of approval as mentioned in section (A), the proposal can meet the requirements of the underlying zone(s) and the Natural Features Overlay District (NFOD).

C) The original owner of the property was required to delineate the wetland and provide concurrence from DSL prior to making application for a residence on the neighboring parcel. Any disturbance to the wetland such as altering the existing culvert bridge or extending a sewer service through the wetland to the home will require additional approval from the City and DSL.

E) The proposal is not expected to exceed resource carrying capacities. City sewer service will need to be extended across the wetland to connect to the City's sewer line. A City fire hydrant is required to be within 600 feet to the furthest part of the home as required by the Crook County Fire Department.

Criteria: 153.016 MUNICIPAL SEWER AND WATER REQUIRED

(D) Existing residences, replacement residences or single family home construction on existing lots may use existing wells and septic fields. New wells and septic systems may be constructed if services are not within the distance described by State or the City's sewer and water ordinances.

Finding 3: The property does not have an existing well or septic system. The City requires sewer connection for properties within 100 ft. of a sewer line and the State DEQ requires it within 300 ft. Sewer is available at the south end of the property where an existing sewer easement is recorded, therefore the applicant shall connect to the City's sewer system. There is no prescribed distance to a City water line that would require connection of a single family home on an existing parcel, therefore a well may be used if properly developed to County and State standards. This does not preclude the need for fire protection within 600ft. of any residential construction.

Criteria: 153.051 GENERAL COMMERCIAL C-2 ZONE.

In a C-2 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the C-2 Zone is to provide for those commercial uses which are considered more desirable to be located in an area outside of the downtown commercial core area, that are more dependent upon and create the highest volumes of vehicular traffic, are considered the heaviest or most intensive type of commercial uses, which actually involve a combination of heavy commercial and light industrial type uses, which commonly involve expansive areas of outside storage and displays of products and are more traveler oriented.

153.037 COMMERCIAL & INDUSTRIAL USE TABLE

Single family dwelling - Type II conditional use

Finding 4: The proposed use of residential does not reflect the purpose of the C2 zone but due to the location of the property it may be the only use other than a public park that is viable for the area. A residential use is allowed in the C2 zone as a Type II conditional use to be approved by the Planning Commission. The purpose of this application is to determine whether the proposed use of residential in a commercial zone is appropriate in this location or if the property should be maintained for commercial activity. This is discussed further in Finding 6.

Criteria:

153.038 COMMERCIAL & INDUSTRIAL DIMENSIONAL STANDARDS

Permitted residential – shall meet R2 standards

153.036 RESIDENTIAL DIMENSIONAL STANDARDS

Minimum Street Frontage (ft.): 50ft.

Minimum Lot Size: 5000 sq. ft.

Setbacks: Front – 10ft. Side – 5ft. Rear 10ft.

Height: 35ft.

155.060 SURFACE WATER FEATURES

Hudspeth Drainage: 50ft. from edge of associated wetland

Finding 5: Residential construction in a C2 zone shall follow the General Residential (R2) dimensional requirements. Street frontage and lot size are irrelevant as the parcel already exists. Any future site plan shall adhere to the setback requirements of the R2 zone and the setback requirements for the Hudspeth Drainage as prescribed in the City's Natural Features Overlay District (NFOD) Chapter 155 of the City code. Wetland and drainage setbacks are discussed further in Finding 9 for required easements.

Criteria: 153.083 STANDARDS FOR SPECIFIC USES.

(T) Residential dwellings in a commercial zone. Residential uses from single family dwelling to fourplexes shall consider the following limitations when placed in a commercial zone.

(1) Structures shall not be located on a major collector or arterial streets unless;

(2) The property is determined not to be commercially viable based on size, location and surrounding uses.

(3) Provisions for the future conversion to a commercial business should be considered when placing a residence on a lot.

Finding 6: There are many factors to consider when reviewing a residential use in a commercial zone. Section (T) above has three basic criteria that the Planning Commission shall consider, but is not limited to.

1) The proposed site is not located on a major collector or arterial street. The property is accessed from an easement, named 13th Street for addressing purposes.

2) Staff does not see the property as commercially viable due to the properties location off an unimproved access road, at the bottom of a drainage, adjacent to a wetland, with limited access to City services.

3) Provisions for future conversion may be considered during future site plan review, but staff does not feel this provision is applicable.

Criteria: 153.135 AUTHORIZATION TO GRANT OR DENY.

Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this chapter. In the case of a use existing prior to the effective date of this chapter, a change in use, enlargement or alteration of such use shall conform to the provisions of a conditional use if so classified. An application for a conditional use may be approved, modified, approved with conditions or denied by the designated reviewing authority.

Finding 7: The above criteria authorizes the Planning Commission to approve, modify or deny the application.

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 8: An Easement will be needed in order to extend a City water line to provide a fire hydrant within the required 600 feet of the farthest point of the home. At the time of application no such easement exists that would provide the applicant with a legal way to extend the water line and place the hydrant within the required minimum distance.

An open space, stormwater and drainage easement to the City over the delineated wetland and required 50 foot setbacks is also needed. This easement will provide a significant buffer to help ensure protection of the resource and help protect life and property from the hazard of being at the bottom of a drainage.

Staff recommends conditions requiring the easements to be in place prior to issuance of a building permit. The Commission may impose other conditions which are found to be necessary to avoid detrimental impact on adjoining properties, the general area or the city as a whole.

Criteria: 153.192 EASEMENTS.

(A) Utility lines. Easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity, but in no case be less than 12 feet wide and centered on a rear and/or side lot line unless approved otherwise by the city. Utility pole anchor or guy wire easements may be reduced to 6 feet in width.

(B) Water courses. If a lot is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of the water course, and such further widths as deemed necessary.

(C) Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than 5 feet in width may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block, or to otherwise provide appropriate circulation and to facilitate pedestrian and bicycle traffic as an alternative mode of transportation.

(D) Sewer and water lines. Easements may also be required for sewer and water lines, and if so required, shall be provided for as stipulated to by the City Department of Public Works.

Finding 9:

A, D) This property is not served by a public street, therefore all public utility services will require public utility easements over adjacent properties. Private service lines will require their own easements between land owners if necessary.

B) The Hudspeth drain and identified associated wetlands traverse this property. An open space, stormwater and drainage easement to the City shall be established over the delineated wetland and required 50 foot setback prior to Building permit. The applicant will be responsible for delineating the remaining portion of the wetland and providing a legal description and signature for the easement document. The City has drafted easement language for this purpose and will take responsibility for recording the easement. This easement will provide a significant buffer to help ensure protection of the resource and help protect life and property from the hazard of being at the bottom of a drainage. This drainage is supplied from the Hudspeth Reservoir that collects irrigation water from the north. The reservoir is only maintained by an earthen dam so there is some potential for failure. The drainage is also used by the local irrigation district to convey irrigation water to the Ryegrass canal and provides overflow from adjacent stormwater systems during significant events. The easement also provides a legal instrument to make future purchasers of the property aware of the protection status and potential hazard. This easement shall restrict any development of the property as defined in the land use code. This includes such things as driveways, fences, decks and landscaping improvements. Improvements to the wetland or drainage system, planting of native vegetation, public trail systems and private vehicle access over the existing crossing shall be permitted.

C) A pedestrian easement over the City's existing sewer line and potentially over the existing wetland crossing is desirable to the City as a public trail system gets established through the Hudspeth drainage. At this time staff does not believe there is a sufficient nexus to require the pedestrian easement with this application.

D) As mentioned previously in Findings 2 & 8, a City water line is required to provide fire protection within 600ft. of the furthest point of the home. This water line will require a public utility easement prior to issuance of a building permit.

Criteria: 153.195 ACCESS MANAGEMENT.

(B) Access management techniques and considerations. In the review of all new development, the reviewing authority shall consider the following techniques or considerations in providing for or restricting access to certain transportation facilities.

Finding 10: The property is accessed off of N. Main Street through an agreement for easement and road maintenance. The easement was signed in July of 1989 and recorded in the County Clerk's office on the 24th of July 1989 MF# 92044.

Recommended Conditions of Approval: If approved the following conditions are recommended for application **Cu-2020-104**. 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

General Conditions:

1. The applicant shall complete and provide to the City a wetland delineation for the portion of the property where one has not yet been completed in order to identify the primary resource that is required to be protected and the starting point for required setbacks from the resource. This delineation is necessary to determine the usable area of the remainder of the property.
2. The applicant shall establish an open space, stormwater and drainage easement to the City over the delineated wetland and required 50 foot setbacks prior to issuance of a building permit. The easement shall restrict any development of this area as defined in the land use code. This includes such things as driveways, fences, decks and landscaping improvements. Improvements to the wetland or drainage system, planting of native vegetation, public trail systems and vehicle access over the existing crossing shall be permitted.

The City has drafted easement language for this purpose and will take responsibility for recording the easement once signed. The applicant will only be responsible for providing a legal description and signature for the easement document.

3. The applicant shall provide any necessary easements for public or private utilities to serve the property prior to issuance of a building permit. A public utility easement for a City water line to provide fire protection is specifically required and due to the location of the property will require an easement through adjacent property owners.
4. The applicant shall provide a fire hydrant within 600 feet of the furthest point of the home and comply with any other UFC requirements prescribed by the Crook County Fire Department prior to the Crook County Building Department issuing a Certificate of Occupancy.

5. The applicant shall pay all costs associated with extending water, sewer and other utilities necessary to serve the property.
6. The applicant shall connect the proposed home to City sewer in accordance with the City's Standards and Specifications. The applicant may develop a domestic well in accordance with County and State standards if allowable. If City water connection is made necessary, a City water line extension "to and through" the property in accordance with the City's Standards and Specifications shall be required.
7. All applicable connection fees and System Development Charges (SDCs) shall be paid concurrent with a building permit.

Ongoing land owner responsibility:

8. The applicant shall obtain any required Federal, State, and local permits prior to any work within the designated wetland or associated 50 foot setbacks.
9. The applicant shall remove any shipping containers and/or accessory buildings from the property as they are not a part of an approved commercial use or accessory to a residential use.
10. If the applicant chooses to use shipping containers on the property as an accessory to the completed residential home, they shall be painted in like colors so as to match the character of the residence and maintain an attractive appearance as much as possible.
11. The applicant is required to comply with all relevant portions of the City of Prineville Code of Ordinances.

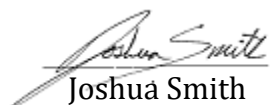
MOTION IN FAVOR

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