



BAKER CITY, OREGON PLANNING COMMISSION MEETING AGENDA

Commissioners:
Aaron Still
Haden Damschen
Laurie Parry
Gratton Miller
Ken Rockwell
Larisa Bogardus

REGULAR MEETING
OCTOBER 16, 2024 - 6:00 PM
CITY HALL COUNCIL CHAMBERS

Call to Order/Introduction

- | | |
|-------------------|------------|
| 1. Call to Order | Procedural |
| 2. Roll Call | Procedural |
| 3. Public Comment | Procedural |

Old Business

- | | |
|--|-------------|
| 4. Review of Minutes 08.21.2024 City Planning Commission | Action Item |
|--|-------------|

New Business

- | | |
|--------------------------------------|-------------|
| 5. CUP-24-088 Atlas Land Use-McLagan | Action Item |
| 6. VAR-24-101 Kenworthy | Action Item |

Updates and Future Items

- | | |
|---------------------------------|-------------|
| 7. Director's Report | Information |
| 8. Set Next Meeting Date & Time | Action Item |

Adjourn

- | | |
|------------|------------|
| 9. Adjourn | Procedural |
|------------|------------|

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Baker City Planning Commission
Baker County Courthouse
1995 Third Street, Ste. 131
Baker City, Oregon 97814
Phone: (541) 523-8219

The minutes are only a third-party summary of the original meeting. For a complete transcript, an audio recording is available. Please contact the Baker City-County Planning Department for further information.

Baker City Planning Commission
Public Hearing
August 21, 2024, 6:00 p.m.
Baker City Council Chambers

I. Call to Order/Introductions

Present: Gratton Miller, Aaron Still, Ken Rockwell, Laurie Parry (participating remotely)

Absent: Larisa Bogardus, Haden Damschen

Staff Present: Planning Director Holly Kerns, Planner Timothy Smothers, Planning Technician Paul King

II. Old Business

Review of Minutes 07.17.2024

Commissioner Parry moved to approve. Commissioner Parry seconded. Motion Passed Unanimously.

III. New Business

VAC-24-075 Coley

Declaration of Ex-Parte Contact, Bias, & Conflict of Interest regarding VAC-24-075: Commissioner Rockwell declared ex-parte contact; he performed a site visit and observed fences and structure within the right of way.

Planner Smothers gave a summary of the application. The petitioner is requesting to vacate an undeveloped portion of East Street in North Baker, more specifically the East 10 feet of East Street from F Street to H Street, and originally platted as part of the Mix's Addition to Baker City.

The proposed vacation abuts three different properties, a residential property at H Street, a vacant property in the middle, and a storage facility to the south at F Street. The dwelling is within the Residential High-Density Zone, whereas the two southerly properties are contained within the Industrial Zone. If approved the vacated portion would be divided proportionally to the abutting properties.

Planner Smothers noted the appearance of possible encroachment of existing structures into the right of way. Planner Smothers clarified that the exact determination of property lines could not be done without hiring a surveyor, and the extent of these structures' encroachment into the current right of way is not determined. The purpose of this request is to bring the existing storage units within the property line.

Chair Miller asked for applicant, those in support and those in opposition to testify. There was none. Chair Miller closed the public hearing.

Deliberation

The Commissioners held a short deliberation and had no comments nor concerns, noting that the applicant obtained all sign-offs from affected parties.

Commissioner Bogardus moved to recommend vacation to City Council based on the facts and findings of the status report subject to conditions of approval. Commissioner Rockwell seconded. Motion passed unanimously.

IV. Updates and Future Items

Director's Report

Director Kerns had no report.

Commissioner Rockwell spoke and thanked recently deceased Planning Commissioner Matthew Reidy for his dedicated service to the City Planning Commission and to the community at large.

Commissioner Rockwell highlighted Mr. Reidy's dedication to the Baker City community in his various capacities, from working for the Forest Service, to being a little league baseball coach, to being involved with the local Knights of Columbus, and in his capacity as Planning Commissioner. Mr. Reidy will be missed by the Planning Commission and by all of those in Baker City who knew him.

Date and Time for Next Meeting

Next meeting will be September 18, 2024, at 6:00 pm.

V. Adjourn

Chair Miller adjourned the meeting at 6:21 p.m.

Respectfully Submitted,
Paul King
Baker City-County Planning Department

BAKER COUNTY-CITY PLANNING DEPARTMENT



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STAFF REPORT to the BAKER CITY PLANNING COMMISSION for a CONDITIONAL USE PERMIT for an ACCESSORY STRUCTURE in the RESIDENTIAL- MEDIUM DENSITY (R-MD) ZONE

City Case No. CUP-24-088

Staff Report Date: October 9, 2024

Report Prepared by: Timothy Smothers, Planner

Planning Commission Hearing: October 16, 2024

I. GENERAL INFORMATION AND FACTS

Applicant:	Atlas Land Use Consulting 42692 Pocahontas Road Baker City, OR 97814
Property Owners:	Jon and Susan McLagan 3925 Grace St Baker City, Oregon 97814
Land Use Review:	Type III Conditional Use Permit for a $\pm 2,750$ square foot, and ± 23.5 -foot-tall accessory structure.
Property Description:	Tax Lot 801 in Section 19ad of Township 9 South, Range 40 East, W.M., Baker County, Oregon (Ref. 17937)
Site Address & Location:	3925 Grace Street, Baker City, Oregon
Land Use Zone:	Residential-Medium Density (R-MD) Zone
Existing Development:	Single family dwelling ($\pm 1,988$ sq ft), detached garage ($\pm 1,092$ sq ft), clubhouse (± 630 sq ft), two (2) separate maintenance sheds (± 552 sq ft – combined), and grass tennis courts.
Proposed Development:	$\pm 2,750$ square foot with a ± 23.5 peak height accessory structure
Special Flood Hazard Area:	This property is not located in a flood hazard zone according to FIRM Map #41001C0385C, effective June 3, 1988
Wetlands:	Wetlands are not present on the property according to the 1981 National Wetlands Inventory Map for Baker, Oregon
Parcel Legally Created:	The subject property contains Lots 1 through 24 of Block 18, and Lots 25 through 48 of Block 15, Sally's Addition to Baker City, recorded with the Baker County Clerk. The property also

includes the vacated portion of Cookingham Street between Blocks 18 and 15 of Sally's addition to Baker City (vacated through Ordinance 2512), and the north half of the vacated portion of Tracy Street adjacent to the lots identified in Sallys Addition to Baker City. Tracy Street was vacated through Ordinance 3191. Reference warranty deed – B06-39-0043, recorded with the Baker County Clerk's Office on September 22, 2006.

II. NATURE OF REQUEST

Applicant, Atlas Land Use Consulting, and property owners, Jon and Susan McLagan, request a Conditional Use Permit to construct a new $\pm 2,750$ square foot accessory structure with a ± 23.5 foot peak height, on the property identified above. The subject and abutting parcels (within the incorporated area of Baker City) are all zoned Residential-Medium Density (R-MD). The immediately abutting property to the west of the subject property lies within the Rural Residential (RR5), which is under Baker County jurisdiction. The Baker City Limits follows the subject properties west property line (Exhibit E). The applicant's narrative and plans for the proposed structure are attached to this report as Exhibit C.

III. APPLICABLE ORDINANCE, COMPREHENSIVE PLAN, AND STATE PROVISIONS

The Baker City Development Code (BCDC) requires accessory structures that exceed $\pm 1,200$ square feet in footprint or ± 20 feet in height to obtain an approved Conditional Use Permit prior to receiving zoning clearance. The request is to be processed as a Type III procedure, which includes holding a public hearing before the Planning Commission who will make a decision on the request. In determining whether to grant the request, the Planning Commission will use the applicable criteria listed in BCDC Chapter 2.2 – *Residential Land Use Zones*, Section 4.4.400 – *Conditional Use Permits – Criteria, Standards and Conditions of Approval*, and the Baker City Comprehensive Plan.

Oregon Revised Statute (ORS) 227.173 states, *"Approval or denial of a permit application...shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth"*.

IV. ANALYSIS OF CRITERIA & FINDINGS OF FACT

BAKER CITY DEVELOPMENT CODE (BCDC)

BCDC Table 2.2.110 Land Uses Allowed in Residential Zones (R-LD, R-MD, R-HD). Table 2.2.110 identifies the land uses allowed in the Residential Zones. This table identifies that *"Accessory Structures (with a permitted use) per Section 2.2.200(B) – taller than 20 feet or larger than 1,200 ft² of building footprint"* requires a Conditional Use Permit.

BCDC Section 4.4.100 Conditional Use Permits – Purpose. *There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-*

case review and analysis. These are identified as “Conditional Uses” in Article 2 – Land Use Zones. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate, and if other appropriate conditions of approval can be met.

BCDC Section 2.2.120 Residential Land Use Zones – Development Standards.

- ***BUILDING/YARD SETBACKS.*** Table 2.2.120 identifies the setback standards for Residential Zones. Setbacks for accessory structures are 5 feet on the side, 10 feet in the rear, and 20 feet in the front. (Exceptions: Corner Lot side-yard facing row is 10-feet; alley is 1-foot; common walls/zero lot line is 0-feet.)

Recommended Findings: According to the applicant’s narrative and site plan (Exhibit C), the proposed structure will be located ±200 feet from the west side property line, ±91 feet from the south/rear property line, ±486 feet from the north/front property line, and ±71 feet from the east/side property line.

The property also has a Marathon Pipeline easement restricting development within 50 feet of the pipeline location (Exhibit H). Per a review of the documentation, GIS information and taxation maps defining the easement location, it appears the proposed development falls outside of this 50-foot area.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***LOT AREA.*** The R-MD zone requires a minimum lot area of 7,500 square feet for Single Family Detached developments.

Recommended Findings: According to Assessor’s records, the subject property measures ±188,615 sq. ft. (±4.33 acres). The subject property exceeds the minimum area standards for the R-MD zone.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***LOT DIMENSIONS.*** All residential zones require a minimum lot width of 40 feet and a minimum lot depth of 80 feet, for single-family detached uses.

Recommended Findings: According to Baker County Assessor map, the subject property is ±300 feet wide and ±626.60 feet deep.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***DENSITY.*** The minimum and maximum dwelling units per acre in the R-MD zone are 2.0 to 20.

Recommended Findings: The property measures ±188,615 square feet and has one

existing single-family dwelling and two accessory structures. The current density is ± 0.23 dwellings per acre. No additional dwellings have been requested with this application (Exhibit C). The proposed development will not increase or decrease the number of dwelling units per acre.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***LOT COVERAGE.*** *The maximum building coverage in residential zones is 50% for a single family detached development.*

Recommended Findings: According to Assessor's records, the existing primary structure measures $\pm 1,988$ square feet, and the existing accessory structures measure $\pm 1,722$ square feet. The proposed accessory structure will measure $\pm 2,750$ square feet. Post-construction, the total area of all structures on the subject property will measure $\pm 6,460$ square feet. According to Assessor's records, the property measures $\pm 188,615$ square feet; therefore, the total lot coverage will be $\pm 3.4\%$.

Per the application narrative (Exhibit C), "According to Assessor's records, the existing primary structure measures $\pm 1,988$ square feet. This figure, however, does not take into account several exterior deck spaces that are attached to the dwelling, measuring a total of $\pm 1,100$ square feet. This results in a total footprint of $\pm 3,088$ square feet. A $\pm 1,092$ square foot detached garage also exists on site and is accessory to the single-family dwelling. Additional structures exist on site, both of which are associated with the grass tennis courts: a ± 630 square foot clubhouse, a ± 200 square foot storage building, and a ± 352 square foot shed. In total, all structures on site equate to $\pm 5,362$ square feet. The proposed accessory structure will measure $\pm 2,750$ square feet. Post-construction, the total area of all structures on the subject property will measure $\pm 8,112$ square feet. According to Assessor's records, the property measures $\pm 183,387.6$ square feet [$188,615$ sq feet is the measurement per Assessor's data – 4.33 acres]; therefore, the total lot coverage will be $\pm 4.4\%$." This narrative provides additional information for the size and type of existing structures on the property.

Using the information provided by the applicant, the total square footage of existing structures equates to $\pm 5,362$ square feet, and with the addition of the proposed accessory structure of $\pm 2,750$ square feet, the total coverage of structures will be $\pm 8,112$ square feet. Using the Baker County Assessor's lot size of $\pm 188,615$ square feet, the lot coverage with the proposed structure will be $\pm 4.3\%$.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***BUILDING HEIGHT.*** *Table 2.2.120 identifies the height standards for Residential Zones. The maximum height for an accessory structure is 20 feet.*

Recommended Findings: Per the application narrative (Exhibit C): "The height of the proposed accessory structure is ± 23.5 feet. The Baker City Development Code Section

2.2.200.B. states, "An accessory structure shall not exceed 1,200 ft² in size or 20 feet in height without first obtaining a Conditional Use Permit." This request is for a Conditional Use Permit to construct a ±2,750 square foot accessory structure with a 23.5-foot peak height in the R-MD Zone."

The Conditional Use Permit criteria are addressed below in Section 4.4.400.

Conclusion: Based on the findings above, the criteria **can/cannot be** met with an approved conditional use permit.

BCDC Section 2.2.200(B) Accessory Uses and Structures. *Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use of a structure on the same or an adjacent lot held in common ownership. Typical accessory structures in the residential zones include detached garages, sheds, workshops, green houses and similar structures (see definitions). All accessory structures shall comply with all of the following standards:*

1. **Primary use required.** *An accessory structure shall not be allowed without another principal permitted use on the same parcel or an adjacent parcel held in common ownership. The accessory use may be constructed after the establishment of a principal use or in conjunction with the establishment of a principle use;*

Recommended Findings: According to the application, a single-family dwelling with a detached garage currently exists on the property (Exhibit C). The proposed accessory structure will be constructed on the same property to the southeast of the dwelling. The dwelling is considered the primary use of the property.

An additional use exists on the subject property, a grass tennis court facility, which includes four (4) tennis courts, a clubhouse, and two (2) accessory sheds associated with the maintenance of the facility. The tennis facility was approved through a Conditional Use Permit 04-CUP-02, on March 26, 2004.

Conclusion: Based on the findings above, the criteria **are/are not** met.

2. **Restrictions.** *A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way. No accessory structure or combination of such structures shall have a footprint any larger than 1.5 times the primary structure. This requirement may be waived by the Planning Director in the case of established and significant agricultural operations if the accessory structure is a barn or other similar structure;*

Recommended Findings: One easement has been identified on the property, a pipeline easement (Marathon Pipeline MPL – see Exhibit D) – this easement is not within proximity of the proposed development, nor does it appear the development is proposed

within 50 feet of the easement where restrictions would apply to development. Marathon Pipeline has requested coordination with their office during the design and construction phases of this project (if approved) to ensure compliance with their guidelines for construction near MPL infrastructure in accordance with Condition of Approval #7.

No easements have been identified by the applicant, the applicant is responsible for understanding and locating any easements on the subject property for depiction on the site plan in accordance with Condition of Approval #8.

Per the application narrative (Exhibit C): *“No easements are visible on the plat map, nor does the structure encroach within the public right-of-way.”*

The ±3,088 square foot primary structure allows a total accessory structure footprint of ±4,632 square feet. The total square footage of all accessory structures on site, which includes the existing detached garage (±1,092 square feet) and the proposed accessory structure (±2,750 square feet) equate to a total footprint of ±3,842 square feet, falling below the combined accessory structure footprint maximum permitted by the code.

It is the position of this application that additional structures on the property (see Attachment 2) should not be considered accessory to the single-family dwelling, as they were constructed and continue to support the grass tennis courts on the property. These tennis courts were permitted as a quasi-public use on the property in 2004. Since the time of their construction, the Baker City Development Code has undergone several revisions, all of which now classify the existing tennis courts and supporting structures as non-conforming uses. As such, and for the purposes of this application, all structures that are part of the grass tennis court use were not included in the accessory structure footprint calculations. While the grass tennis courts still exist on the subject property, they are not being used at the same level as originally permitted, with limited annual private and tournament play.”

The land use file does not provide specific information about the purpose of each of the additional structures on the property but does clearly establish that the tennis facility was permitted as a separate use from the dwelling.

Conclusion: Based on the findings above, the criteria **can/cannot** be met in accordance to Conditions of Approval #7 and #8.

3. Compliance with land division standards. *The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards;*

Recommended Findings: No land division is proposed.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

4. *Setback Requirements.* Accessory structures shall only be allowed in side or rear yards in the residential zones as established in the Table 2.2.120; and

Recommended Findings: Per the application and site plan material, the proposed accessory structure will be in the rear – side yard (south and east) of the existing dwelling (Exhibit C). Setback requirements are addressed above under Section 2.2.120.

Conclusion: Based on the findings above, the criteria **are/are not** met.

5. *Building Height and Size.* An accessory structure shall not exceed 1,200 ft² in size or 20 feet in height without first obtaining a Conditional Use Permit.

Recommended Findings: According to the application (Exhibit C), the proposed structure will measure ±2,570 square feet with a peak height of ±23.5 feet (Exhibit C). This application is being processed as a Type III Conditional Use Permit to allow for a structure greater than 1,200 square feet in size and a peak height greater than 20 feet.

Conclusion: Based on the findings above, the criteria **are/are not** met.

BCDC Section 4.2.400(D)(4) states “The application complies with all of the Design Standards in Article 3 and other City Ordinances

- ***ACCESS and CIRCULATION.*** Ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles.

Recommended Findings: Per the application narrative (Exhibit C): “The property is currently accessed via an existing driveway off of Grace Street. No modifications to the existing access plan are proposed and the accessory structure will utilize the same private driveway as the existing single-family dwelling. No sidewalks, curbs, or gutters are in place along Grace Street. The proposed accessory structure is not expected to generate any additional vehicle trips to the subject property.” As such, and in accordance with BCDC Section 3.4.200.A., the proposed development is considered *de minimus*.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- ***LANDSCAPE CONSERVATION.*** Significant vegetation and shrubs shall be retained to the extent practicable, and areas that must be disturbed shall be restored.

Recommended Findings: Baker City Development Code Section 3.2.200 (B) defines significant vegetation as, “trees and shrubs that have a diameter of 6 inches or larger at four (4) feet height.” According to the applicant’s narrative (Exhibit C): “No significant vegetation is proposed to be removed with this request.”

Per the site plan (Exhibit C), the proposed development will be placed within the confines of the tennis facilities eastern court, requiring the removal of grass vegetation.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- **PARKING.** *The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 3.3.300.A. On-street parking spaces may be counted toward the minimum standards as one (1) parallel parking space for each 22 feet of uninterrupted curb. BCDC Table 3.3.300.A identifies there is no standard for parking for Accessory Structures (with a permitted use), except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through...Conditional Use Permit review....*

Recommended Findings: The existing permitted use, a single-family dwelling, with a gravel driveway, provides at least two (2) on-site parking spaces. BCDC Table 3.3.300.A identifies there is no standard for parking for accessory structures. The placement of the accessory structure will not remove any parking used for the dwelling. Per the application narrative (Exhibit C), the existence of 5 parking spaces associated to the primary dwelling will not change and will meet the standards set forth in the BCDC.

The tennis facility does not have parking space counts associated with the approved conditional use permit (04-CUP-02). The findings of fact in the CUP decision (Exhibit F) state: “9) Driveway access to the tennis court are, while steep is paved and is adequate for emergency vehicle access. The parking on the site is adequate for the number of participants and visitors who come to the site and therefore there is no impact on on-street parking in the area. No public improvements are required for the continuation of this use.” The current development code has no parking provision for this type of use.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- **PUBLIC FACILITIES.** *No development may occur unless required public facilities are in place.*

Recommended Findings: The property is currently served by City water and two existing septic systems (one system for the primary dwelling the other for the tennis facility). No additional public facilities have been requested to serve the proposed accessory structure. If connection to public water or on-site septic are requested, they must adhere to Condition of Approval #5.

Conclusion: Based on the findings above, the criteria **can/cannot** be met in accordance with Condition of Approval #5.

BCDC Section 4.4.400 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 following 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;*

Recommended Findings: Per the application narrative (Exhibit C): “The subject property measures over 4 acres, providing ample space for all existing and proposed structures.

The property is situated on a steep hillside, with only the single-family dwelling visible from Grace Street to the north, and no portion of the property or structures thereon visible from Indiana Avenue to the south (Attachment 3). The dwelling and tennis courts fencing are visible from the intersection of Reservoir Road and 17th Street to the east-northeast (Attachment 3). All accessory structures and the existing grass tennis court facility and structures are located behind the home and away from view from public rights-of-way.

The height and mass of the proposed accessory structure will not disrupt the views of the neighboring homes to the south (947 and 967 Boulder Drive), as the subject property and all structures sit downhill from these homes (Attachment 5). Additionally, the proposed accessory structure will be located within the confines of the easternmost grass tennis court and an existing fenced area (chain-link and privacy slats), which will provide additional visual buffering. The existing overhead lights associated with the tennis courts are of a similar height to the proposed accessory structure, standing 20 feet tall.

Other accessory structures exist in the surrounding area, including a 30'x40' accessory structure on the property immediately to the east; a 34'x34' accessory structure on the property located southeast across Boulder Drive; and a 40'x60' structure located to the southwest on City-owned property. Additionally, two large water towers measuring 150' and 180' in diameter are visible on the hillside above the subject property (Attachment 4). Coupled with the myriad of homes and vegetation scattered across the undulating hillside, these structures will serve to camouflage the proposed accessory structure and ensure it does not stand out garishly within the landscape. When viewed from the east and west, the structure will be all but lost in the viewscape (Attachment 5). The proposed structure will be sided to match the existing dwelling in color and style.

Aside from the construction phase of development, no impacts relating to traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, or dust are anticipated, as the proposed accessory structure will be used solely to park vehicles and an RV, as well as for the storage of other personal items. Exterior lighting on the structure will be shielded

downwards so as not to cast glare on adjacent properties.”

The attachments mentioned in the above narrative may be found as part of the application materials (Exhibit C).

Conclusion: Based on the findings above, the criteria **are/are not** met.

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; and*

Recommended Findings: Per the application narrative (Exhibit C): *“The selected location of the proposed structure is interior to the property. Topography on site ensures that the structure will not loom over or block the views of surrounding homes to the south, as the proposed location of the structure is within the fenced, easternmost tennis court, which sits downhill from said homes. The proposed structure will be sided to match the existing dwelling in color and style, which currently blends well with the surrounding landscape. Existing light poles on the subject property (associated with the tennis courts) and the single-family dwelling are similar in height to the proposed structure, providing continuity in building scale on-site. The size of the proposed structure is the minimum required to accommodate the proposed use (RV, vehicle, and personal item storage), while simultaneously simplifying the construction process.”*

Conclusion: Based on the findings above, the criteria **are/are not** met.

3. *All required public facilities have adequate capacity to serve the proposal.*

Recommended Findings: According to the application narrative (Exhibit C), *“The property is currently served by City water service and two existing septic systems. No additional public facilities have been requested to serve the proposed accessory structure.”*

Conclusion: Based on the findings above, the criteria **are/are not** met.

- B. **Site Design Standards.** *The Site Design Review approval criteria (Section 4.2.400) shall be met.*

Recommended Findings: Site Design Review approval criteria are reviewed beginning on page 11 of this report.

Conclusion: Based on the findings above, the criteria and standards for site design review **are/are not** met.

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;*
- 2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;*
- 3. Requiring larger setback areas, lot area, and/or lot depth or width;*
- 4. Limiting the building or structure height, size or lot coverage, and/or location on the site;*
- 5. Designating the size, number, location and/or design of vehicle access points or parking areas;*
- 6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;*
- 7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;*
- 8. Limiting the number, size, location, height and/or lighting of signs;*
- 9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;*
- 10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;*
- 11. Requiring and designating the size, height, location and/or materials for fences;*
- 12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.2);*
- 13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the 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 3.1, and Section 3.1.300 in particular.*

Recommended Findings: All recommended conditions of approval are in Section VI of this report.

Conclusion: All conditions of approval contained in Section VI of this report shall/shall not be met.

BCDC Chapter 4.2 – Land Use Review and Site Design Review

BCDC Section 4.2.400(D) – Site Design Review Approval Criteria. *The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:*

- 1. The application is complete, as determined in accordance with Chapter 4.1 – Types of Applications and Section 4.2.400(C)*

Chapter 4.1 – Types of Review Procedure – This application is being processed as a Type III Site Design Review application. Chapter 4.2.400(C) – Application Submission Requirements; includes all of the submission requirements for a Site Design Review application.

Recommended Findings: On August 13, 2024, a complete application, site plan, and narrative were filed with the Baker City Planning Department that met the application submission requirements for a Conditional Use Permit. Because the building is accessory to a single-family dwelling, many site plan features were not required for this application. Notice of an opportunity to provide written comments was sent to all property owners within 100 feet of the subject property on September 20, 2024. On October 1, 2024, staff posted one (1) public notice sign in front of the subject property.

Conclusion: Based on the findings above, the criteria for a complete application **are/ are not** met.

2. *The application complies with all of the applicable provisions of the underlying Land Use District (Article 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;*
3. *The applicant may be required to upgrade existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;*
4. *The application complies with all of the Design Standards in Article 3 and other City Ordinances:*
 1. *Chapter 3.1 - Access and Circulation;*
 2. *Chapter 3.2 - Landscaping, Street Trees, Fences and Walls;*
 3. *Chapter 3.3 - Parking and Loading*
 4. *Chapter 3.4 - Public Facilities*
 5. *Chapter 3.5 - Signs;*
 6. *Chapter 3.6 - Radio Frequency Transmission Facilities;*
 7. *Baker City Design Review Guidelines for Historic District Properties.*
5. *Existing conditions of approval required as part of a prior Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.5) or other approval shall be met.*

Recommended Findings: This report has been written to determine if this application complies with the underlying Land Use District (Article 2) and Design Standards (Article 3). The criteria for Articles 2 and 3 are addressed throughout the report.

The applicant indicates in their narrative (Exhibit C) the tennis facility would be considered a non-conforming use due to code changes since the adoption and approval of 04-CUP-02. The expansion of the tennis facility is not considered with this application, no change of location to the use is proposed, a discontinuation of a portion (the easterly tennis courts) of

the tennis facility would be replaced by a conforming use (the accessory structure) if approved through this conditional use permit.

No records of unmet conditions of approval from a previous land division, Conditional Use Permit, Master Planned Development, or other land use approval were found by Planning staff.

Conclusion: Based on the findings above, the criteria **are/are not met**.

V. SUMMARY CONCLUSIONS & PLANNING COMMISSION DECISION

The Commission may approve, approve with conditions, or deny this request. The Commission may, at its discretion, add, delete, or modify proposed conditions of approval.

A Conditional Use Permit may be allowed if the request meets all applicable criteria and standards. The applicant **has/has not** demonstrated that this request for a Conditional Use Permit to construct a ±2,750 square foot accessory structure with a peak height of ±23.5 feet, meets or is able to meet through Conditions of Approval, all of the applicable review criteria and development standards.

Therefore, based on the information contained in Sections I through IV of this report, and the above review criteria, findings of fact, and conclusions and public testimony received, the Conditional Use Permit request, CUP-24-088, is hereby **APPROVED/DENIED**, subject to the conditions contained in Section VI of this report.

VI. RECOMMENDED CONDITIONS OF APPROVAL

Should the Commission choose to approve the requested Conditional Use Permit, staff recommends that the following conditions be attached to the approval:

1. **Approval Period.** Conditional Use Permit approval shall be effective for a period of **ONE YEAR** from the date of approval. The approval shall lapse if a building permit application for the project has not been submitted to the Baker City Building Department within one year from the date of this decision.
2. **Building and Fire Codes.** All development shall meet applicable fire and building code standards.
3. **Building Permits.** Applicant or property owners shall apply for and obtain all necessary permits through the Baker City Building Department and have all necessary inspections completed for the proposed development. All required inspections shall be coordinated through the Baker City Building Department.
4. **Lighting.** Outdoor lighting on the proposed building shall be of low intensity and directed down onto the structure itself so as to not shine onto adjacent properties.

5. **Public Facilities: Water & Wastewater Service.** Connection of the proposed accessory to existing water and wastewater services was not identified with this application.

Water System Connections: If connection to the existing water service is requested for this proposed development, it will be coordinated with the Baker City Public Works Department prior to installation. All water system installation requirements must be met as required by BCDC Chapter 3.4.500 and shall be installed prior to issuance of a Certificate of Occupancy.

Wastewater System Connections: If connection to the existing septic system is requested for this proposed development, it will be coordinated through the Oregon Department of Environment Quality (DEQ). Two septic systems exist on the property, one associated to the Dwelling and the other associated to the tennis facility. If connection is requested, the proposed accessory structure will connect to the primary dwelling septic system and obtain approval from DEQ regarding the ability of the existing system to accept the new capacity. This shall be completed prior to issuance of a Certificate of Occupancy to the proposed accessory structure.

6. **Utilities.** Connection to utilities was not proposed with this application. If requested the applicant shall coordinate with the appropriate entities to connect the proposed accessory structure to underground utility lines to the extent practical, in conformance with City standards.
7. **Marathon Pipeline (MPL) Coordination.** Prior to obtaining structural permits, the applicant shall coordinate with representatives of MPL to provide opportunity for review and comment of design plans prior to final approval for construction.
8. **Easements.** The applicant is responsible for understanding the location of any easements on the property and accurately depicting them on the site plan. Regardless of whether the easement is shown on the site plan, a structure shall not be placed over an easement that prohibits such placement.

VII. EXHIBITS

- | | |
|------------|---|
| Exhibit A: | Assessor's Map |
| Exhibit B: | ArcGIS Aerial View of Subject Property |
| Exhibit C: | Application, Narrative Information and Site plan with Graphics |
| Exhibit D: | Pre-Notice Comments |
| Exhibit E: | Zoning Map |
| Exhibit F: | Conditional Use Permit Decision – 04-CUP-02 (Grass Tennis Court Facility) |
| Exhibit G: | Deck Images |

Tax Lot 801 in Section 19ad of Township 9 South, Range 40 East,
W.M., Baker County, Oregon (Ref. 17937)

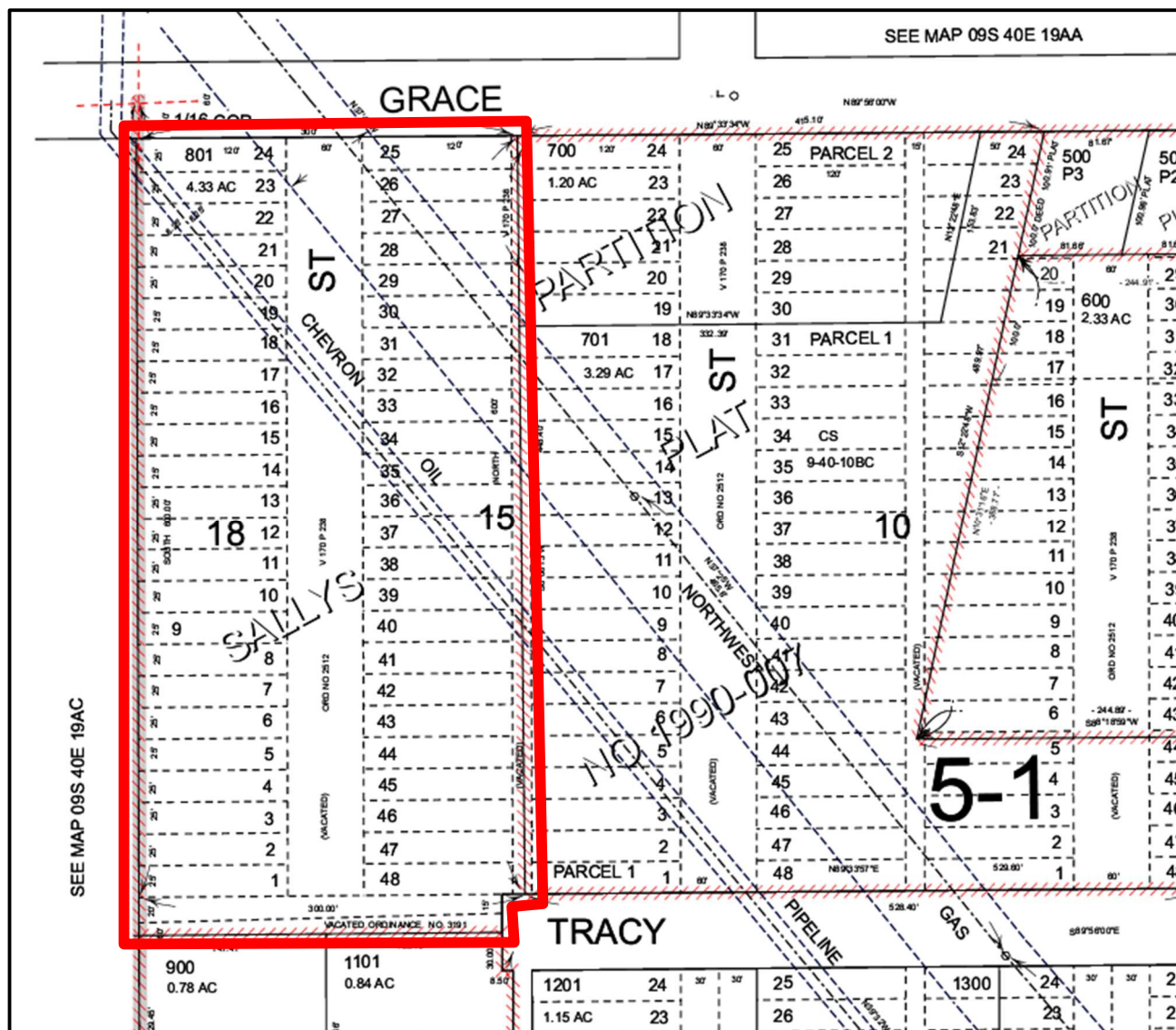


Exhibit B: ArcGIS Aerial View of Subject Property
Tax Lot 801 in Section 19ad of Township 9 South, Range 40 East,
W.M., Baker County, Oregon (Ref. 17937)

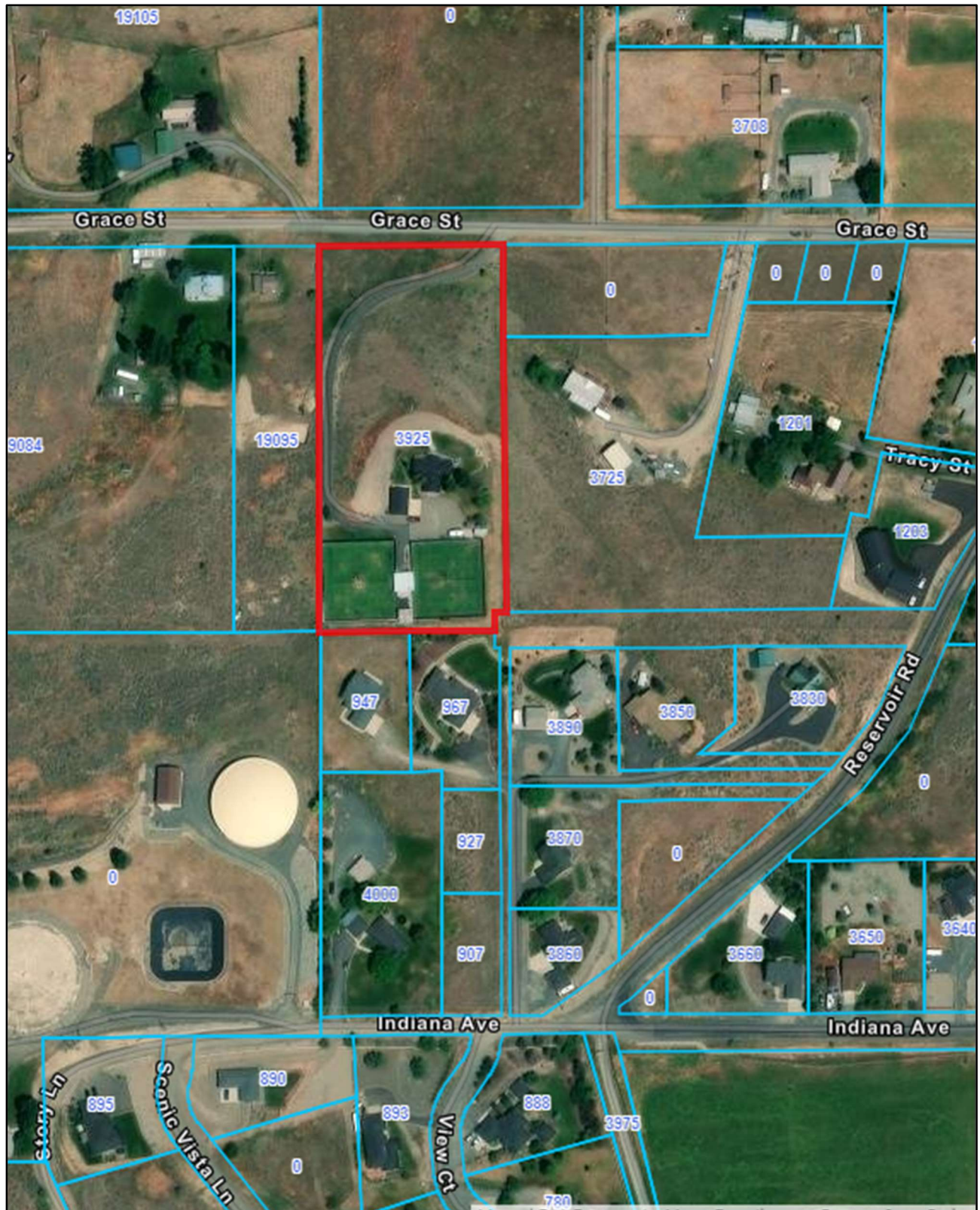


Exhibit C: Application, Narrative Information and Site Plan with Graphics

DigiSign Verified - b0fe9f6e-c352-4177-a714-ae80c5fedc74

BAKER CITY-COUNTY PLANNING DEPARTMENT



1995 Third Street | Suite 131 | Baker City, OR | 97814
Phone: (541) 523-8219 | Fax: (541) 523-8340



APPLICATION FOR A CONDITIONAL USE PERMIT

124-24-100150-PLNG
App. No.: CUP-24-088 City Planning: 101-131-3-40-4104
Date Submitted: 8/13/24 Received by: [Signature]
Fee Collected: \$ 450 Date Paid: 8/13/24

MAKE CHECKS PAYABLE TO: BAKER COUNTY PLANNING

PROPOSED USE: Accessory structure with an area of 2,750 square feet and a peak height of 23.5 feet
23.5

APPLICANT			PROPERTY OWNER		
Atlas Land Use Consulting (Eva Henes)			McLagan, Jon & Susan		
Last Name	First	MI	Last Name	First	MI
42692 Pocahontas Road			PO Box 507 3925 Grace St.		
Mailing Address			Mailing Address		
Physical Address			Physical Address		
Baker City	OR	97814	Baker City	OR	97814
City	State	Zip	City	State	Zip
541-403-3123					
Telephone			Telephone		
atlaslanduseconsulting@gmail.com					
Email			Email		

PROPERTY INFORMATION

Property Address: 3925 Grace Street Zone: RMD

Township 09s Range 40e Section 19ad Tax Lot 801 Ref. 17937

Township Range Section Tax Lot Ref.

Was a pre-application conference held for this project? ☐ Yes ☒ No

Are there additional reviews pending? ☐ Yes ☒ No If yes, File #:

NOTICE TO APPLICANT: On original application form, please print legibly using black/dark blue ink or type. Applicants are advised to review the list of submittal requirements and recommendations indicated on each land use application form and in the applicable Code Section prior to submitting an application. Incomplete applications will not be scheduled for review until the Planning Department receives all required submittal materials. Failure to provide materials or address the approval criteria in sufficient detail may cause your application to be delayed or denied.

ADDITIONAL PROJECT TEAM MEMBERS. Please include any other parties you wish to receive notice and staff report(s).

Name: _____ Phone: _____

Mailing Address: _____ Email: _____

Name: _____ Phone: _____

Mailing Address: _____ Email: _____

NOTICE TO APPLICANT: By signing, the applicant certifies the information provided herein is accurate and that he/she is authorized to make the application and that there are no covenants, conditions or restrictions (CC&Rs) that may limit or prohibit the proposed adjustment. The City of Baker City does not monitor, nor have enforcement authority over CC&Rs.

Applicant Signature: Eva Henes Date: 8/4/24

Property Owner(s) Signature: Susan McLagan Date: 08/12/2024

Jon McLagan Date: 08/12/2024

*** Note: If the applicant is not the owner, by signing, the owner hereby grants permission for the applicant to act in his/her behalf concerning this application.

APPLICATION SUBMISSION REQUIREMENTS – All materials shall be submitted in complete, collated application packets. Packets shall be stapled, bound, or otherwise attached to prevent loss of individual sheets or parts.

- Original **APPLICATION FORM** signed by all parties. Multiple forms may be used if necessary.
- **NARRATIVE** including all approval criteria and your responses.
- **SITE PLAN** showing existing conditions and proposed changes. All site plans should be printed at 1" = 20' scale; 1:40 or 1:100 scale may be used for very large projects. All materials larger than 8 ½ X 11 shall be folded to 8 ½ X 11 size.

MAKING FINDINGS – A conditional use may be approved if the Planning Commission finds the application conforms to the criteria found in the Development Code and the applicable development standards. Before the Planning Commission can approve an application, the applicant must submit information that adequately supports the application. **The applicant bears the burden of proof to show that the criteria are met.**

FORMAT FOR FINDINGS – Statements addressing individual criteria consist of two parts:

1. Factual information, such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: onsite inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

EXAMPLE: **Criterion:** *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.*

APPLICABLE CRITERIA

BCDC Table 2.2.110 Land Uses Allowed in Residential Zones. This table identifies "Accessory Structures (with a permitted use) per Section 2.2.200(B) – taller than 20ft or larger than 1,200 square feet of building footprint" requires a Conditional Use Permit.

BCDC Section 4.4.100 Conditional Use Permits – Purpose. There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by case review and analysis. These are identified as "Conditional Uses" in Article 2 – Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate, and if other appropriate conditions of approval can be met.

Findings: The existing single-family dwelling serves as the primary use of the property. This request is for the construction of a ±2,750 square foot accessory structure with a proposed height of ±25.5-feet; therefore, the applicant is required to apply for a Conditional Use Permit.

BCDC Section 2.2.120 Residential Districts – Development Standards.

- **BUILDING/YARD SETBACKS.** Table 2.2.120 identifies the setback standards for Residential Districts. Setbacks for accessory structures are 5 feet on the side, 10 feet in the rear, and 15 feet in the front. (Exceptions: Corner Lot side-yard facing row is 10-feet; alley is 1-foot; common walls/zero lot line is 0-feet.)

Findings: The proposed structure will be located ±71 feet from the east property line, ±91 feet from the south property line, ±200 feet from the west property line, and ±486 feet from the north property line.

- **LOT AREA.** The R-MD zone requires a minimum lot area of 7,500 square feet for Single Family Detached developments.

Findings: According to Assessor's records, the subject property measures ±4.21 acres, or ±183,387.6 square feet.

- **LOT DIMENSIONS.** All residential zones require a minimum lot width of 50 feet, and a minimum lot depth of 100 feet, for Residential Uses.

Findings: The subject property measures ±300 feet wide and ±625 feet deep.

- **DENSITY.** *The minimum and maximum dwelling units per acre in the R-MD zone are 2.0 to 20.*

Findings: The subject property measures ± 4.21 acres and has one existing single-family dwelling with a single accessory structure (detached garage). The current density is ± 0.24 dwellings per acre. The proposed development will not increase or decrease the number of dwelling units per acre, and is sited on the property in such a way so that future division, access, and construction of homes is possible.

- **LOT COVERAGE.** *The maximum building coverage in residential zones is 50% for a single family detached development.*

Findings: According to Assessor's records, the existing primary structure measures $\pm 1,988$ square feet. This figure, however, does not take into account several exterior deck spaces that are attached to the dwelling, measuring a total of $\pm 1,100$ square feet. This results in a total footprint of $\pm 3,088$ square feet. A $\pm 1,092$ square foot detached garage also exists on site and is accessory to the single-family dwelling. Additional structures exist on site, both of which are associated with the grass tennis courts: a ± 630 square foot clubhouse, a ± 200 square foot storage building, and a ± 352 square foot shed. In total, all structures on site equate to $\pm 5,362$ square feet. The proposed accessory structure will measure $\pm 2,750$ square feet. Post-construction, the total area of all structures on the subject property will measure $\pm 8,112$ square feet. According to Assessor's records, the property measures $\pm 183,387.6$ square feet; therefore, the total lot coverage will be $\pm 4.4\%$.

- **BUILDING HEIGHT.** *Table 2.2.120 identifies the height standards for Residential Districts. The maximum height for an accessory structure is 20 feet. The maximum eave height for an accessory structure is 12 feet.*

Findings: The height of the proposed accessory structure is ± 25.5 feet. The Baker City Development Code Section 2.2.200.B. states, "An accessory structure shall not exceed 1,200 ft² in size or 20 feet in height without first obtaining a Conditional Use Permit." This request is for a Conditional Use Permit to construct a $\pm 2,750$ square foot accessory structure with a ± 25.5 -foot peak height in the R-MD Zone.

- **BCDC Section 2.2.200(B) Accessory Uses and Structures.** *Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use of a structure on the same or an adjacent lot held in common ownership. Typical accessory structures in the residential districts*

include detached garages, sheds, workshops, green houses and similar structures (see definitions). All accessory structures shall comply with all of the following standards:

1. *Primary use required.* *An accessory structure shall not be allowed without another principal permitted use on the same parcel or an adjacent parcel held in common ownership. The accessory use may be constructed after the establishment of a principal use or in conjunction with the establishment of a principle use;*

Findings: A single-family dwelling currently exists on the property. The accessory structure is proposed to be constructed to the southeast of this dwelling, on the same piece of property.

2. *Restrictions.* *A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way. No accessory structure or combination of such structures shall have a footprint any larger than 1.5 times the primary structure. This requirement may be waived by the Planning Director in the case of established and significant agricultural operations if the accessory structure is a barn or other similar structure;*

Findings: No easements are visible on the plat map, nor does the structure encroach within the public right-of-way.

The ±3,088 square foot primary structure allows a total accessory structure footprint of ±4,632 square feet. The total square footage of all accessory structures on site, which includes the existing detached garage (±1,092 square feet) and the proposed accessory structure (±2,750 square feet) equate to a total footprint of ±3,842 square feet, falling below the combined accessory structure footprint maximum permitted by the code.

It is the position of this application that additional structures on the property (see Attachment 2) should not be considered accessory to the single-family dwelling, as they were constructed and continue to support the grass tennis courts on the property. These tennis courts were permitted as a *quasi-public* use on the property in 2004. Since the time of their construction, the Baker City Development Code has undergone several revisions, all of which now classify the existing tennis courts and supporting structures as *non-conforming* uses. As such, and for the purposes of this application, all structures that are part of the grass tennis court use were not included in the accessory structure footprint calculations. While the grass tennis courts still exist on the

subject property, they are not being used at the same level as originally permitted, with limited annual private and tournament play. Nonetheless, there are still two primary uses on the property – 1) the residence, and 2) the tennis courts.

3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards;

Findings: No land division is proposed.

4. Set-back Requirements. Accessory structures shall only be allowed in side or rear yards in the residential districts as established in the Table 2.2.120;

Findings: The proposed accessory structure is located in the rear, side yard in relation to the existing dwelling and street frontage.

5. Building Height and Size. An accessory structure shall not exceed 1,200 square feet in size or 20 feet in height without first obtaining a Conditional Use Permit.

Findings: The proposed structure measures $\pm 2,750$ square feet with a peak height of ± 25.5 feet. This application is for a Conditional Use Permit.

BCDC Section 4.2.400(D)(4) states “The application complies with all of the Design Standards in Article 3 and other City Ordinances

- **ACCESS and CIRCULATION.** Ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles.

Findings: The property is currently accessed via an existing driveway off of Grace Street. No modifications to the existing access plan are proposed and the accessory structure will utilize the same private driveway as the existing single-family dwelling. No sidewalks, curbs, or gutters are in place along Grace Street. The proposed accessory structure is not expected to generate any additional vehicle trips to the subject property.

- **LANDSCAPE CONSERVATION.** Significant vegetation and shrubs shall be retained to the extent practicable, and areas that must be disturbed shall be restored.

Findings: No significant vegetation is proposed to be removed with this request.

- **PARKING.** *The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 3.3.300.A. On-street parking spaces may be counted toward the minimum standards as one (1) parallel parking space for each 22 feet of uninterrupted curb. BCDC Table 3.3.300.A identifies there is no standard for parking for Accessory Structures (with a permitted use), except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through...Conditional Use Permit review....*

Findings: The existing, permitted use, a single-family dwelling, is (and will continue to be) served by a minimum of 5 parking spaces which meet the dimensional standards of the BCDC. The proposed location of the accessory structure will not remove any parking used for the existing dwelling. BCDC Table 3.3.300.A states there are additional parking spaces required for accessory structures.

- **PUBLIC FACILITIES.** *No development may occur unless required public facilities are in place.*

Findings: The property is currently served by City water service and two existing septic systems. No additional public facilities have been requested to serve the proposed accessory structure.

BCDC Section 4.4.400 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 following 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 subject property measures over 4 acres, providing ample space for all existing and proposed structures.

The property is situated on a steep hillside, with only the single-family dwelling visible from Grace Street to the north, and no portion of the property or structures thereon visible from Indiana Avenue to the south

(Attachment 3). The dwelling and tennis courts fencing are visible from the intersection of Reservoir Road and 17th Street to the east-northeast (Attachment 3). All accessory structures and the existing grass tennis court facility and structures are located behind the home and away from view from public rights-of-way.

The height and mass of the proposed accessory structure will not disrupt the views of the neighboring homes to the south (947 and 967 Boulder Drive), as the subject property and all structures sit downhill from these homes (Attachment 5). Additionally, the proposed accessory structure will be located within the confines of the easternmost grass tennis court and an existing fenced area (chain-link and privacy slats), which will provide additional visual buffering. The existing overhead lights associated with the tennis courts are of a similar height to the proposed accessory structure, standing 20 feet tall.

Other accessory structures exist in the surrounding area, including a 30'x40' accessory structure on the property immediately to the east; a 34'x34' accessory structure on the property located southeast across Boulder Drive; and a 40'x60' structure located to the southwest on City-owned property. Additionally, two large water towers measuring 150' and 180' in diameter are visible on the hillside above the subject property (Attachment 4). Coupled with the myriad of homes and vegetation scattered across the undulating hillside, these structures will serve to camouflage the proposed accessory structure and ensure it does not stand out garishly within the landscape. When viewed from the east and west, the structure will be all but lost in the viewscape (Attachment 5). The proposed structure will be sided to match the existing dwelling in color and style.

Aside from the construction phase of development, no impacts relating to traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, or dust are anticipated, as the proposed accessory structure will be used solely to park vehicles and an RV, as well as for the storage of other personal items. Exterior lighting on the structure will be shielded downwards so as not to cast glare on adjacent properties.

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; and*

Findings: The selected location of the proposed structure is interior to the property. Topography on site ensures that the structure will not loom over or block the views of surrounding homes to the south, as the proposed

location of the structure is within the fenced, easternmost tennis court, which sits downhill from said homes. The proposed structure will be sided to match the existing dwelling in color and style, which currently blends well with the surrounding landscape. Existing light poles on the subject property (associated with the tennis courts) and the single-family dwelling are similar in height to the proposed structure, providing continuity in building scale on-site. The size of the proposed structure is the minimum required to accommodate the proposed use (RV, vehicle, and personal item storage), while simultaneously simplifying the construction process.

3. *All required public facilities have adequate capacity to serve the proposal.*

Findings: The property is currently served by City water service and two existing septic systems. No additional public facilities have been requested to serve the proposed accessory structure.

- B. Site Design Standards.** *The Site Design Review approval criteria (Section 4.2.400) shall be met.*

Findings: Site Design Review approval criteria have been satisfied with the completion of the application form, application fee, site plan, and written narrative.

- 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;*
2. *Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;*
3. *Requiring larger setback areas, lot area, and/or lot depth or width;*
4. *Limiting the building or structure height, size or lot coverage, and/or location on the site;*
5. *Designating the size, number, location and/or design of vehicle access points or parking areas;*
6. *Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;*
7. *Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;*
8. *Limiting the number, size, location, height and/or lighting of signs;*

9. *Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;*
10. *Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;*
11. *Requiring and designating the size, height, location and/or materials for fences;*
12. *Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.2);*
13. *Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the 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 3.1, and Section 3.1.300 in particular.*

Findings: The property owner is open to discussing additional ways potential negative impacts from the proposed structure could be mitigated.

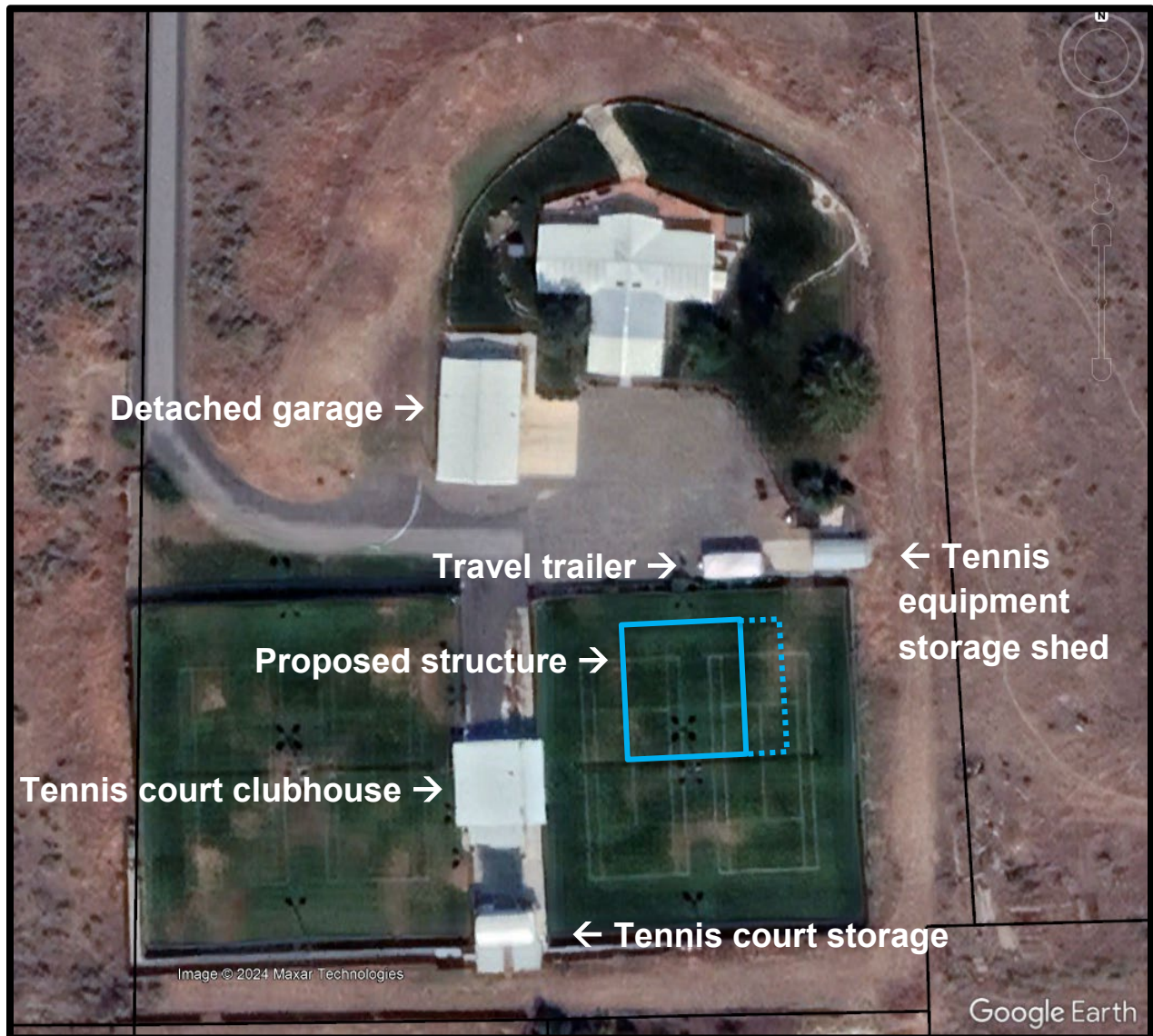
ATTACHMENTS

- 1: Site Plan
- 2: Existing Structures On-Site, Including Uses
- 3: View of Subject Property from Surrounding Public Rights-of-Way
- 4: Aerial View of Subject Property and Surrounding Area
- 5: Site Photos
- 6: Proposed Building Design

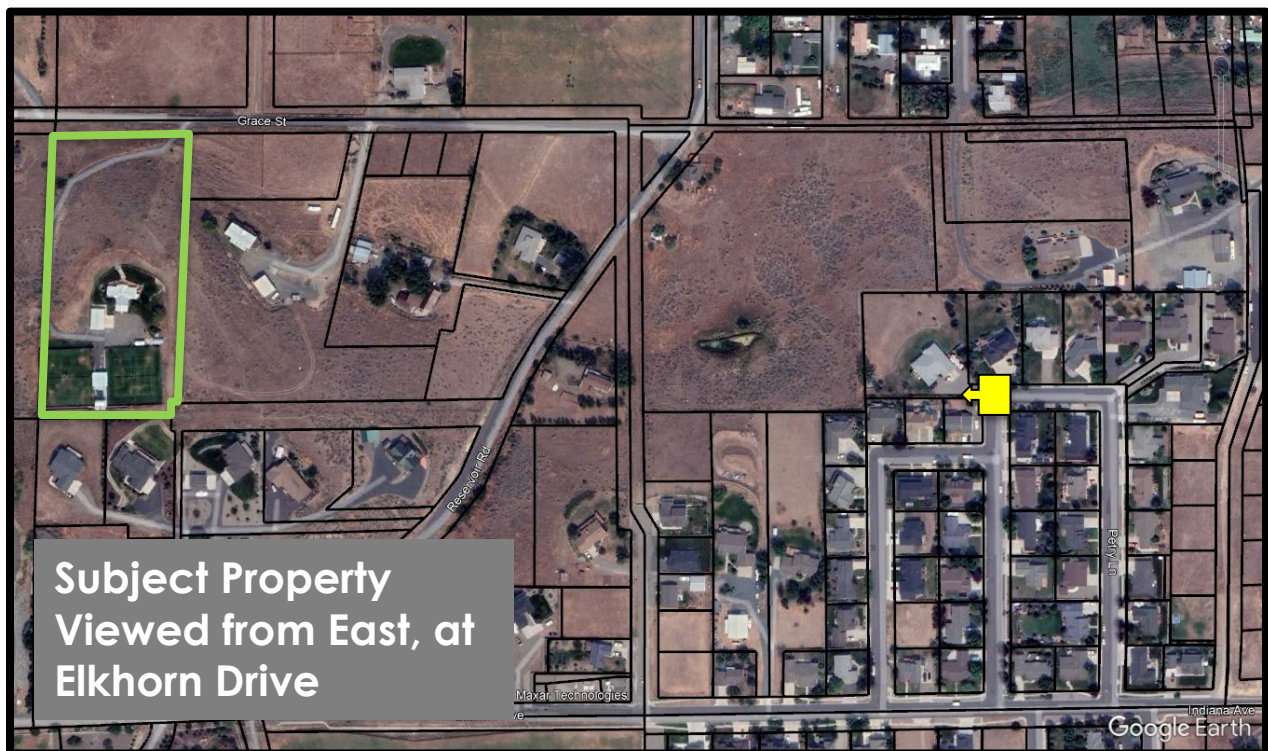
Attachment 1 – Site Plan

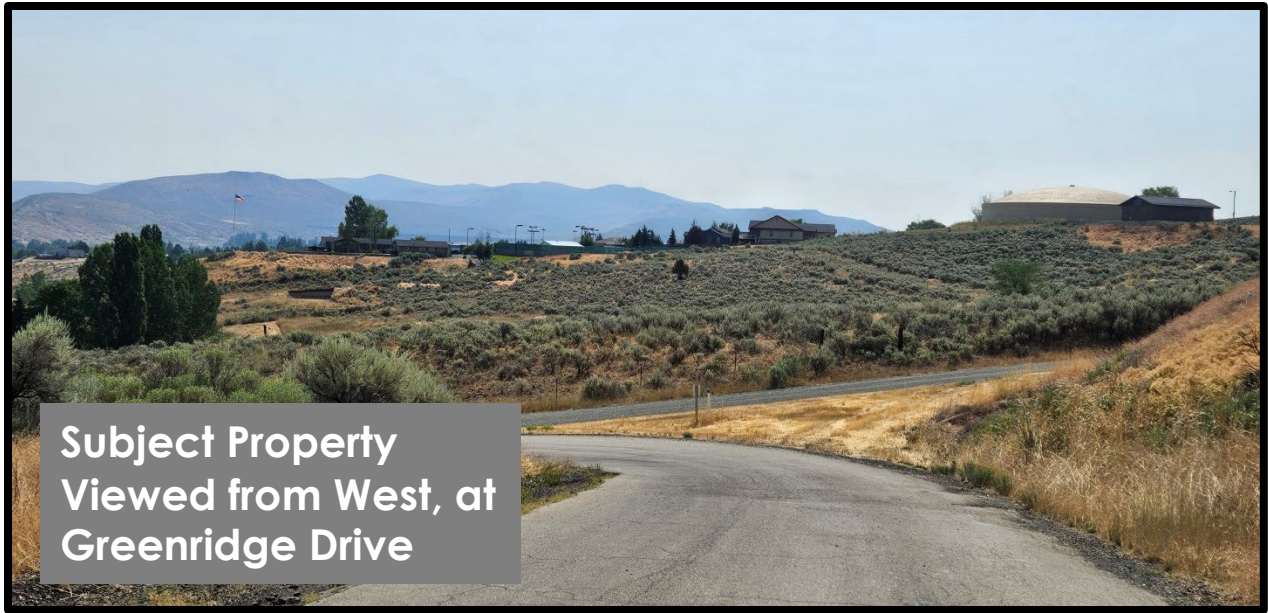


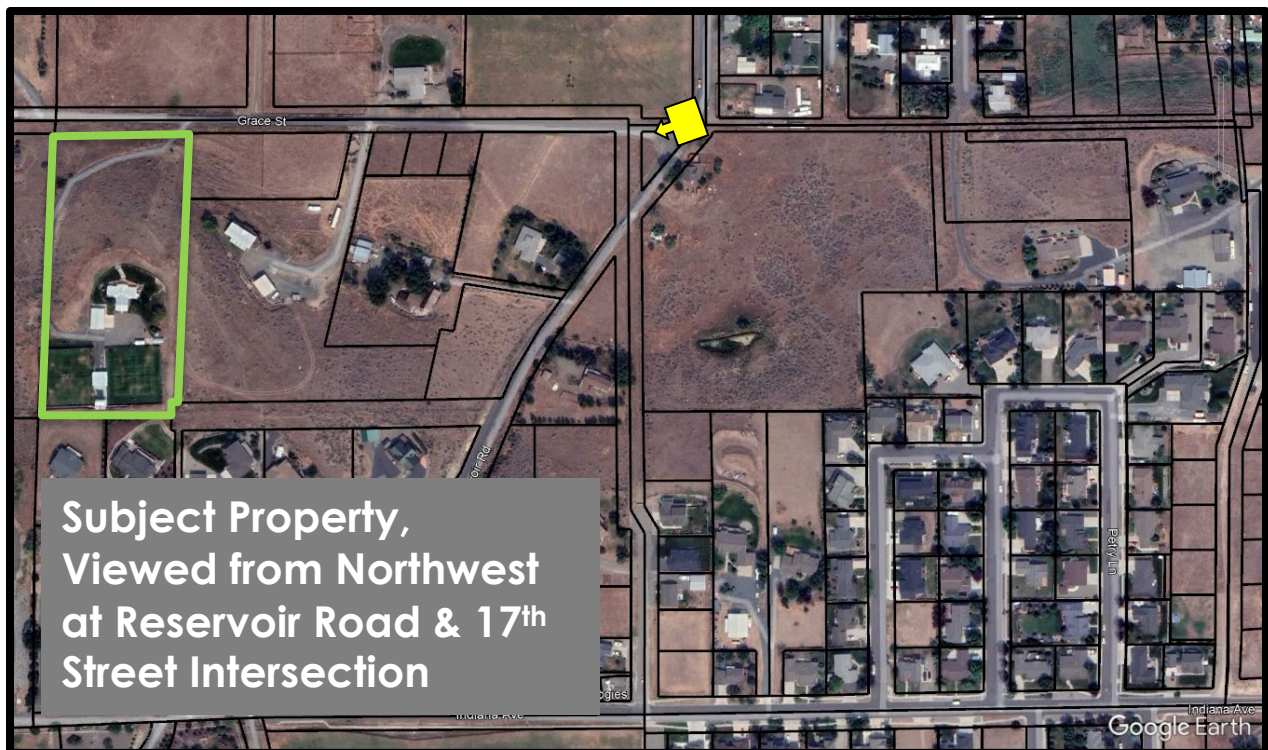
Attachment 2 - Existing Structures On-Site, Including Uses

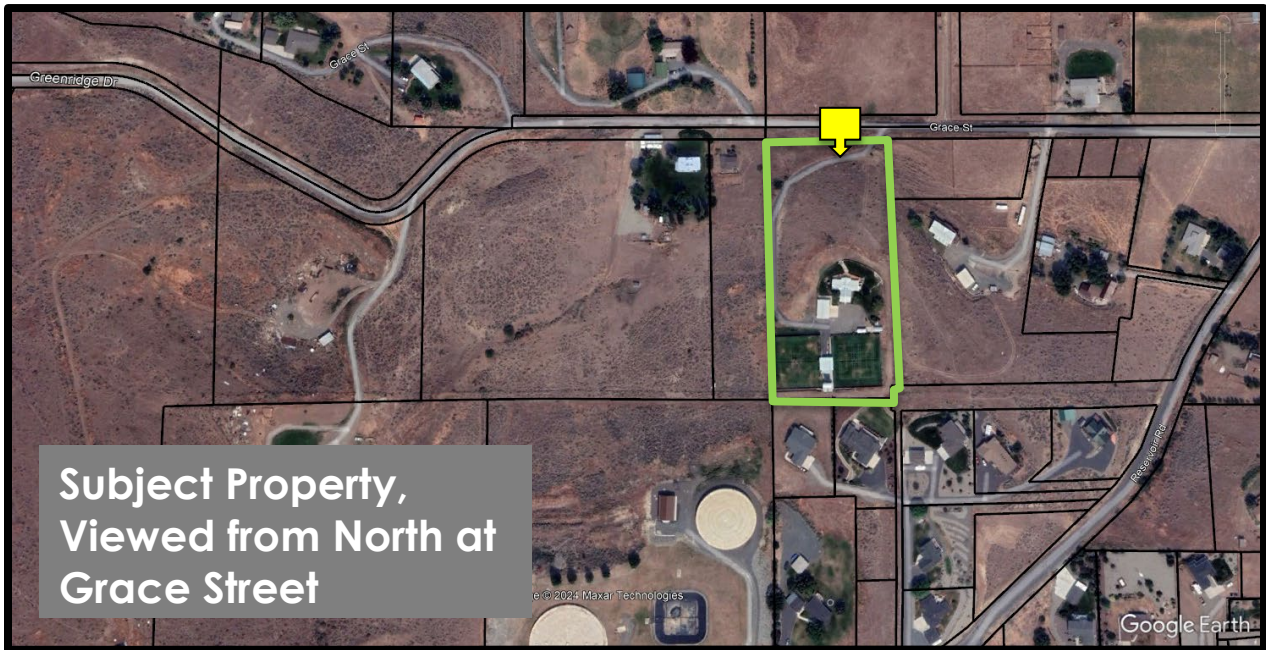


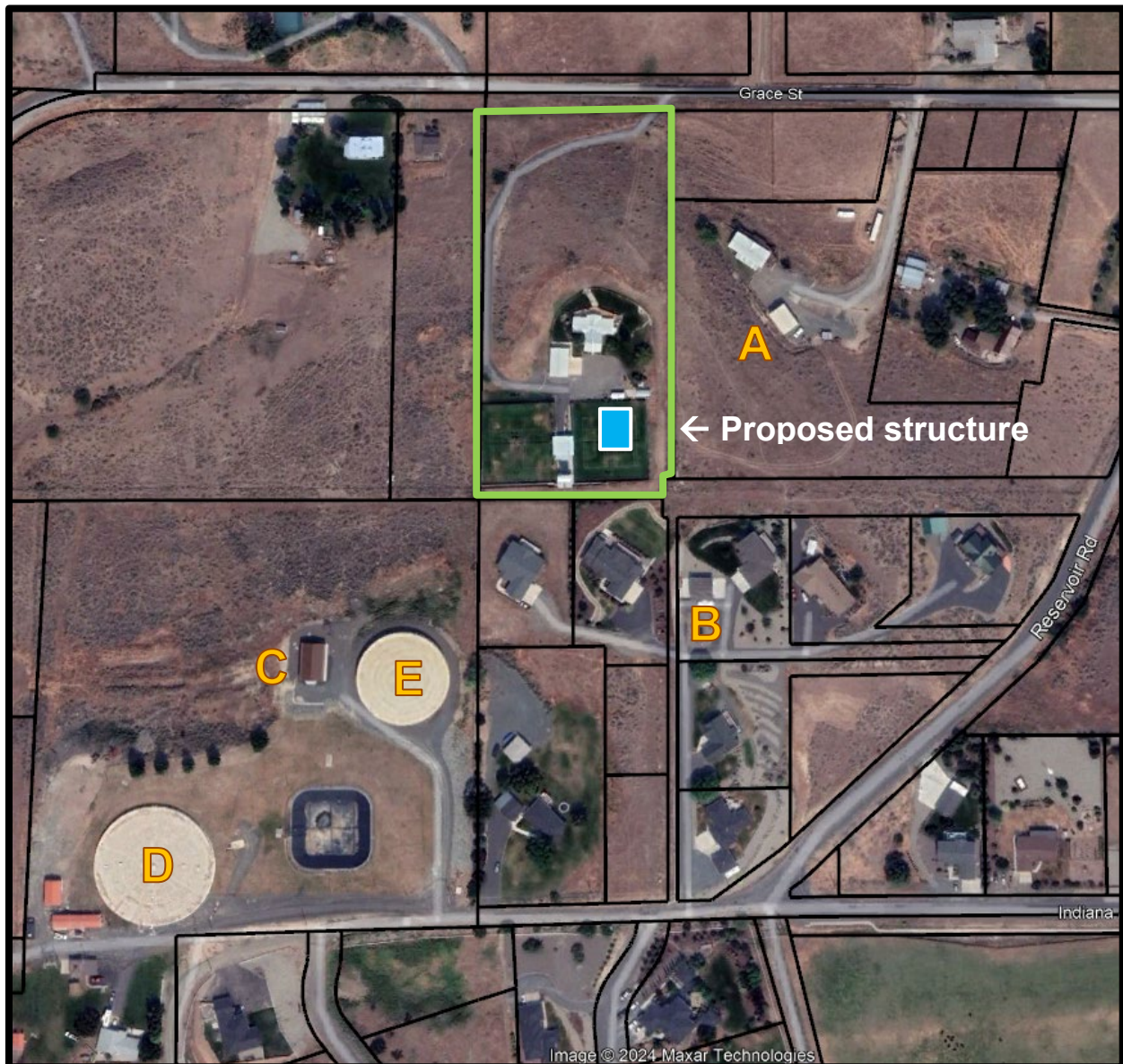
Attachment 3 - View of Subject Property from Surrounding Public Rights-of-Way









Attachment 4: Aerial View of Subject Property and Surrounding Area

- A – 30'x40' accessory structure on the property immediately to the east; a
B – 34'x34' accessory structure
C – 40'x60' structure
D – water tower (180' in diameter)
E – water tower (150' in diameter)

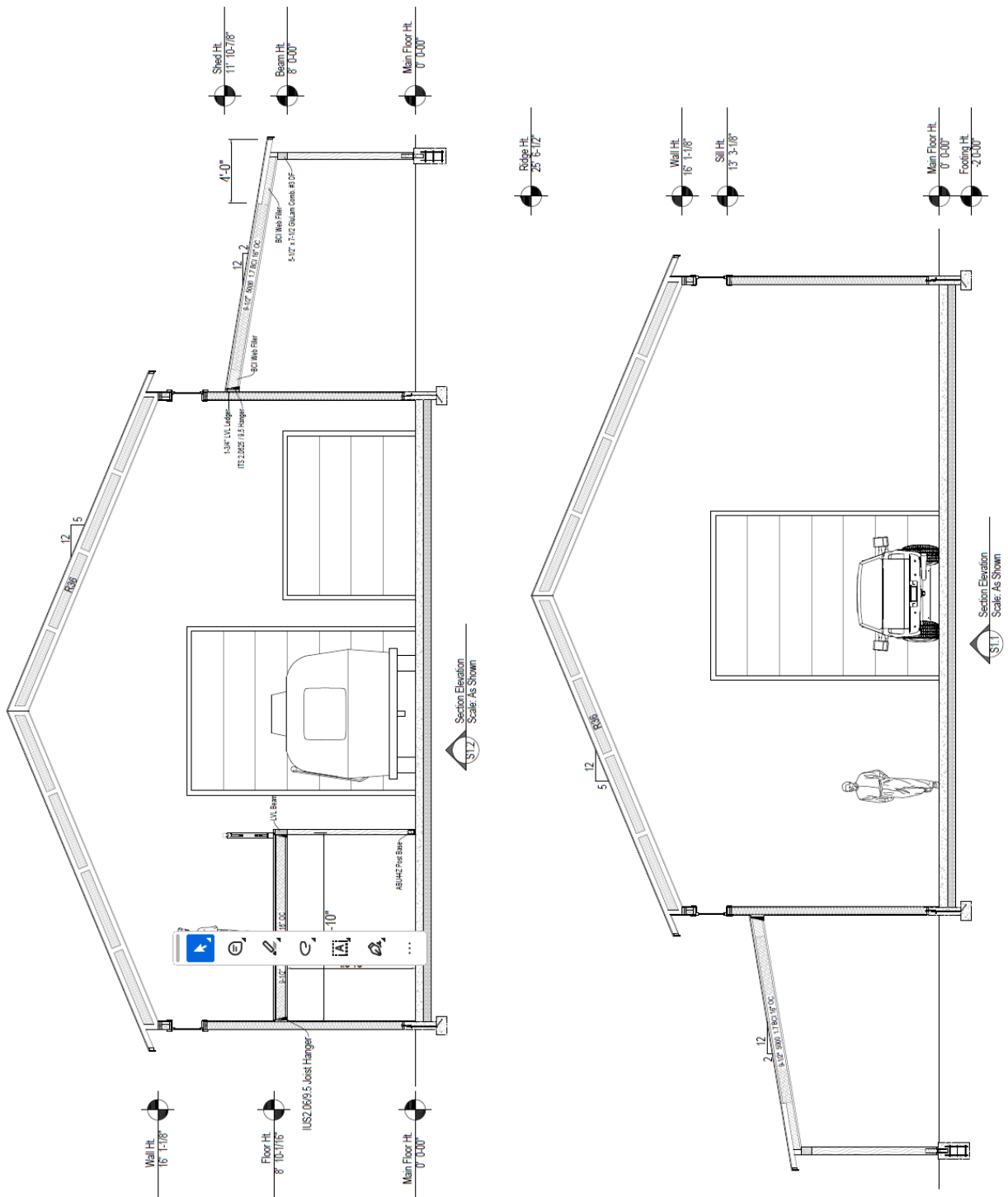
Attachment 5: Site Photos

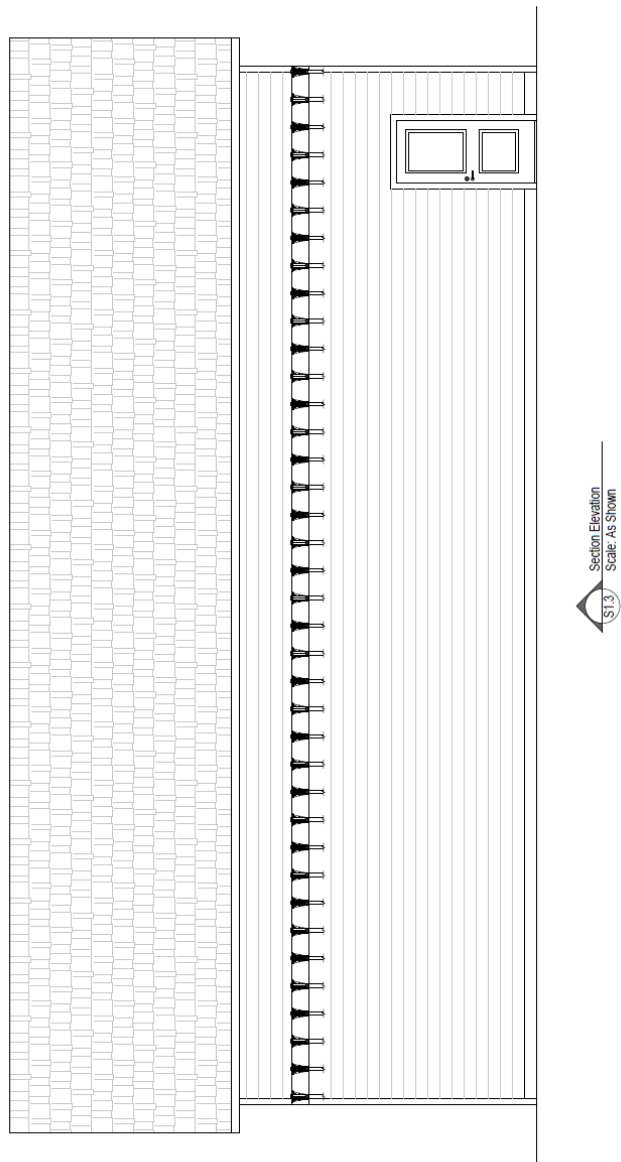
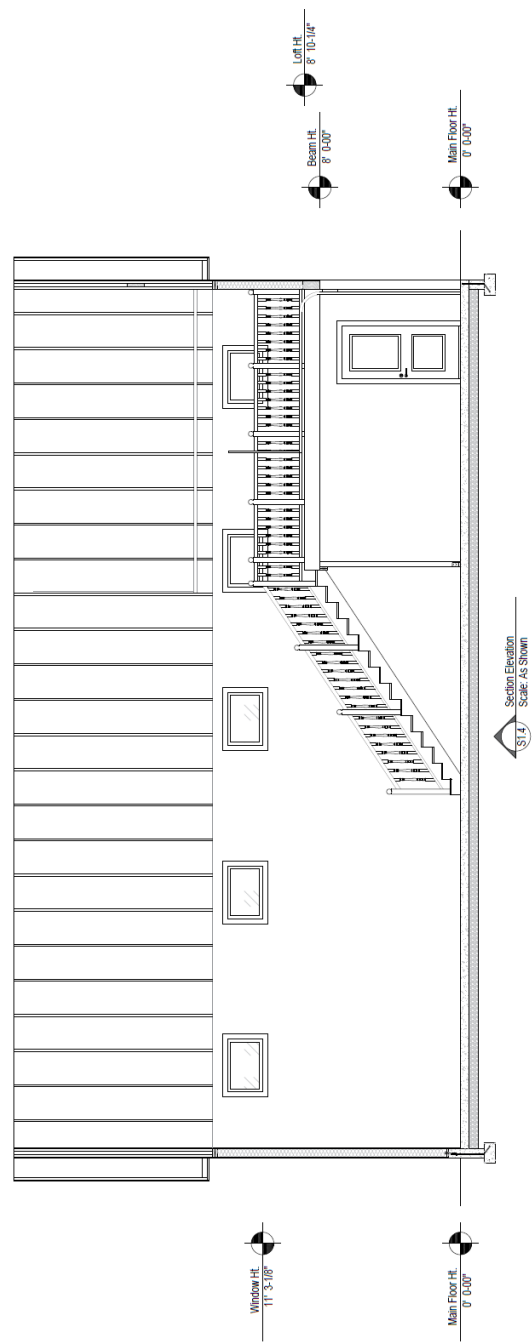


**View from 967 Boulder Drive,
located to the southeast of the
subject property**



Attachment 6: Proposed Building Design





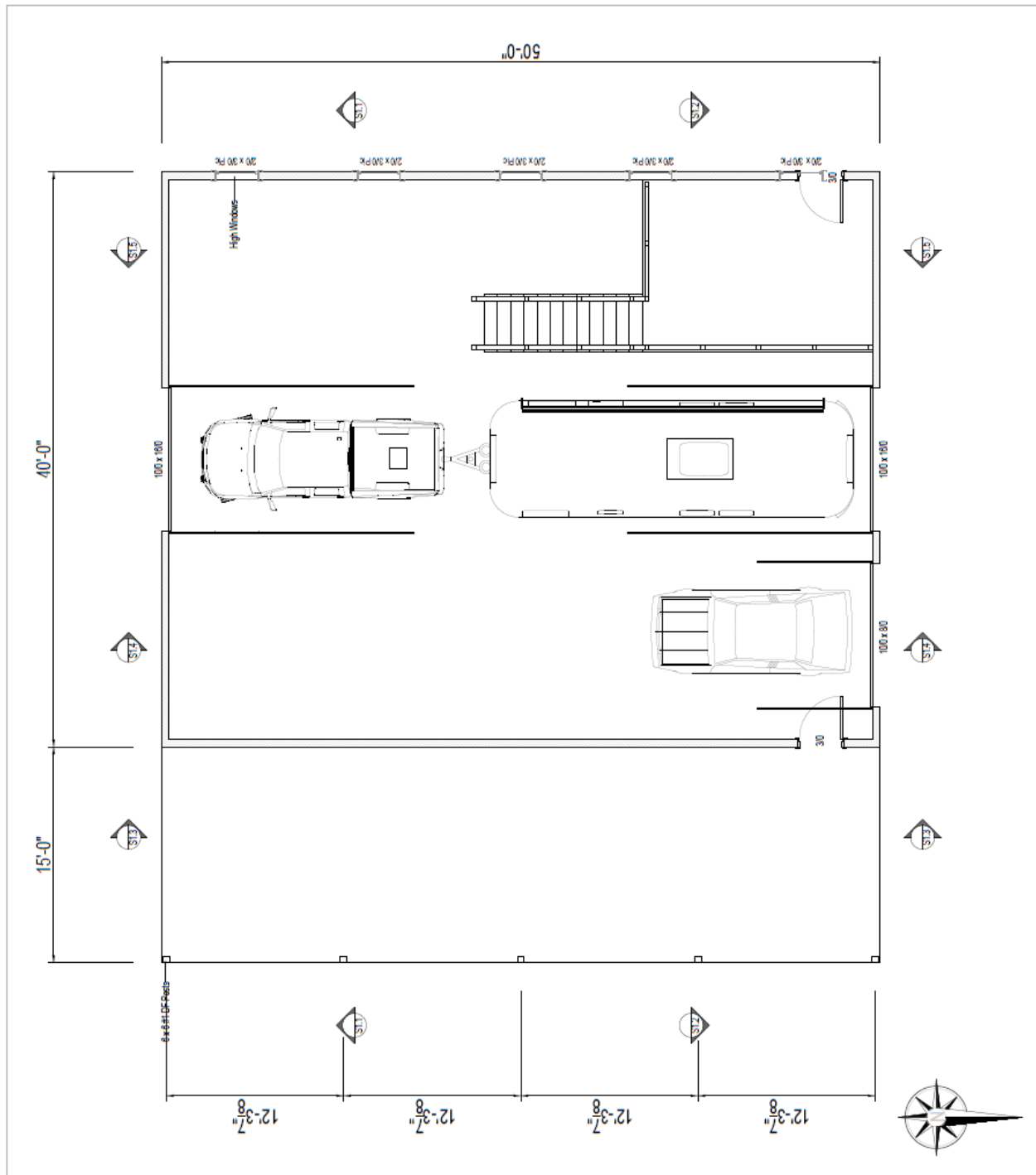
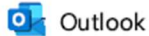


Exhibit D: Pre-Notice Comments

Marathon Pipeline Comments

9/23/24, 1:41 PM

Mail - Holly Kerns - Outlook



RE: [EXTERNAL] Public Notice for Conditional Use Permit at 3925 Grace Street

From Kline, Midge A. <MAKline2@marathonpetroleum.com>

Date Mon 9/23/2024 8:33 AM

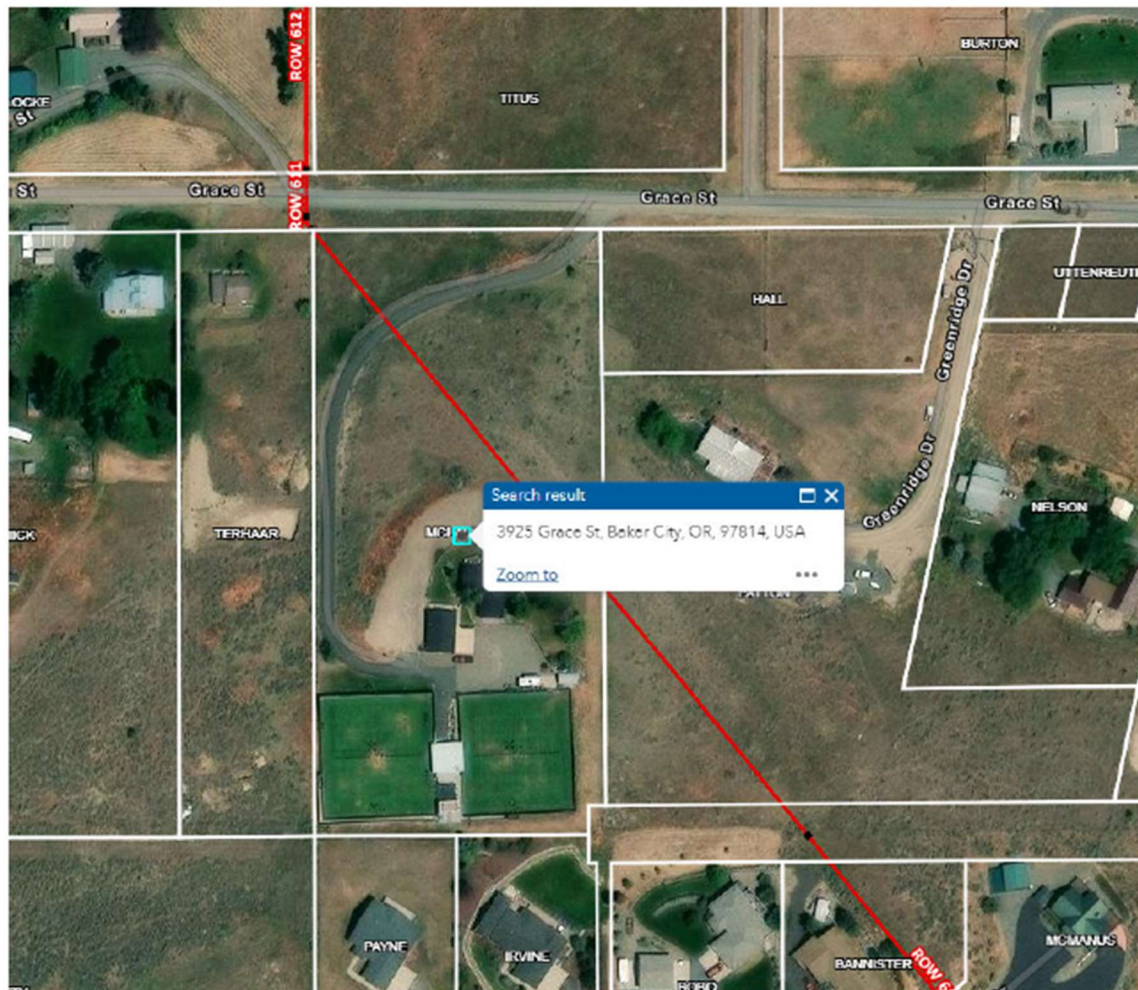
To Holly Kerns <hkerns@bakercountyor.gov>

Holly-

The Marathon pipeline runs through this property within a 16.5 feet wide easement. There are no permanent structures allowed within 50 feet of the pipeline to allow enough space for pipeline repairs and maintenance and to minimize potential damages to improvements. The landowner/developer will need to work with MPL through the design and construction phases to ensure our safety requirements are met. I am requesting to opportunity to review and comment on the design plans before final approval.

I have attached a link to our property development guidelines booklet which provides guidance on the MPL requirements. Please have the applicant reach out to me with any questions. Thanks so much!

[Property_Development_Specifications_June_2020.pdf\(marathonpipeline.com\)](#).



Midge Kline, SR/WA, R/W-NAC
 Sr. Right-of-Way Specialist
 Western Idaho, Oregon, & Washington



201 N. Phillippi Street
 Boise, Idaho 83706
 O: 208-373-2141 C: 208-514-6147
MAKline2@marathonpetroleum.com

Exhibit E: Zoning Map

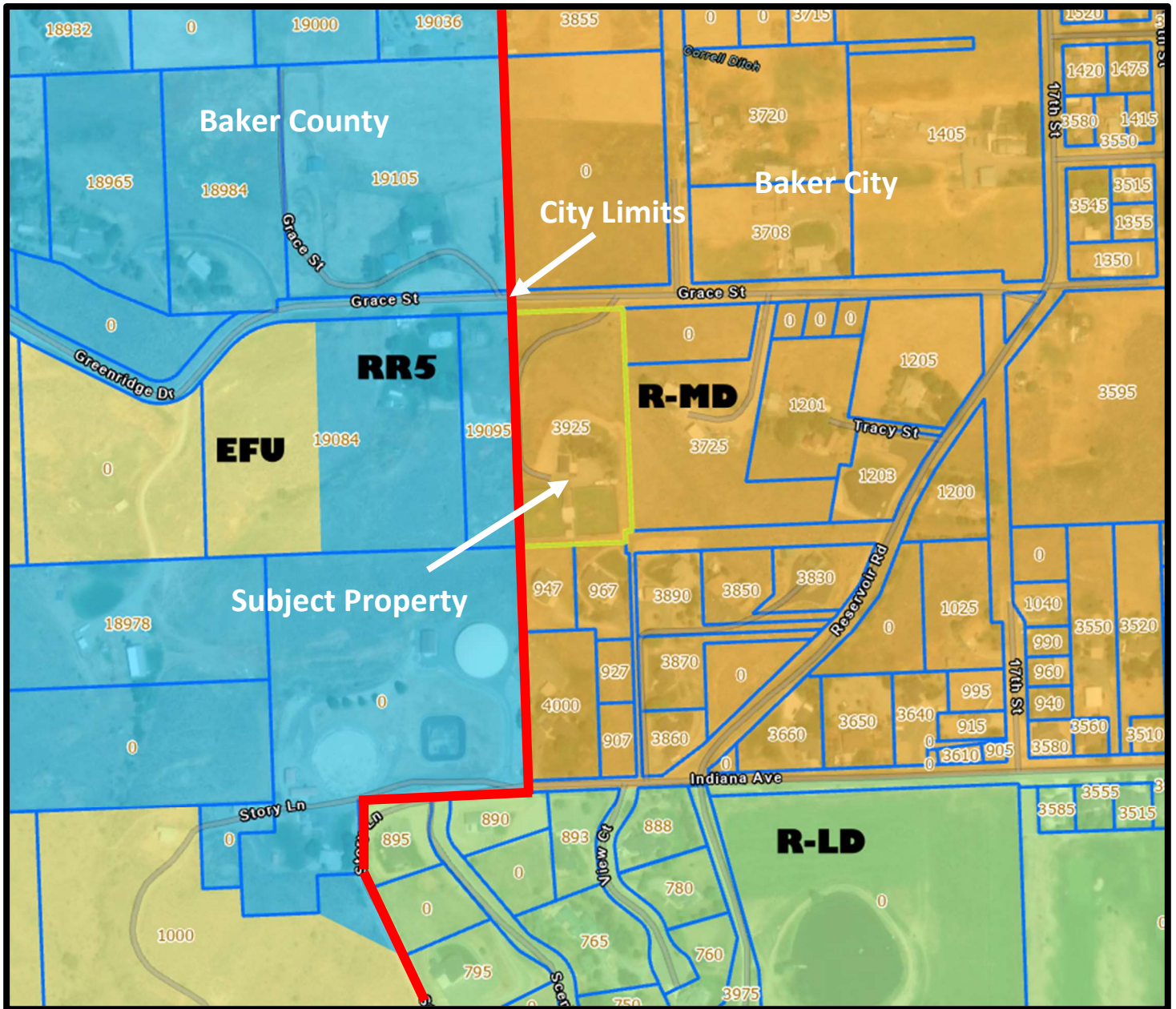
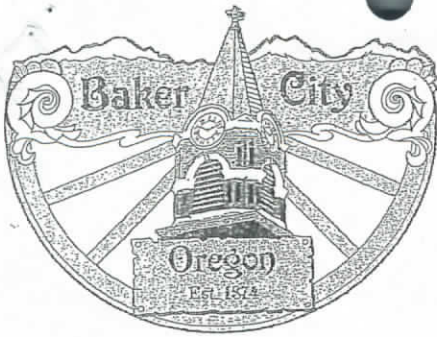


Exhibit F: Conditional Use Permit Decision – 04-CUP-02 (Grass Tennis Court Facility)
(on following pages)



"The Northwest's Premier
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City of Baker City, Oregon

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APPLICATION OF BORDEN M.
GRANGER, TRUSTEE, FOR
PERMISSION TO MAINTAIN AND USE
FOUR EXISTING GRASS TENNIS
COURTS ON THE PROPERTY AT 3925
GRACE STREET, BAKER CITY, OR
97814

Case 04-CUP-02

DECISION

Nature of the Application:

This application is for a Conditional Use Permit to allow the continued maintenance and use of a four existing, regulation size grass tennis courts located on the property at 3925 Grace Street of Baker City, Oregon.

Hearing:

The Planning Commission held a public hearing on March 17, 2004 to consider this application. Following the presentation of the staff report and public testimony, the Planning Commission voted to allow the Conditional Use Permit with conditions.

Relevant Criteria:

A) **Oregon Revised Statutes:** ORS 227.173 requires that approvals or denials be based upon and accompanied by a brief statement that explains the criteria and standards, stated the facts relied upon and explains the Decision, based upon the criteria, standards and facts.

B) **Oregon Administrative Rule:** The City's Comprehensive Plan has been acknowledged, and the Land Conservation and Development Commission goals do not apply.

C) Comprehensive Plan:

- 1) The Comprehensive Plan for the area calls for Medium-Density Residential type development.

- 2) The public involvement procedures for the planning section of the Plan lists the following policies for a Conditional Use Permit:
 - (a) The City will attempt to gain media coverage of the issues and public notice of the proposed request will be advertised;
 - (b) affected public agencies will be informed and asked for a response to the proposed request;
 - (c) the Planning Commission order will stand unless appealed to the City Council.

D) Zoning Ordinance Provisions:

- 1) Under Baker City Zoning Ordinance Number 2778, purportedly in effect up to February 13, 2004, the property in question is zoned R-MD (Medium-Density Residential). Under said ordinance this zoning designation allows, at Section 4.030, a "service club, lodge, or other quasi-public use", provided a Conditional Use Permit is first obtained.
- 2) On January 13, 2004, the City Council of Baker City adopted Ordinance Number 3216, an ordinance which repeals the existing residential use sections of Ordinance Number 2778 and, among many other things, adopts new standards for such zones. The effective date of Ordinance Number 3216 was thirty days after adoption (February 13, 2004).
- 3) The notice of adopted amendment for said zoning ordinance revision was not submitted to the Director of the Oregon State Department of Land Conservation and Development until March 18, 2004 and therefore said revised ordinance has not yet been acknowledged.
- 4) ORS 197.625 requires that new land use regulations are effective at the time specified by the local government and are applicable to land use decisions prior to acknowledgement, however any approval of a land use decision subject to an unacknowledged amendment or land use regulation must include findings in compliance with those land use goals applicable to the amendment.
- 5) Under the recently adopted Ordinance Number 3216, uses "similar" to a "public park or recreational facility" are allowed in Medium Density Residential zones provided a Conditional Use Permit is first obtained.
- 6) Criteria for Conditional Use Permit are as follows:

15.3.4 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 following standards and criteria:

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.
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.
3. All required public facilities have adequate capacity to serve the proposal.

B. Site Design Standards. The criteria for Site Design Review approval (subsection 15.2.6) shall be met.

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.
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust.
3. Requiring larger setback areas, lot area, and/or lot depth or width.
4. Limiting the building height, size or lot coverage, and/or location on the site.
5. Designating the size, number, location and/or design of vehicle access points or parking areas.

6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas.
8. Limiting the number, size, location, height and/or lighting of signs.
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting.
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance.
11. Requiring and designating the size, height, location and/or materials for fences.
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands.
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans.

E) Actions of the Planning Commission:

- 1) The Planning Commission shall, at the close of the hearing, deliberate the questions, reach a decision, or continue the matter for decision only, to a time and place then announced.
- 2) The Planning Commission's decision shall be final unless appealed within 15 days to the City Council.
- 3) The Planning Commission's approval shall include written findings of fact as to whether the proposal is in accord with the intended requirements of the Comprehensive Plan and the Zoning Ordinance. These findings shall be a matter of public record.

Findings of Fact:

- 1) Background Information

This matter originally arose as the result of a complaint about the Applicant's four tennis courts and tournaments held to use those courts. On April 22, 2003, the Baker City Council determined to the use of the tennis courts were an "accessory" use to the dwelling located on the property. The Council determined that the tournaments could continue if:

- a) No more tournaments (six) be held annually than are presently scheduled.
- b) Applicants cooperate with the City in providing dust abatement (Applicants did so and dust abatement was provided)
- c) All recreational vehicles be "self-contained" and no wastewater be deposited on the site.
- d) Compliance with all Oregon Liquor Control Commission laws and regulations if alcohol is served. (Applicants, being the former owners of the OLCC retail outlet in Baker City are totally familiar with the applicable laws. In sixteen years as the holder of the OLCC retail Agency 1092, they were never cited for any violation. Furthermore, Applicant Borden Granger lost his brother to a drunk driver and is a most fervent advocate of responsible use of alcohol.)

Subsequently, on June 2, 2003, Applicant's neighbors again requested an "interpretation" of the status of the tennis courts as an "accessory use" pursuant to Baker City Zoning Ordinance Number 15.6.2 as then in force.

City Attorney Tim Collins gave his interpretation that the use of the tennis courts was indeed an "accessory use" within the meaning of the Baker City Zoning Ordinance.

Applicant's neighbors appealed the Baker City Council, which held a hearing on August 12, 2003, and issued a written decision on August 25, 2003. The Baker City Council support the interpretation that the use of the tennis courts in their historical pattern was indeed an "accessory use".

The neighbors appealed to LUBA which rendered its opinion of December 16, 2003. LUBA reversed the Baker City Council and held the use of the tennis courts in their historical manner was not an "accessory use." However, LUBA stated in its opinion:

"As noted, the R-MD zone allows as a conditional use a "service club, lodge, or other quasi-public use." If there is a meaningful difference between the disputed tennis facility and a "quasi-public use", we do not know what it could be."

In a footnote, LUBA further stated:

"The fact that the proposed facility appears to fall squarely within a category of non-residential uses conditionally allowed in the R-MD zone is a strong contextual indication that the disputed facility cannot be reasonably viewed as an "accessory" use to a residential use."

In other words, LUBA feels the use proposed by Applicants fall squarely within the definition of a "quasi-public uses" and can be allowed as such.

The application ensues. Although the application as for a "quasi-public" use under Baker City Zoning Ordinance Section 4.030(12), the Ordinance has since changed and now provides in Section 2.1.110A (4) (i) for "uses similar to those listed above." Those "similar uses" include "clubs, lodges, similar uses" (Section 2.1.110(4)(b)), and "public parks and recreational facilities(Section 2.1.110A(4)(i)).

- 2) The use of the tennis courts as outlined by applicant meets the definition of either "quasi-public" use or a use "similar to a public park or recreational facility". The tennis courts themselves, while privately owned, have all the outward appearance of a public tennis facility including traffic, noise, lighting and other impacts on surrounding properties. The courts are used for 22 tournament days per summer, which tournaments are open to members of the general public who meet certain standards of the tennis sanctioning body. In addition, the courts are available for use by the general public on a permission basis.
- 3) The Planning Commission adopts the facts in the staff report as well as facts contained in the applicant's application to show that there is more than ample space for the allowed use. The Commission further finds that the glare from the tennis courts' lights, as shown by the light study submitted by applicant, is minimal for surrounding properties, with the exception of those neighbors such as the McCormick's who are below the grade of the lights and therefore can see directly up into them.
- 4) The following negative impacts of the proposed use are present to varying degrees on adjacent properties:
 - a. The tennis court lights can be seen directly from the McCormick property which is approximately 90-100 feet below the grade of the tennis courts and some 450-500 feet northwest.
 - b. The various uses of the tennis courts, including the scheduled tournaments, does lead to an increase of traffic on unpaved Grace Street and therefore additional dust.

- 5) The negative impacts listed in Finding 3) above can be mitigated by requiring that the court lights be turned off no later than 9pm and that the applicants apply dust oil to Grace Street in the quantity recommended by the manufacturer of the product on Grace Street from the east edge of what is known as the McQuisten property to a point thirty feet west of applicant's driveway. In addition, negative impacts of both the lights and traffic dust can be further mitigated by limiting the number of tournaments at the applicant's courts to a maximum of six with an aggregate total of 22 tournament days.
- 6) Applicant's property is presently connected to the City's water supply system which has the capacity to serve the proposed uses. In addition, all other public utilities are present at the site with the exception of wastewater. At the time of this application, there is no legally approved method for handling wastewater generated by the persons participating in the tennis tournaments either as players or spectators. The tennis courts can not legally function as a gathering place for such participants and spectators without such wastewater facility being provided.
- 7) The application as submitted was complete and furnished all information required by City Ordinance and all information deemed applicable by the Planning Director.
- 8) The project as developed complies with the required setbacks for the medium density residential zone as well as lot area and dimension, density and floor area, lot coverage, and building height.
- 9) Driveway access to the tennis court area, while steep is paved and is adequate for emergency vehicle access. The parking on the site is adequate for the number of participants and visitors who come to the site and therefore there is no impact on on-street parking in the area. No public improvements are required for the continuation of this use.
- 10) The Planning Commission finds that the following State-wide planning goals are applicable to this application:
 - Goal 2 Land Use Planning
 - Goal 10 Housing
 - Goal 11 Public Facilities and Services
- 11) Notice of the public hearing held on this application was given as provided by Baker City Ordinance Number 2778 as amended. The procedural provisions of this ordinance have previously been submitted to the State Department of Land Conservation and Development and have been acknowledged pursuant to statute and rule.

- 12) The continued use of the tennis courts has no negative impact on the ability of Baker City to provide an adequate mix of housing for its citizens. This is shown by the fact that a lot was sold and new home built on property adjoining the tennis courts and there was no credible testimony that the land around the tennis courts could not be further developed in the same fashion.
- 13) The use of the tennis courts as requested by applicant would not negatively impact the City's ability to plan and develop orderly and efficient arrangement of public facilities and services. It would however impact the environment surrounding the tennis courts by reason of improper disposal of wastewater. This potential problem can be alleviated through appropriate condition to the permit.

Conclusions of Law:

1. The proposal is consistent with the Comprehensive Plan and the Zoning Ordinance.
2. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use as either a quasi-public facility, or a use that is similar in nature and impact to a public recreational facility, considering the building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and esthetic considerations.
3. The negative impacts of the tennis facility on the adjacent properties or the public at large can be mitigated through the conditions set forth below.
4. With the conditions set forth below, all required public facilities have adequate capacity to serve the insurance agency.

Conditions:

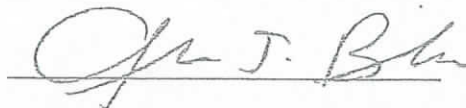
1. The tennis court lights shall not be used past 9pm on any evening.
2. The applicant may not use the property for more organized tournament play than it was used in 2003. Specifically such use is limited to six organized tournaments totaling an aggregate of 22 tournament days.

3. Prior to the use of the property for tennis tournaments each year, applicant shall cause that portion of Grace Street from the east edge of the McQuisten property to a point thirty feet west of the applicant's driveway to be dust oiled to normal and reasonable standards. The dust oil product shall be approved by Baker City.
4. No tournaments shall be held at the facility in question unless and until the property is connected to a DEQ approved wastewater disposal system or adequate portable toilets are provided. The use of portable toilets rather than an approved wastewater disposal system shall only be available during the 2004 tennis season.

Order:

IT IS HEREBY ORDERED by the Planning Commission of Baker City that the application in Case No. 04-CUP-02 is hereby **ALLOWED** with the conditions as provided above.

DATED this 26 day of March, 2004.



Alan Blair, Chairman
City of Baker City Planning Commission

Approved: Ken Rockwell, Sharon Rudi, Rob Ellingson, Wes Elder, Wayne Burnside, and Laurie Woodworth

Deny: None

Abstained: None

Absent: None

Exhibit G: Deck Images





BAKER CITY-COUNTY PLANNING DEPARTMENT



1995 Third Street | Suite 131 | Baker City, OR | 97814
Phone: (541) 523-8219 | Fax: (541) 523-8340



STAFF REPORT to the BAKER CITY PLANNING COMMISSION for a VARIANCE allowing an ACCESSORY STRUCTURE to be SITED in the FRONT YARD and a LAND USE REVIEW for an ACCESSORY STRUCTURE in the RESIDENTIAL- HIGH DENSITY (R-HD) ZONE

City Case Nos. LUR-24-100 & VAR-24-101

Staff Report Date: October 9, 2024

Report Prepared by: Tara L. Micka, Senior Planner

Planning Commission Hearing: October 16, 2024

I. GENERAL INFORMATION AND FACTS

Applicant:	Mary Kenworthy 2680 9 th Street Baker City, OR 97814
Property Owners:	Austin & Cassandera Schomberg C/O Mary Kenworthy 2680 9 th Street Baker City, OR 97814
Land Use Review:	A variance to allow an accessory structure to be placed in the front yard of the subject property
Property Description:	Tax Lot 10400 in Section 17AC of Township 09 South, Range 40 East, W.M., Baker County, Oregon (Ref. 1774)
Site Address & Location:	2680 9 th Street, Baker City, OR 97814
Land Use Zone:	Residential-High Density (R-HD)
Existing Development:	±770 square foot single-family dwelling and a ±540 square foot detached garage
Proposed Development:	±100 square foot accessory structure
Special Flood Hazard Area:	This property is located outside of an identified floodplain (Zone X) according to FEMA FIRM #41001C0385C, dated June 3, 1988
Wetlands:	Wetlands are not present on the subject property according to the 1995 National Wetlands Inventory Map for Baker,

Oregon

Parcel Legally Created: The subject property was legally created as Lot 8 of Block 18 of the Brattain & McComa's Addition recorded with the Baker County Clerk's Office in April 1882.

II. NATURE OF REQUEST

The applicant, Mary Kenworthy, requests a Land Use Review and a Class C Variance to allow an accessory structure to be sited in the front yard setback, a requirement of BCDC Section 2.2.200.B.4.

III. APPLICABLE ORDINANCE, COMPREHENSIVE PLAN, AND STATE PROVISIONS

The Baker City Development Code (BCDC) requires a Class C Variance be obtained in order to allow an accessory structure to be sited in the front yard. Class C Variance requests must go through a Type III procedure, which includes the Planning Commission holding a public hearing before making a decision on the request. In determining whether to grant the requests, the Planning Commission will use the applicable criteria listed in BCDC Chapter 2.2 – *Residential Land Use Zones* and Section 5.1.500 – *Class C Variances*, along with the Baker City Comprehensive Plan.

Oregon Revised Statute (ORS) 227.173 states, “*Approval or denial of a permit application...shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth*”.

IV. ANALYSIS OF CRITERIA & FINDINGS OF FACT

BAKER CITY DEVELOPMENT CODE (BCDC)

Section 4.2.300.A. Land Use Review - Applicability states “*Land Use Review is required for all developments and listed below...*”

11. *Accessory structures...*

Recommended Findings: This request seeks approval to construct a ±100 square foot accessory structure on the above-referenced property (Exhibit C). There is an existing dwelling located on the subject property. A Land Use Review is required.

Conclusion: Based on the findings above, the criterion **is/is not** met.

Section 4.2.300.B. and C. – Land Use Review Procedure and Approval Criteria. *When Land Use Review is required, it shall be conducted prior to issuance of building permits...An application for Land Use Review shall be approved only upon meeting all of the following criteria:*

(C)(1) *The proposed land use or development is permitted by the underlying land use zone (Article 2);*

Recommended Findings: Per Table 2.2.110 of the BCDC, accessory structures are permitted in the R-HD Zone, subject to site/development review. This report has been prepared to satisfy the development review requirement.

Conclusion: Based on the findings above, the criterion **is/is not** met.

(C)(2) *The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use zone and any applicable overlay district(s) are met (Article 2); and*

CHAPTER 2.2 – RESIDENTIAL ZONES

LAND USE. *Table 2.2.110 identifies the land uses allowed in Residential Zones*

Recommended Findings: Accessory structures are permitted in residential zones.

Conclusion: Based on the findings above, the criterion **is/is not** met.

DENSITY. *The minimum and maximum dwelling units per acre in the R-HD zone are 4.0 to 45.*

Recommended Findings: The subject property measures ±4,969.75 square feet and contains an existing dwelling. As the proposed development includes the construction of an accessory structure, the number of dwelling units will not be affected.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

LOT AREA. *The R-HD Zone requires a minimum lot area of 5,000 square feet for a single-family detached development and accessory uses.*

Recommended Findings: The subject property measures ±4,969.75 square feet; however, the property is already developed with a single-family dwelling.

Conclusion: Based on the findings above, the criterion **is/is not** met.

LOT DIMENSION. *All residential zones require a minimum lot width of 40 feet, and a minimum lot depth of 80 feet, for a single-family detached development.*

Recommended Findings: The subject property measures ±51.5 feet wide by ±96.5 feet deep.

Conclusion: Based on the findings above, the criterion **is/is not** met.

BUILDING HEIGHT. *Table 2.2.120 identifies the height standards for Residential Zones. The maximum height for a single-family dwelling is 35 feet and the maximum height for an accessory structure is 20 feet.*

Recommended Findings: According to the application submitted, the peak height of the proposed accessory structure is ±10 feet (Exhibit C).

Conclusion: Based on the findings above, the criterion **is/is not** met.

LOT COVERAGE. *The maximum building coverage in residential zones is 50% for a single-family detached development and accessory structures.*

Recommended Findings: The subject property measures ±4,969.75 square feet. According to the Baker County Assessor's Office, the subject property is developed with a ±880 square foot dwelling and a ±540 square foot detached garage. The proposed accessory structure will measure ±100 square feet (Exhibit C). With the proposed structure, ±1,520 square feet of structures will be present on the subject property, equating to a lot coverage of ±30.6%.

Conclusion: Based on the findings above, the criterion **is/is not** met.

BUILDING/YARD SETBACK. *Table 2.2.120 identifies the setback standards for Residential Zones. Setbacks for primary structures are 5 feet on the side, 10 feet in the rear, and 15 feet in the front.*

Recommended Findings: According to the site plan and application, the proposed accessory structure will be located ±51.5 feet from the front/street setback (west), ±5.0 feet from the north side property line, ±36.5 feet from the south side property line, and ±35 feet from the rear/east property line (Exhibit C).

Conclusion: Based on the findings above, the criteria **are/are not** met.

OVERLAY DISTRICTS. *Historic District, Special Flood Hazard Area, Wetlands and Interchange Overlay Zone.*

Recommended Findings: The subject property is not located within a Special Flood Hazard Area, according to FEMA FIRM #41001C0385C, dated June 3, 1988. The subject property is located outside of the Historic District. Wetlands are not present on the subject property, according to the 1995 National Wetlands Inventory Map for Baker, Oregon. The subject property is not located within the Interchange Overlay Zone.

Conclusion: Based on the findings above, the criteria **are/are not** met.

Section 2.2.200 - Special Use Standards

B. Accessory Uses and Structures. *Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use of a structure on the same or an adjacent lot held in common ownership. Typical accessory structures in the residential zones include*

detached garages, sheds, workshops, green houses and similar structures (see definitions). All accessory structures shall comply with all of the following standards:

- 1. Primary use required. An accessory structure shall not be allowed without another principal permitted use on the same parcel or an adjacent parcel held in common ownership. The accessory use may be constructed after the establishment of a principal use or in conjunction with the establishment of a principal use;*
- 2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way. No accessory structure or combination of such structures shall have a footprint any larger than 1.5 times the primary structure. This requirement may be waived by the Planning Director in the case of established and significant agricultural operations if the accessory structure is a barn or other similar structure;*
- 3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards;*
- 4. Setback Requirements. Accessory structures shall only be allowed in side or rear yards in the residential zones as established in the Table 2.2.120; and*
- 5. Building Height and Size. An accessory structure shall not exceed 1,200 ft² in size or 20 feet in height without first obtaining a Conditional Use Permit.*

Findings:

1. The proposed structure is accessory to the existing dwelling located on the subject property.
2. The proposed accessory structure will be located at the rear of an existing accessory structure (east) and in front of the existing dwelling (west) (Exhibit C). According to the application, the footprint of the proposed accessory structure will measure ±100 square feet (Exhibit C). The existing detached garage measures ±540 square feet. The proposed and existing accessory structures measure ±640 square feet, while the existing dwelling measures ±770 square feet. The footprint of these accessory structures is less than 1.5 times the size of the primary structure.

No easements have been identified by the applicant or Planning staff. The applicant is responsible for understanding the location of any easements on the property and accurately depicting them on the site plan in accordance with Condition of Approval #6. As demonstrated by the applicant's site plan, the proposed structure will not encroach into the public right-of-way (Exhibit C).

3. The criterion is not applicable as a land division is not requested with this application for an accessory structure.
4. Based on the applicant's site plan (Exhibit C), the applicant requests approval to site the proposed accessory structure in front of the existing dwelling. All setback requirements outlined in Table 2.2.120 are met; however, the applicant requests a Variance, which will allow the proposed accessory structure to be in the front yard, if approved. The Variance criteria are addressed below.

5. The proposed accessory structure will measure ±100 square feet in size and 10 feet in height (Exhibit C). A Conditional Use Permit is not deemed necessary with this request.

Conclusion: Based on the findings above, the criteria **are/are not** met or **can/cannot be** met in accordance with Condition of Approval #6.

(C)(3) When development is proposed, the applicable sections of Article 3, Design Standards apply.

BCDC CHAPTER 3.1 - ACCESS and CIRCULATION

BCDC Section 3.1.100 - Purpose. *The purpose of this Chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. Section 3.1.200 provides standards for vehicular access and circulation. Section 3.1.300 provides standards for pedestrian access and circulation. Standards for streets and other transportation system improvements are provided in Section 3.4.100.*

BCDC Section 3.1.200 - Vehicular Access and Circulation

- A. Intent and Purpose.** *The intent of this Section is to manage access to land uses and on-site circulation, and to preserve the transportation system in terms of safety, capacity, and function. This Section implements the access management policies of the Baker City Comprehensive Plan and Transportation System Plan.*
- B. Applicability.** *This Chapter applies to all public streets within the City and to all properties that abut these streets. The standards apply when lots are created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation; and when properties are subject to Land Use Review or Site Design Review.*
- C. Access Permit Required...**
- D. Traffic Study Requirements...**
- E. Conditions of Approval.** *The City may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.*

Recommended Findings: Access to the subject property exists from 9th Street (Exhibits B and C). No modification to this access is proposed with this application. 9th Street is fully improved through this block with an asphalt surface, curb, gutter and sidewalks. A traffic study was not deemed necessary for this development. No additional mitigation for access or traffic concerns were identified or are required for this development.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- F. Corner and Intersection Separation; Access Spacing; Backing onto Public Streets.** *New and modified accesses shall conform to the following standards:*

Recommended Findings: Access to the subject property is available from 9th Street via a private driveway. This driveway is located ±118 feet from the intersection of 9th & B Streets to the north and ±154 feet from the intersection of 9th & A Streets to the south (Exhibit B). No modification to the existing access is proposed with this application.

Conclusion: Based on the findings above, the criteria **are/are not** met.

G. Site Circulation...

Recommended Findings/Conclusion: No additional site circulation elements have been identified.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

H. Joint and Cross Access – Requirement...

I. Joint and Cross Access – Reduction in Required Parking Allowed...

J. Joint and Cross Access – Easement and Use and Maintenance Agreement...

Recommended Findings: According to the site plan (Exhibit C), the property will not utilize joint access.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

K. Access Connections and Driveway Design. All driveway connections to a public right-of-way (access) and driveways shall conform to all of the following design standards...

Findings: Access to the subject property is available from 9th Street via a private driveway (Exhibits B and E). No modification to the existing access is proposed with this application.

Conclusion: Based on the findings above, the criteria **are/are not** met.

L. Fire Access and Turnarounds. Except as waived by the Fire Chief, a fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive...

Recommended Findings: According to the site plan (Exhibit C), all existing and proposed structures will be located within 150-feet of 9th Street. The Baker City Fire Department had no concerns about the requested structure (Exhibit F).

Conclusion: Based on the findings above, the criteria **are/are not** met.

M. Vertical Clearances. Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.

- N. Vision Clearance.** *No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) between two (2) feet and eight (8) feet in height shall be placed in “vision clearance areas” on streets, driveways, alleys, or mid-block lanes where no traffic control stop sign or signal is provided, as shown in Figure 3.1.200 (N). The minimum vision clearance area may be modified by the City Engineer upon finding that less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, trees trunks and similar objects.*

Recommended Findings: Using ArcGIS aerial imagery (Exhibit B), no obstructions were identified within the vertical or vision clearance areas.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- O. Construction.** *The following development and maintenance standards shall apply to all driveways and private streets, except that the standards do not apply to driveways serving one single-family detached dwelling...*

Recommended Findings: This request seeks approval to site an accessory structure on the subject property, which is developed with a single-family dwelling and detached garage.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

BCDC Section 3.1.300 –Pedestrian Access and Circulation

- A. Site Layout and Design.** *To ensure safe, direct, and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system...*
- B. Walkway Design and Construction.** *Walkways, including those provided with pedestrian access ways, shall conform to all of the standards in subsections 1-4, as generally illustrated in Figure 3.1.300B...*
- C. Multi-use pathways.** *Multi-use paths, where provided pursuant to the Transportation System Plan...*

Recommended Findings: 9th Street, abutting the subject property, is fully improved with an asphalt surface, curb, gutter and sidewalk. No changes to the public transportation network are anticipated with this accessory structure. No additional improvements were identified or requested.

Conclusion: Based on the findings above, the criteria **are/are not** met.

BCDC CHAPTER 3.2 – LANDSCAPING, STREET TREES, FENCES and WALLS

Recommended Findings/Conclusion: Planning staff reviewed the entirety of this section and determined that landscaping and street trees are not required for Land Use Review applications. No fences or walls are proposed with this application. These criteria **are/are not** applicable.

BCDC CHAPTER 3.3 – PARKING and LOADING

BCDC Section 3.3.300 – Automobile Parking Standards.

- A. Vehicle Parking - Minimum Standards by Use.** *The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 3.3.300.A... Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, shared parking, and qualifying on-street parking.*

Table 3.3.300.A identifies a minimum of two (2) parking spaces required for a single-family dwelling.

- B. Central Commercial Zone – Minimum Standards...**

- C. Leased Parking...**

- D. Vehicle Parking - Minimum Accessible Parking**

1. *Accessible parking shall be provided for all uses in accordance the standards in Table 3.3.300B...*

Table 3.3.300.B identifies no required minimum accessible parking spaces for a single-family dwelling.

Recommended Findings: The minimum of two parking spaces is available to the existing dwelling through on-site and on-street parking (Exhibits B and E). The subject property is not located in the Central-Commercial Zone. Leased parking is not proposed with this application. According to Table 3.3.300.B of the BCDC, no minimum accessible parking standard exists for single-family dwellings or accessory structures.

Conclusion: Based on the findings above, the criteria **are/are not** met.

- E. On-Street Parking.** *On-street parking shall conform to the following standards:*

1. **Dimensions.** *The following constitutes one on-street parking space:*

a. Parallel parking, each 22 feet of uninterrupted curb...

2. **Location.** *Parking may be counted toward the minimum standards in Table 3.3.300A when it is on the block face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and its must not violate any law or street standard.*

3. **Public Use Required for Credit.** *On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.*

Recommended Findings: ±1 on-street parking space is available for this development as ±33.5 feet of uninterrupted frontage exist along 9th Street (Exhibit B).

Conclusion: Based on the findings above, the criteria **are/are not** met.

F. Shared Parking...

G. Off-site Parking...

H. General Parking Standards.

1. Location. Parking is allowed only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this code...
2. Mixed Uses...
3. Availability of Facilities. Owners of off-street parking facilities...
4. Lighting. All parking areas for more than 10 vehicles serving business uses and collective residential parking...
5. Screening of Parking Areas. When parking areas are located adjacent to a street or sidewalk...

Recommended Findings: No shared parking, mixed uses, off-street parking facilities, or parking areas are proposed with this development.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

I. Parking Stall Design and Minimum Dimensions. All off-street parking spaces shall be improved to conform to City standards for surfacing, stormwater management, and striping. Standard parking spaces shall conform to the following standards and the dimensions in Figures 3.3.300F(5) and (6), and Table 3.3.300.F:

1. Motor vehicle parking spaces shall measure eight (8) feet six (6) inches wide by eighteen (18) feet long or by sixteen (16) feet long, with not more than a two (2) foot overhang when allowed;
2. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;
3. Parking area layout shall conform to the dimensions in Figure 3.3.300F(5) and (6), and Table 3.3.300.F, below;
4. Parking areas shall conform to Americans with Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines.

Recommended Findings: The minimum of two off-street and on-street parking spaces, meeting the dimensions above, are available within the existing driveway or with on-street parking (Exhibits B and E).

Conclusion: Based on the findings above, the criteria **are/are not** met.

BCDC Section 3.3.500 – Loading Areas...

Recommended Findings/Conclusion: The proposed project does not meet the minimum criteria to require off-street loading areas; therefore, the criteria **are/are not** applicable.

BCDC CHAPTER 3.4 – PUBLIC FACILITIES

BCDC Section 3.4.200 – Public Improvements

- A. Conditions of Development Approval.** No development may occur unless required public improvements are in place or guaranteed, in conformance with the provisions of this Code.
- B. Exempt Developments.** The following developments are excluded from these requirements:

- Additions to existing developments which do not increase vehicle and/or pedestrian traffic
- Landscaping, or
- Other similar developments which do not increase vehicle and/or pedestrian traffic

C. Public Improvements and Exaction...

Recommended Findings: The proposed project seeks approval to construct a ±100 square foot accessory structure on the subject property (Exhibit C). This proposed development is not expected to increase vehicle and/or pedestrian traffic to the site. 9th Street abutting the subject property is fully developed with an asphalt surface, curb, gutter and sidewalk. Since no increase in vehicle or pedestrian traffic is expected and public improvements are already in place, the development is exempt from public improvements.

Conclusion: Based on the findings above, the criteria **are/are not** applicable.

BCDC Section 3.4.300 – Transportation Standards

Recommended Findings: The Baker City Transportation System Plan does identify this portion of 9th Street abutting the subject property as an area for a planned transportation improvement project. 9th Street abutting the subject property is fully developed with an asphalt surface, curb, gutter and sidewalk. Public Works did not provide comments on this development request.

Conclusion: Based on the findings above, the criteria **are/are not** met.

BCDC Section 3.4.400 – Public Use Areas...

Findings/Conclusion: No public use areas are proposed with this application; therefore, the criterion **is/is not** applicable.

BCDC Section 3.4.500 – Sanitary Sewer and Water Service Improvements

A. Sewers and Water Mains Required...

D. Inadequate Facilities...

Recommended Findings: No comments were provided by the Baker City Public Works Department and no upgrade to existing services are proposed as part of this project request.

Conclusion: Based on the findings above, the criteria **are/are not** met.

BCDC Section 3.4.600 – Storm Drainage Improvements

A. General Provisions. The City shall issue a development permit only where adequate provisions for storm water and flood water runoff have been made. Stormwater management shall be developed in accordance with the City's Stormwater Management Plan...

Recommended Findings: No modifications are proposed to existing stormwater drainage with this development, and none were requested by the Baker City Public Works Department.

Conclusion: Based on the findings above, the criterion **is/is not** met.

BCDC Section 3.4.700 – Utilities

A. Underground Utilities

- 1. Generally.** *All new utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above.*

Recommended Findings: The extension of utilities to the proposed accessory structure was not included in this application. If an extension of utilities is desired, all utilities shall be installed underground in accordance with Condition of Approval #4.

Conclusion: Based on the findings above, the criterion **can/cannot be** met in accordance with Condition of Approval #4.

BCDC Section 3.4.800 – Easements...

Recommended Findings/Conclusion: No easements are proposed with this development request; therefore, the criterion **is/is not** applicable.

BCDC Section 3.4.900 – Construction Plan Approval and Assurances
BCDC Section 3.4.1000 – Installation

Recommended Findings/Conclusion: See Section 3.4.200 above. Public improvements are not required with the proposed development; therefore, this criterion **is/is not** applicable.

BCDC CHAPTER 3.5 - SIGNS

Recommended Findings/Conclusion: No signs are proposed with this development request; therefore, the criterion **is/is not** applicable.

(C)(4) Land use reviews do not address a project's compliance with applicable building, fire and life safety regulations.

Recommended Findings: The applicant shall comply with any necessary fire permits and life safety regulations for the proposed structure in accordance with Condition of Approval #2.

Conclusion: Based on the findings above, the criteria **can/cannot be** met in accordance with Condition of Approval #2.

BCDC CHAPTER 5.1 - VARIANCES

Section 5.1.500 – Class C Variances.

- A. Applicability.** *Class C variance requests are those that do not conform to the provisions of Sections 5.1.300-5.1.400 (Class A and Class B), and that do not conflict with the criteria in 1-4, below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 4.1:*
- 1. The Class C variance procedure may be used to modify a standard for 3 or fewer lots, including lots yet to be created through a partition process.*
 - 2. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a Master Planned Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.*
 - 3. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use zone (Article 2).*
- B. Approval Process.** *Class C variances shall be processed using a Type III procedure, as governed by Chapter 4.1.400, using the approval criteria in subsection C, below. In addition to the application requirements contained in Chapter 4.1.400, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection C.*

C. Approval Criteria. *The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:*

- 1. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use zone or vicinity;*
- 2. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use zone);*
- 3. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;*
- 4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;*
- 5. The hardship is not self-imposed; and*
- 6. The variance requested is the minimum variance that would alleviate the hardship.*

Recommended Findings: According to the applicant's narrative, "My daughter just purchased the property and wants to site a 10ft x 10ft accessory structure. We are requesting a variance so the structure can be located in the front yard. All other requirements will be met" (Exhibit C).

- 1. According to the application narrative (Exhibit C): "We are requesting that we can site an accessory structure in the front yard because there is no room to place it to the side or rear of the dwelling. Accessory structures are permitted in the zone. The Variance will not be detrimental to the Code or other policies & standards."*
- 2. According to the application narrative (Exhibit C): "The property is already developed with a dwelling & outbuilding. Based on the location of the existing house, we're unable to put the accessory structure in the rear or side yard."*
- 3. According to the application narrative (Exhibit C): "In residential zones, houses & their accessory structures are permitted. We're not requesting a use already permitted in the zone."*
- 4. According to the application narrative (Exhibit C): "The proposed accessory structure will not adversely affect traffic, drainage, natural resources or parks."*
- 5. According to the application narrative (Exhibit C): "The property was just purchased by our family. The location of the primary structure on the rear property line prevents us from putting the accessory structure in the rear or side yard."*

6. According to the application narrative (Exhibit C): *“A variance to setbacks is not requested. The location of the proposed structure is as close as we can get to the side & rear property lines.”*

Conclusion: Based on the findings above, the **criteria are/are met**.

V. SUMMARY CONCLUSIONS & PLANNING COMMISSION DECISION

The Commission may approve, approve with conditions, or deny this request. The Commission may, at its discretion, add, delete, or modify proposed conditions of approval.

A variance may be allowed if the request meets all applicable criteria and standards. The applicant **HAS/HAS NOT** demonstrated that this request for a variance to allow an accessory structure to be sited in the front yard meets or is able to meet through the Conditions of Approval, all the applicable review criteria and development standards.

A land use review may be allowed if the request meets all applicable criteria and standards. The applicant **HAS/HAS NOT** demonstrated that this request for an accessory structure meets or is able to meet through the Conditions of Approval, all the applicable review criteria and development standards.

Therefore, based on the information contained in Sections I through IV of this report, and the above review criteria, findings of fact, and conclusions and public testimony received, Variance request, VAR-24-101, is hereby **APPROVED/DENIED**, and Land Use Review request, LUR-24-100, is hereby **APPROVED/DENIED** subject to the conditions contained in Section VI of this report.

VI. RECOMMENDED CONDITIONS OF APPROVAL

Should the Commission choose to approve the requested Variance, staff recommends that the following conditions be attached to the approval:

1. **Approval Period.** Land Use Review approval is effective for a period of **TWO YEARS** from the date of approval. The approval shall lapse if a building permit application for the project has not been submitted to the Baker City Building Department within two years from the date of this decision. The Planning Director may, upon written request by the applicant, grant an extension of the approval period, not to exceed one year, provided that the extension request is in conformance with the requirements in BCDC Section 4.2.600.C.
2. **Building Permits.** Building permits may be required prior to installation. Please contact the Building Department for applicable permits and requirements and comply with structural, fire and life safety regulations.
3. **Public Facilities – Water & Sewer.** If needed, the applicant shall coordinate with the Public Works Department to connect the proposed development to water and sewer mains, in conformance with City standards. This may include installation of new laterals and/or a new water meter.

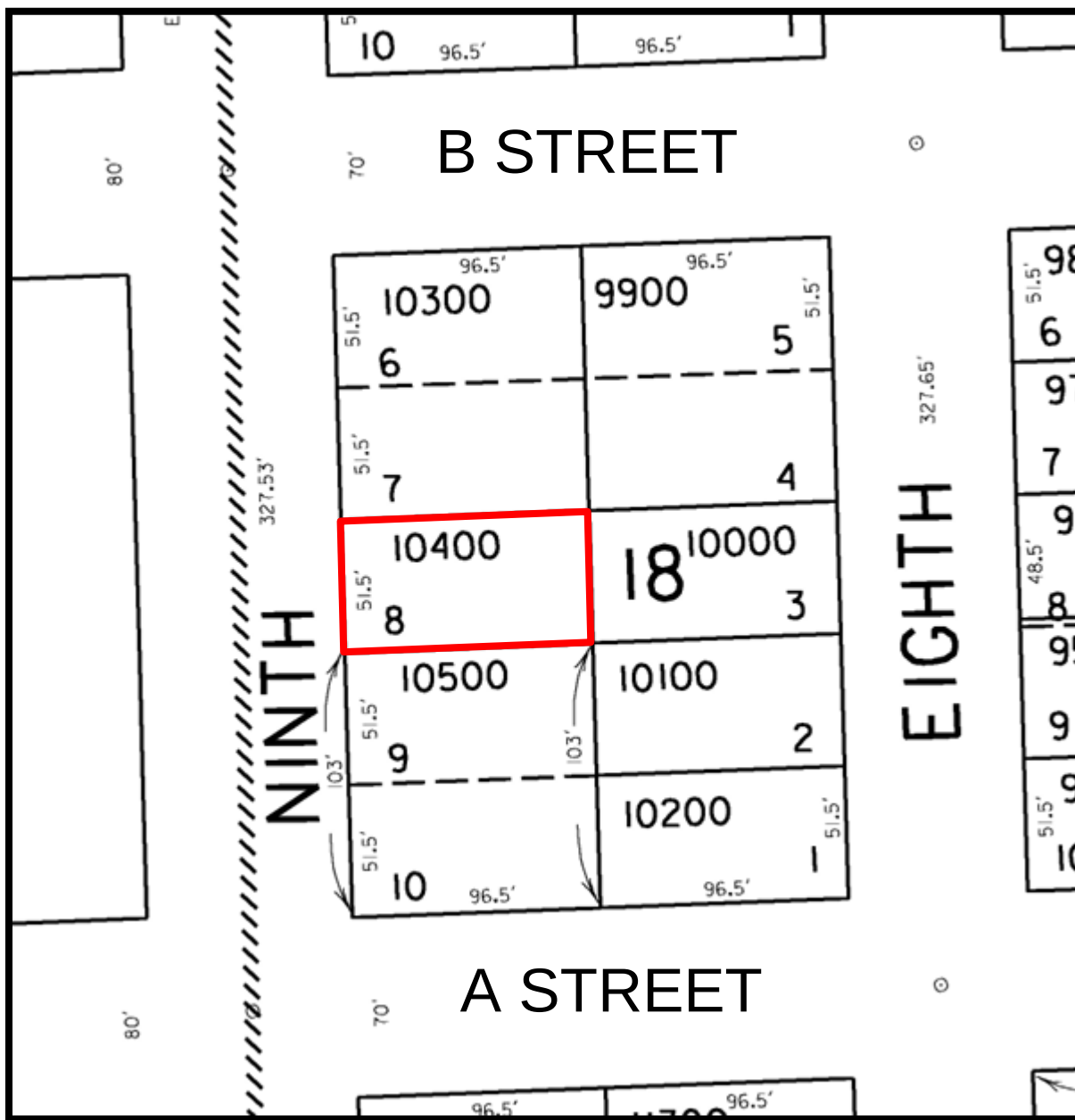
4. **Utilities.** If requested, the applicant shall coordinate with the appropriate entities to connect the proposed development to underground utility lines to the extent practical, in conformance with City standards.
5. **Built as Approved.** This approval is solely based upon the material provided with the application and the applicable sections of the Baker City Development Code being met and does not imply satisfaction of any other laws or regulations. Any modifications to what has been approved may require additional review and approval.
6. **Easements.** The applicant is responsible for understanding the location of any easements on the property and accurately depicting them on the site plan. Regardless of whether the easement is shown on the site plan, a structure shall not be placed over an easement that prohibits such placement.
7. **Nullification.** Failure to comply with all conditions of approval, or violation concerning the use approved herein, may result in nullification of this approval by the Baker County Planning Commission, after the applicant/property owners have been given due process in accordance with the provisions of the City of Baker City Development Code.
8. **Other:** All other city and state regulations pertaining to this development shall be met.

VI. EXHIBITS

- | | |
|------------|---|
| Exhibit A: | Assessor's Map |
| Exhibit B: | ArcGIS Aerial View of Subject Property |
| Exhibit C: | Application, Narrative, and Site Plan |
| Exhibit D: | Baker City Zoning Map |
| Exhibit E: | Google Street View of 2680 9 th Street |
| Exhibit F: | Comments from Affected Agencies |

EXHIBIT A: Assessor's Map

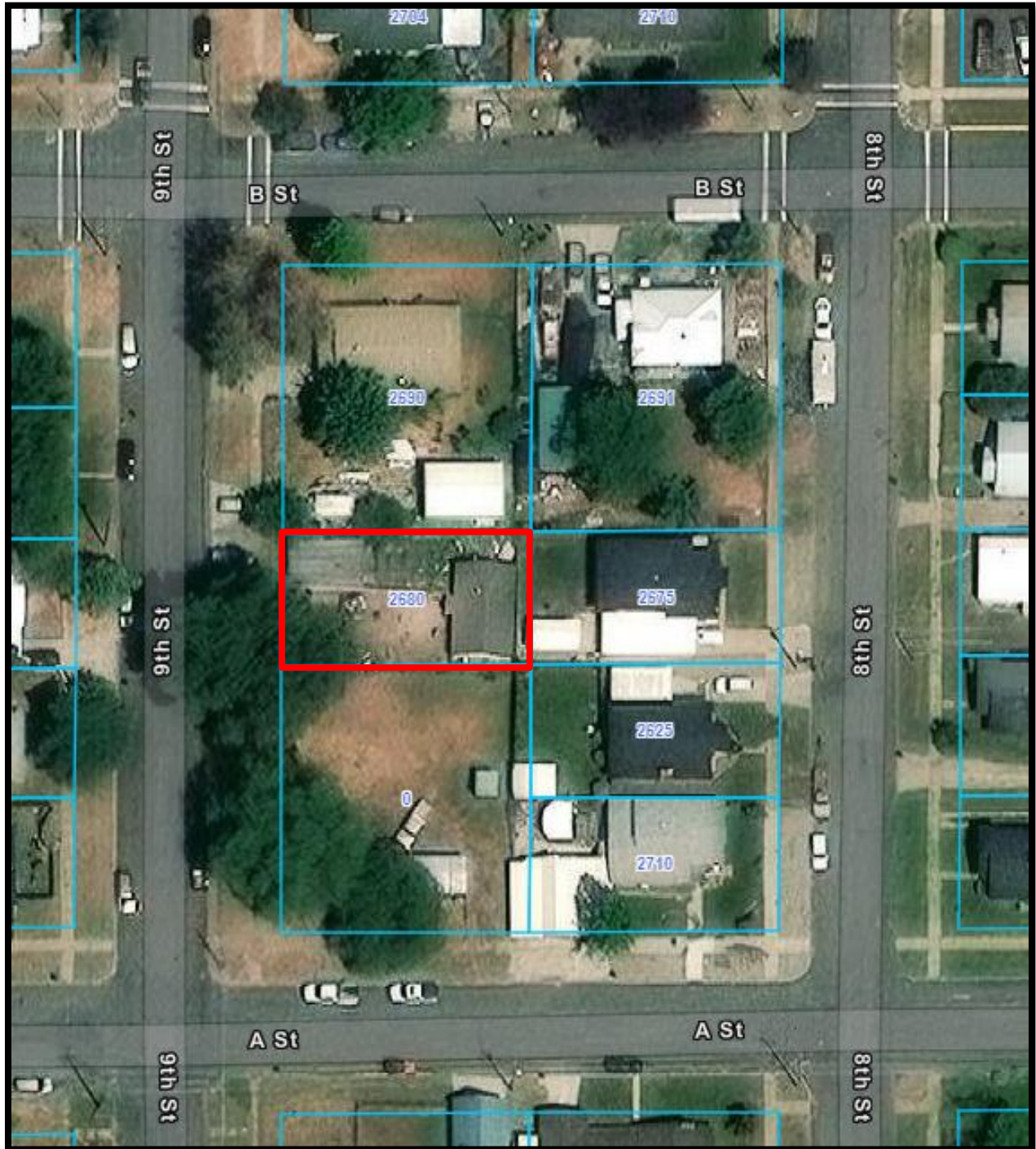
Tax Lot 10400 in Section 17AC of Township 09 South, Range 40 East, W.M., Baker County, Oregon (Ref. 1774)



Map for Assessment Purposes Only – Subject Property Outlined in Red

Exhibit B: ArcGIS Aerial View of Subject Property

** Subject property is outlined in red*



Map for Assessment Purposes Only

Exhibit C: Application, Narrative and Site Plan

124-24-000187-PLNG

BAKER CITY-COUNTY PLANNING DEPARTMENT



1995 Third Street | Suite 131 | Baker City, OR | 97814
Phone: (541) 523-8219 | Fax: (541) 523-8340



APPLICATION FOR A VARIANCE

TYPE: ☐ A ☐ B ☒ C

App. No. VAR-24-101 City Planning: 101-131-3-40-4104
Received by: [Signature] Date Received: 9/16/24
Fee Collected: \$ 450 Date Paid: 9/16/24

MAKE CHECKS PAYABLE TO: BAKER COUNTY PLANNING

APPLICANT			PROPERTY OWNER		
Last Name	First	MI	Last Name	First	MI
Kenworthy	Mary	A			
Mailing Address			Mailing Address		
2680 9th St					
Physical Address			Physical Address		
2680 9th St					
City	State	Zip	City	State	Zip
Baker City	OR	97814			
Telephone			Telephone		
208 278 8181					
Email			Email		
unicorndream1969@hotmail.com					

PROPERTY INFORMATION

Township 25 Range 40 Section 17 Tax Lot 10400 Ref. 1774
 Township _____ Range _____ Section _____ Tax Lot _____ Ref. _____
 Property Address: 2680 9th St
 Zone: RHD Overlay: _____ Floodplain: ☐ YES ☒ NO Historic District: ☐ YES ☒ NO
 Size and Type of Existing Structures: _____

Are their existing reviews pending? If yes, what: LUR-24-100

Specific description of variance(s) sought and applicable Code Section(s): _____

NOTICE TO APPLICANT: By signing the applicant certifies the information provided herein is accurate and that he/she is authorized to make the application and that there are no covenants, conditions or restrictions (CC&Rs) that may limit or prohibit the proposed adjustment. The City of Baker City does not monitor, nor have enforcement authority over CC&Rs.

Applicant Signature:

Date: 9-14-2024

Property Owner Signature:

Date: 9-16-24

Date: 9-16-24

*** NOTE: If the applicant is not the owner, by signing, the owner hereby grants permission for the applicant to act in his/her behalf concerning this application.

SUBMITTAL REQUIREMENTS

All materials larger than 8 ½ X 11 shall be folded to 8 ½ X 11 size.

- Original **APPLICATION FORM** signed by all parties. Multiple forms may be used if necessary.
- **NARRATIVE** including all approval criteria and your responses. The narrative shall explain the reason for the request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.
- **SITE PLAN** showing existing site conditions and proposed changes. All site plans should be printed at 1" = 20' scale; 1:40 or 1:100 scale may be used for very large projects. If no new construction or exterior modifications are proposed, this requirement may be waived by the Planning Director.

APPLICABLE BAKER CITY DEVELOPMENT CODE SECTIONS

BCDC CHAPTER 5.1 – VARIANCES

BCDC Section 5.1.300 - Class A Variances

A. **Applicability.** The following variances are reviewed using a Type I procedure, as governed by Chapter 4.1, using the approval criteria in Subsection B, below:

1. **Front yard setbacks.** Up to a 15 percent change to the front yard setback standard in the land use district.
2. **Interior setbacks.** Up to a 15 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. **Lot coverage.** Up to 15 percent increase of the maximum lot coverage required in the base zone.
4. **Landscape area.** Up to 10 percent reduction in landscape area (overall area or interior parking lot landscape area).
5. **Sidewalk Requirements.** The City may approve, approve with conditions, or deny a request for a variance to the sidewalks requirements in Chapter 3.2, after finding the following:
 - a. Installation of a sidewalk is ill-advised at the time of development because the right-of-way or street will likely undergo improvements or modifications in the future that would necessitate the removal and replacement of the sidewalk improvement;

NATURE OF REQUEST

My daughter just purchased the property and wants to site a 10ft x 10ft accessory structure. We are requesting a variance so the structure can be located in the front yard. All other requirements will be met.

BAKER CITY DEVELOPMENT CODE (BCDC)

BCDC CHAPTER 5.1 - VARIANCES

Section 5.1.500 – Class C Variances.

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 5.1.300-5.1.400 (Class A and Class B), and that do not conflict with the criteria in 1-4, below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 4.1:

1. The Class C variance procedure may be used to modify a standard for 3 or fewer lots, including lots yet to be created through a partition process.
2. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a Master Planned Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
3. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use zone (Article 2).

B. Approval Process. Class C variances shall be processed using a Type III procedure, as governed by Chapter 4.1.400, using the approval criteria in subsection C, below. In addition to the application requirements contained in Chapter 4.1.400, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection C.

C. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

1. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use zone or vicinity;
2. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use zone);
3. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
5. The hardship is not self-imposed; and
6. The variance requested is the minimum variance that would alleviate the hardship.

Applicant's Findings:

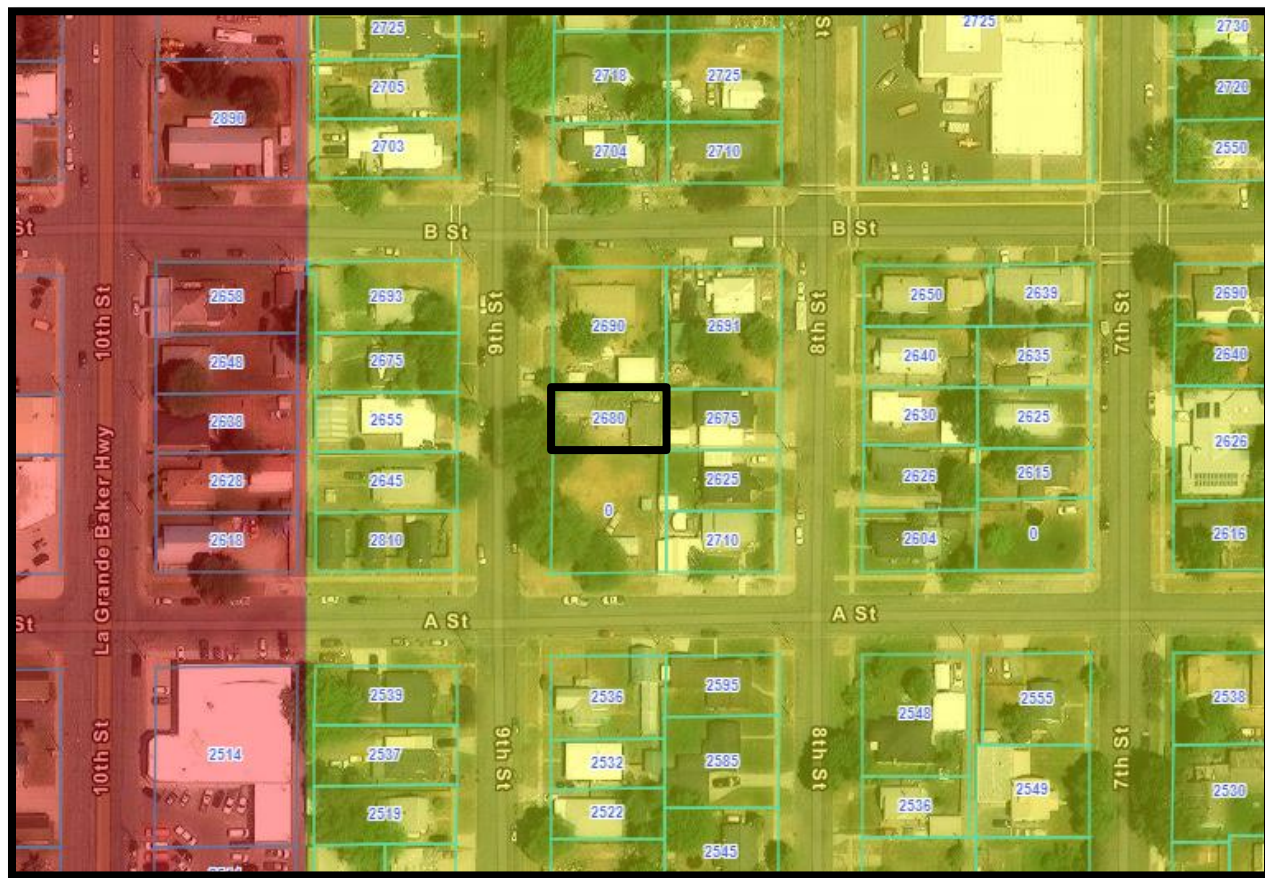
1. We are requesting that we can site an accessory structure in the front yard because there is no room to place it to the side or rear of the dwelling. Accessory structures are permitted in the zone. The variance will not be detrimental to the Code or other policies + standards.
2. The property is already developed with a dwelling + outbuilding. Based on the location of the existing house, we were unable to put the accessory structure in the rear or side yard.
3. In residential zones, houses + their accessory structures are permitted. We're not requesting a use already permitted in the zone.
4. The proposed accessory structure will not adversely affect traffic, drainage, natural resources or parks.
5. The property was just purchased by our family. The location of the structure on the rear property line prevents us from putting the accessory structure in the rear or side yard.
6. A variance to setbacks is not requested. The location of the proposed structure is as close as we can get to the side + rear property lines.

Page 2 of 4

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Exhibit D: Baker City Zoning Map * Subject property is outlined in black



Legend

Zoning

- Central Commercial (C-C)
- General Commercial (C-G)
- General Industrial (I)

- Light Industrial (L-I)
- Low Density Residential (R-LD)
- Medium Density Residential (R-MD)
- High Density Residential (R-HD)

- Tax Lots
- Baker City Limits
- Urban Growth Boundary

Exhibit E: Google Street View of 2680 9th Street



Exhibit F: Comments from Affected Agencies

Cascade Natural Gas:

JR

Johnson, Roger<Roger.Johnson@cngc.com>
To: Tara Micka

😊 ↶ ↷ ➡ 🔗 📎 ...

Thu 9/26/2024 8:38 AM

No objections from Cascade Natural Gas, However we do have gas on property and ask that all 811 dig laws are followed and if gas service line should need to be relocated, it is out of pocket expense at the current CNG crew hourly rate.

Roger

From: Tara Micka <tmicka@bakercountyor.gov>
Sent: Thursday, September 26, 2024 8:24 AM
Subject: Pre-Notice for Accessory Structure Proposal at 2680 9th Street

** WARNING: EXTERNAL SENDER. NEVER click links or open attachments without positive sender verification of purpose. DO NOT provide your user ID or password on sites or forms linked from this email. **

Baker City Fire Department:

BM

Barry Murphy<citymanager@bakercity.gov>
To: Tara Micka

😊 ↶ ↷ ➡ 🔗 📎 ...

Thu 9/26/2024 9:44 AM

Thanks Tara,

No concerns from fire perspective.

Barry

...

↶ Reply

➡ Forward