

**CITY of LA GRANDE
City Council Regular Session
Wednesday, November 2, 2022**

**Council Chambers
La Grande City Hall
1000 Adams Avenue**

AGENDA

The meeting will be available for viewing via the City's scheduled Charter Communications channel 180 that will begin at 6:00 p.m. on November 2, 2022, on the La Grande Alive website at <https://eoalive.tv/city-events/> or on the Eastern Oregon Alive.TV Facebook page at <https://www.facebook.com/EOAliveTV>.

1. WELCOME to this REGULAR SESSION of the LA GRANDE CITY COUNCIL

- a. Call to Order
- b. Pledge of Allegiance
- c. Roll Call

- Per ORS 192.670(1), some Councilors may be participating in this Regular Session by electronic communication.

2. AGENDA APPROVAL

3. CONSENT AGENDA

The Consent Agenda includes routine items of business which may be approved by one Motion of the Council. Any Councilor so desiring may by request remove one or more items from the Consent Agenda for Individual consideration under the Unfinished or New Business portion of the Agenda.

- a. **Consider:** Approving Regular Session Minutes; October 5, 2022
- b. **Consider:** Authorizing City Manager to Sign Lease Agreement Renewal; Sac Annex Parking Lot, 2022 to 2027
- c. **Consider:** Approving Measure 110 Letter

4. PUBLIC COMMENTS

Those individuals who wish to address the Council in connection with any item which is printed on tonight's Agenda may do so during the time that item is under discussion by the Council. Individuals wishing to speak to the Council about non-Agenda items may do so during this Public Comments portion of the Agenda. Please print your name and address on the Public Comments Sign-in Sheet, located on the podium. When addressing the Council, speak loudly and clearly into the Podium microphone, and state your name. Persons interested in providing virtual public comments shall contact City Staff at sstockhoff@cityoflagrande.org or by calling the City Recorder at (541) 962-1309 not later than 5:00 pm the day prior to meeting to make arrangements. In the event the Mayor does not announce a time limit for comments, each speaker is asked to confine their comments to three minutes in length, whether the comments are in-person or virtual.

5. PUBLIC HEARINGS

- a. **Consider:** Appealing Planning Commission Decision; Conditional Use Permit , File # 01-PCA-22 and # 11-CUP-22 [Boquist]

6. UNFINISHED BUSINESS

7. NEW BUSINESS

- a. **Consider:** Awarding Bid for Sanitary Sewer Rehabilitation [Carpenter]
- b. **Consider:** Authorizing City Manager to Finalize and Sign Transport Agreement; Life Flight and Fire Department [Cornford]
- c. **Consider:** Establishing Prioritized ARPA Roadway Project List [Carpenter]

8. UNION COUNTY COMMISSIONER'S UPDATE

9. STAFF COMMENTS

10. CITY MANAGER COMMENTS

11. CITY COUNCIL COMMENTS

12. ADJOURN

Stacey M. Stockhoff
Acting City Recorder

The City Council is currently scheduled to meet again in a Regular Session on Wednesday, December 7, 2022 at 6:00 p.m. The City Council of the City of La Grande reserves the right to convene an Executive Session for any purpose authorized under ORS 192.660. Persons requiring special accommodations who wish to participate in the City Council Meeting are encouraged to make arrangements prior to the meeting by calling 541-962-1309. The City of La Grande does not discriminate against individuals with disabilities.

CITY of LA GRANDE

COUNCIL ACTION FORM

Council Meeting Date: November 2, 2022

PRESENTER: Robert A. Strobe, City Manager

COUNCIL ACTION: CONSIDER CONSENT AGENDA

- 1. MAYOR: Request Staff Report
- 2. MAYOR: Entertain Motion

Suggested Motion: I move we accept the Consent Agenda as presented.

OR

Suggested Motion: I move we accept the Consent Agenda as amended.

- 3. MAYOR: Invite Council Discussion
- 4. MAYOR: Ask for the Vote

EXPLANATION: A Consent Agenda includes routine items of business with limited public interest, which may be approved by one Motion of the Council. Any Councilor may, by request, remove any item of business from the Consent Agenda.

- a. **Consider:** Approving Regular Session Minutes; *October 5, 2022*
- b. **Consider:** Authorizing City Manager to Sign Lease Agreement Renewal; Sac Annex Parking Lot, 2022 to 2027
- c. **Consider:** Approving Measure 110 Letter

Reviewed By: (Initial)

City Manager _____
 City Recorder _____
 Aquatics Division _____
 Building Department _____
 ED Department _____
 Finance _____
 Fire Department _____

Human Resources Dept _____
 Library _____
 Parks Department _____
 Planning Department _____
 Police Department _____
 Public Works Department _____

COUNCIL ACTION (Office Use Only)

- Motion Passed
- Motion Failed: _____
- Action Tabled: _____
Vote: _____
- Resolution Passed
Effective Date: _____
- Ordinance Adopted
First Reading: _____
Second Reading: _____
Effective Date: _____

CITY of LA GRANDE
City Council Regular Session

October 5, 2022

**Council Chambers
La Grande City Hall
1000 Adams Avenue**

MINUTES

COUNCILORS PRESENT:

Stephen E. Clements, *Mayor*
Gary Lillard, *Mayor Pro Tem*
John Bozarth, *Councilor*
David Glabe, *Councilor*
Mary Ann Miesner, *Councilor (Attended via electronic device)*
Nicole Howard, *Councilor*
Justin Rock, *Councilor*

COUNCILORS ABSENT EXCUSED:

STAFF PRESENT

Robert Strobe, *City Manager*
Kayla Brainerd, *Assistant to the City Manager*
Stacey Stockhoff, *Acting City Recorder*
Gary Bell, *Police Chief*
Timothy Bishop, *Economic Development Director*
Michael Boquist, *Community Development Director*
Carrie Bushman, *Library Director*
Kyle Carpenter, *Public Works Director*
Emmitt Cornford, *Fire Chief*
Heather Rajkovich, *Finance Director*

Per ORS 192.670(1), some Councilors and/or Staff participated in this Regular Session by electronic communication.

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/
ROLL CALL/AGENDA APPROVAL**

Mayor CLEMENTS called to order this Regular Session of the Council at 6:00 p.m. Roll Call was taken and a quorum was determined to be present.

CONSENT AGENDA

- a. **Consider:** Approving Regular Session Minutes;
September 7, 2022
- b. **Consider:** Ratifying 2021-2022 City Manager
Evaluation

The following Motion was introduced by LILLARD; ROCK providing the Second:

MOTION

MOTION: I move that we accept the Consent Agenda as presented.

VOTE

MSC: 7-0 (Yes: CLEMENTS, LILLARD, BOZARTH, GLABE, HOWARD, MIESNER, and ROCK; No: None)

PUBLIC COMMENTS

Gerry MONTGOMERY expressed concern over the excessive amount of dirt that had accumulated around her neighborhood, including houses and cars, due to the construction project happening on Willow Street. She believed it violated City Ordinance three-hundred forty-one (341), page four (4), line seven (7), which states, “The plowing, unpermitted burning, disturbing, or cultivating of a field, yard or other plot of land that creates a dust or smoke problem.” (editorial note: Nuisance Ordinance 3241, Series 2018 – see page four (4), Section 3.K.)

Mayor CLEMENTS asked if the dirt accumulation inside the home happened during the summer due to windows being open, to which MONTGOMERY stated no, the windows were closed.

MONTGOMERY stated not only was the dirt issue a problem during construction hours, but it also was an issue when pedestrians would use the construction site driveway as a turn-around spot for their own vehicles.

Mayor CLEMENTS thanked MONTGOMERY for bringing this to the Council’s attention. He stated that Kyle CARPENTER had spoken with the contractor and the contractor planned to put rock down to help minimize the dust. He explained he was not in a position to issue a citation, but knew there was action being taken to resolve the matter and asked MONTGOMERY to wait a couple of days to see if the issue could be resolved.

LILLARD asked when the Code Enforcement Officer was going to return to duty, to which Chief BELL noted there was not a specific date for when she would return to work. The Police Department was doing the best they could to handle Ordinance violations in her absence.

STROPE commented that the Public Works Department had been interacting with the contractor on this particular case.

Mayor CLEMENTS commented to STROPE, if there were any actions that could be taken in the immediate future to remediate the situation, to please do so. If there was something the contractor could do within the means of his business, it should be done.

Kaylene SOUTHARD commented that a citation would not remove the dirt that had accumulated on their properties and asked how they were going to be able to remove the built up dirt from their residences, to which MAYOR CLEMENTS noted he did not have authority to send Public Works to clean things up, but in his opinion, the contractor

should be held responsible for that and the neighborly thing to do would be for the contractor to offer to help with the cleaning.

PUBLIC HEARINGS

- a. **Consider: Ordinance, Second Reading: Public Hearing; Establishing Time, Place and Manner Restrictions on Psilocybin Service Centers and Manufacturing of Psilocybin Products**

Mayor CLEMENTS announced that the Public Hearing was still open for the Ordinance to be read a Second Time by Title Only and considered for Adoption at 6:12 p.m. and that the Rules of Order were read in their entirety during the Regular Session of September 7, 2022.

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Michael BOQUIST, *Community Development Director*

BOQUIST stated during the Regular Session of August 3, 2022, the City Council adopted Ordinance 3256, Series 2022, declaring a ban on psilocybin service centers and the manufacturing of psilocybin products within the City of La Grande; and referring said Ordinance and the question of establishing a full ban to the voters at the November 8, 2022, Statewide General Election. Given the uncertainty of the outcome of the November vote regarding the proposed ban, City Staff recommended the City Council proceed with the process to establish time, place, and manner restrictions for such facilities.

BOQUIST mentioned should the November election result in a “No” vote, businesses engaged in the manufacturing, delivery, and administration of psilocybin may begin applying for permits to operate within the City of La Grande in January, 2023. In preparation for this potential election result and as discussed above, Staff recommended that the City Council consider establishing time, place and manner restrictions as provided in ORS 475A.530, to minimize potential adverse impacts to adjacent properties and land uses that may be incompatible with such facilities. The proposed Ordinance was modeled after the City’s Land Development Code Ordinance, Article 3.21, establishing time, place and manner regulations for marijuana related facilities.

BOQUIST noted should the November election result in a “Yes” vote and a ban was imposed, the time, place, and manner restrictions applicable to psilocybin related businesses being proposed in the Ordinance would not be applicable until such time as the ban was repealed.

Following are the proposed standards for psilocybin service centers and the manufacturing of psilocybin products:

- A. **Location.** *Psilocybin service centers and the manufacturing of psilocybin products, measured from the real property boundary on which the facility is sited, shall not be located:*
1. *Within 1,000 feet of the real property comprising a:*
 - a. *Public or private preschool, elementary, secondary or career school attended primarily by minors; or,*
 - b. *Public library; or,*
 - c. *Public Park; or,*
 - d. *Community recreation facility attended primarily by minors; or*
 - e. *Participant sports and recreation facility attended primarily by minors; or,*
 - f. *Licensed daycare center.*
 2. *Within 1,000 feet of the real property boundary comprising a psilocybin service center and/or a business engaged in the manufacturing of psilocybin products.*
- B. **Residential Uses.** *Psilocybin service centers and the manufacturing of psilocybin products shall not be located on a property with a residence or a mixed-use property that includes a residence, including a caretaker's residence.*
- C. **Hours.** *Psilocybin service centers and the manufacturing of psilocybin products shall not operate between the hours of 8:00 p.m. and 8:00 a.m. Psilocybin service centers and the manufacturing of psilocybin products on properties with no other businesses, uses, or other patron activity are exempt from this restriction.*
- D. **Public View.** *All doorways, windows and other openings of psilocybin service centers and businesses engaged in the manufacturing of psilocybin products shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.*
- E. **Lighting.** *Primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing security lighting to provide after-dark visibility to employees and patrons. Fixtures shall be designed and located so the light patterns overlap, but do not cast light beyond the property boundaries, except over pedestrian areas within a public right-of-way.*
- F. **Storage.** *All storage shall be located within a permanent building and may not be located within a trailer, tent or*

motor vehicle. Outdoor storage of any material associated with psilocybin service centers and the manufacturing of psilocybin products is prohibited.

G. Odors. *Psilocybin service centers and the manufacturing of psilocybin products shall use an air filtration and ventilation system designed to ensure, that psilocybin related odors are confined to the premises and are not detectible beyond the property boundaries in which the facility is located.*

H. Secure Disposal. *Psilocybin service centers and businesses engaged in the manufacturing of psilocybin products must provide for secure disposal of psilocybin remnants or by-products; psilocybin remnants or by-products shall not be placed within the facility's exterior refuse container.*

The following was information provided to the City Council during the Regular Session of August 3, 2022, when they voted to place the question of a ban on the November ballot:

- A. In November 2020, Oregon voters (56%) approved Ballot Measure 109, known as the Oregon Psilocybin Service Act which allows for the manufacturing, delivery and administration of psilocybin at supervised, licensed facilities.
- B. Psilocybin mushrooms are wild or cultivated mushrooms that contain psilocybin, a naturally occurring psychoactive and hallucinogenic compound that produce changes in perception, mood, and cognitive processes.
- C. ORS 475A.235 provides that the Oregon Health Authority (OHA) will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the State.
- D. The OHA has initiated a rulemaking process and intends to begin accepting applications for proposed facilities, beginning on January 2, 2023.
- E. The OHA has not completed the rulemaking process for implementing the State's psilocybin program and there are still a lot of things unknown about the regulation process.
 - For instance, there was nothing known so far about how the OHA will regulate the administration of psilocybin so as to prevent DUIs when persons leave the service centers.
 - Additionally, the criteria for dosage levels have not been released.
 - The State can impose a 15% tax on the sale of psilocybin products, but a municipality cannot impose a local tax.

BOQUIST stated because of the unknown elements of the rulemaking process, city staffs throughout the State do not know how the manufacturing, delivery and administration of psilocybin at supervised, licensed facilities would occur within city jurisdictions.

BOQUIST shared that the first Public Hearing on this proposed Ordinance was held on September 7, 2022, at which time the Ordinance was read for the first time, by Title only. While public testimony was invited during this first public hearing, there was no written or oral testimony from members of the public. The City Council proceeded with the First Reading of the Ordinance and continued the hearing to October 5, 2022.

Mayor CLEMENTS asked if two (2) Psilocybin Centers could open right next to each other, to which BOQUIST stated no, they would need to be one-thousand (1000) feet away from each other. Mayor CLEMENTS asked if a Marijuana business and Psilocybin Center could be right next to each other, to which BOQUIST noted that as of now, yes. That would need to be addressed during the code amendment process.

PUBLIC TESTIMONY

None

COUNCIL DISCUSSION

None

Mayor CLEMENTS closed the Public Hearing at 6:17 p.m. and entertained a Motion:

The following Motion was introduced by BOZARTH; ROCK providing the Second:

MOTION

MOTION: I move that the proposed Ordinance Establishing Time, Place and Manner Restrictions on Psilocybin Service Centers and the Manufacturing of Psilocybin Products be read for the Second Time by Title Only, Put to a Vote, and Adopted.

COUNCIL DISCUSSION

None

Upon Mayor CLEMENTS' request, Acting City Recorder STOCKHOFF read the proposed Ordinance for the Second Time by Title Only.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ESTABLISHING TIME, PLACE AND MANNER RESTRICTION ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS; AND DECLARING AN EFFECTIVE DATE [3257]

VOTE

MSC: 7-0 (Yes: CLEMENTS, LILLARD, BOZARTH, GLABE, HOWARD, MIESNER, and ROCK; No: None)

b. Consider: Ordinance, Second Reading:
Public Hearing; Establishing a Temporary
Moratorium on Bed and Breakfast Inns

Mayor CLEMENTS announced that the Public Hearing was still open for the Ordinance to be read a Second Time by Title Only and considered for Adoption at 6:17 p.m. and that the Rules of Order were read in their entirety during the Regular Session on September 7, 2022.

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Michael BOQUIST, *Community Development Director*

BOQUIST announced that the City Council and Planning Commission held a Joint Work Session on August 8, 2022, to discuss the possibility of pursuing a temporary moratorium on the acceptance of Conditional Use Permit applications for new Bed and Breakfast Inns (BnBs).

BOQUIST stated as discussed during the Work Session, over the past 2+ years, since early 2020, the Planning Commission had considered twenty-eight (28) Conditional Use Permit applications for BnBs, which had resulted in the conversion and removal/loss of twenty-four (24) full-time dwelling units from the City's housing stock or inventory (rentals and home ownerships). The frequency of applications being submitted and the loss of housing had been concerning to the Planning Commission.

BOQUIST noted that in 2019, the City of La Grande completed a Housing Needs Analysis (HNA), which was adopted by the City Council into the Goal 10 Chapter of the City's Comprehensive Plan Ordinance in 2020. The HNA identified that La Grande had a shortage of needed housing, with a need for seven hundred ninety-five (795) new dwelling units over the next twenty (20) years, by the year 2040. This included a need for three hundred thirty-six (336) single-family dwelling units, one hundred fifteen (115) duplex dwelling units, two hundred (200) multi-family dwelling units, and one hundred forty-four (144) other group housing dwelling units.

When broken down into annual targets or goals, the following was the breakdown of housing types, inventory needed per HNA, quantities of new housing built, quantities of housing lost to BnBs, and overall gain/deficit:

- Single-family dwellings (16.8/year = 50.4 needed in 2020-2022 = 336 total 20-year need)
 - Gained 26 new dwelling units

- Lost 18 dwelling units to BnBs
- Total: Gained 8 dwelling units towards HNA 2020-2022 goal.
 - 42 units short of 3-year goal.
 - Approximately 2+ year setback in housing production.
- Duplexes (5.75/year = 17.25 needed in 2020-2022 = 115 total 20-year need)
 - Gained 6 new dwelling units (6 duplexes)
 - Lost 2 dwelling units to BnBs
 - Total: Gained 4 dwelling units towards HNA 2020-2022 goal.
 - 13 units short of 3-year goal.
 - Approximately 2+ year setback in housing production.
- Multi-Family (10/year = 30 needed in 2020-2022 = 200 total 20-year need)
 - Gained 97 – 17 new completed MF units w/ 82 new MF units under construction
 - Lost 3 to BnBs
 - Total: Gained 64 dwelling units towards HNA 2020-2022 goal.
 - 34 units additional
 - Approximately 2 years ahead of schedule.
- Other: MH Parks & Group (7.2/year = 21.6 needed in 2020-2022 = 144 total 20-year need)
 - No change.

BOQUIST noted that in early 2021, the Planning Commission and City Council expressed a commitment toward addressing needed housing through the adoption of a Housing Production Strategy (HPS). The HPS provided a list of recommended strategies that the City could take to promote the development of needed housing in the City. The first seven (7) strategies required amendments to the City's Land Development Code Ordinance, which were intended to encourage the production of needed housing. Other strategies were policy/program related that involved developing incentives.

To further emphasize the City's commitment to address needed housing, during the Council 2022 goal setting retreat, BOQUIST stated that the Council emphasized the importance of continuing to pursue solutions to the housing shortage in La Grande per the City's adopted HNA and HPS. It was noted that the lack of adequate housing had an adverse impact on the ability of local businesses to recruit staff.

BOQUIST mentioned as a result of the recent adoption of the HNA and HPS, and the City Council's emphasis on

pursuing solutions to address the City's housing shortage, the Planning Commission arranged for the August 8, 2022, Work Session with the City Council to discuss the Commission's concerns regarding how Bed and Breakfast Inns may compromise the residential character of neighborhoods, and more importantly, adversely impact the City's needed housing inventory as a result of slower than anticipated residential growth due to various economic factors. Such concerns have resulted in the Planning Commission raising the question of whether or not to establish a temporary moratorium on the permitting of new Bed and Breakfast Inns. As a result of Work Session discussions, by consensus of the City Council, staff was directed to schedule a public hearing to consider this matter during the City Council's Regular Session on September 7, 2022, limited to a temporary moratorium only on the conversions of entire dwelling units from full-time single-family dwellings to vacation rentals.

With regards to process, to establish a moratorium, BOQUIST informed that notice was required to be provided to the Oregon Department of Land Conservation and Development at least 45-days prior to the final public hearing, in accordance with ORS 197.520(1)(a). Notice was provided to the State on August 15, 2022, which puts the final public hearing on the City Council's October 5, 2022, Regular Session agenda.

BOQUIST noted that to provide the public an opportunity to learn about the proposed temporary moratorium and to participate in the public hearings to consider this matter, the City elected to hold two (2) public hearings with the first public hearing and first reading of the Ordinance scheduled for September 7, 2022. The second public hearing on this proposed Ordinance was scheduled for October 5, 2022, at which time the Ordinance would be read for the second time and considered for adoption. Public comments would be accepted at both public hearings.

BOQUIST stated that the proposed Ordinance was drafted with an Emergency Clause, causing the Ordinance to go into effect immediately upon its passage on October 5, 2022. The purpose of this emergency clause was to minimize the additional loss of needed housing through new land use application submittals to convert dwellings to Bed and Breakfast Inns. All land use applications submitted prior to the effective date of the Moratorium Ordinance were not subject to the moratorium and would be considered for approval.

BOQUIST stated that at the first Public Hearing held on September 7, 2022, the Ordinance was read for the first time, by Title only. No written testimony was submitted regarding this matter, but oral testimony was provided both in support

and neutral to this request during the hearing. The City Council continued the hearing to October 5, 2022.

Following the first Public Hearing, the Ordinance was revised to remove the reference to “Airbnb” as this is the name of a private company. The Land Development Code referred to these types of properties as Bed and Breakfast Inns so all references to Airbnb have been changed. There were no other revisions to the Ordinance.

In response to Mayor CLEMENTS’ question, BOQUIST stated the moratorium would not affect the construction of a new single-family home with the intent of operating it as a short-term rental. The Planning Department would prefer that the builder apply for the Conditional Use Permit first, but since it would not be taking an “already built home” off the market, the builder would still be able to move forward with the application process.

Mayor CLEMENTS asked if any applicants who submitted their applications by 5:00 p.m. on Wednesday, October 5th would still be considered and presented to the Planning Commission, to which BOQUIST stated yes. They were still valid applications that would go through the process as if the moratorium did not exist.

Mayor CLEMENTS asked when the one-hundred twenty (120) days would start, to which BOQUIST noted it would start immediately if the Council supported the emergency clause. BOQUIST clarified that the Planning Commission would most likely ask the Council for an additional one-hundred twenty (120) days to complete the updated standards because it was a lengthy process to get those adopted. As of right now, it could be next summer or fall before the standards would be adopted.

In response to LILLARD’S question, BOQUIST explained no one could turn in an application for one-hundred twenty (120) days or until the moratorium was lifted, and that only applied to applicants who were converting an existing home to a short-term rental.

PUBLIC TESTIMONY

Liberty AVILA, Planning Commission Member, spoke in support of the moratorium. She noted, over the past couple of years, BnB applications had been coming through at an accelerating rate which limited the amount of time the Commission could delve into other planning projects. She expressed concern that realtors were marketing homes with the impression that they would make a good BnB and taking away potential starter homes for residents in the City when home ownership was so important to the community.

Wally WALLER stated his family moved to the area sixty (60) days ago and it had been a difficult process finding a home.

He expressed the need to find ways to increase entry barriers while also creating revenue streams and infrastructure in the City.

Anne MORRISON, Planning Commission Member, spoke in favor of the moratorium. She emphasized how the Planning Commission had not been able to address any other issues because of the number of BnB applications. One (1) BnB application took up their whole meeting session in September and there were already six (6) additional applications to be presented at their meeting on October 11, 2022. The Planning Commission had been scheduling extra meetings, even meeting on Saturdays, to address other issues.

Roxie OGILVIE, Planning Commission Member, spoke in favor of the moratorium. She stated that she was a lifelong resident of La Grande and sought to be on the Planning Commission after she was notified of an Airbnb that was going to open across the street from her residence. After reviewing the full application for the Airbnb, she realized the implications it would have on her neighborhood. Due to the requirements, notification postcards were only sent to neighboring homes within one-hundred (100) feet of the proposed Airbnb. She would like to see a better way of informing residents when there was an application for an Airbnb in their neighborhood. OGILVIE expressed concern for marketing techniques that advertised houses as BnB's without considering the residents or the buyers.

Speaking neutral to the moratorium, Kimberly ROSE voiced concern for the fact that a BnB host does not have to live in our area to buy a house and convert it. She noted other states have policies in place that would not allow that to happen. She expressed concern for the fact that anyone could build a new house with the intent of using it as a BnB, as that also took away housing from residents too. She stated La Grande needed more housing and the nice thing about BnB's were they created a nice place for out of town visitors to stay.

Dustin ROSE, stated his mother, Kimberly, owns an Airbnb. He feels neutral on the situation due to his mom and him owning and operating an Airbnb. He expressed concern over the cost of buying a house in today's market. He also suggested the Planning Commission make a change to the code so the Conditional Use Permits stay with the applicant, not the property the permit was issued for.

COUNCIL DISCUSSION

GLABE asked how much of a subset from the moratorium was going to impact the volume of applications the Planning Commission had been seeing, to which BOQUIST stated he did not see it obstructing their work moving forward. The moratorium would certainly take some pressure off. So far,

they had been getting a mix of applications for BnB's, but the moratorium would put a pause on any non-owner operated applicants. A potential cause for the recent influx could be the fact that the moratorium was advertised in the paper and addressed at the Council Meeting in September.

MIESNER asked if the Planning Commission was unable to address other issues because of the increase in BnB applications, to which BOQUIST explained not at the moment. Other than code amendments, the only thing on the agenda was BnB applications.

Mayor CLEMENTS announced that the Public Hearing was closed at 6:44 p.m. and entertained a motion.

The following Motion was introduced by LILLARD; HOWARD providing the Second:

MOTION

MOTION: I move that the proposed Ordinance Declaring an Emergency and Establishing a Temporary Moratorium on Bed and Breakfast Inns be read for the Second Time by Title Only, Put to a Vote, and Adopted.

COUNCIL DISCUSSION

None

Upon Mayor CLEMENTS' request, Acting City Recorder STOCKHOFF read the proposed Ordinance by Title Only.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ESTABLISHING A TEMPORARY MORATORIUM ON BED AND BREAKFAST INNS; AND DECLARING AN EMERGENCY [3258]

VOTE

MSC: 6-1 (Yes: CLEMENTS, LILLARD, GLABE, HOWARD, MIESNER, and ROCK; No: BOZARTH)

UNFINISHED BUSINESS

None

NEW BUSINESS

- a. **Consider:** Resolution; Allocating American Rescue Plan Act Funding to Specific Projects

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Robert Strobe, *City Manager*

STROPE stated the City of La Grande received \$3,023,872 from the American Rescue Plan Act (ARPA) and elected the "standard allowance," which allowed the City to consider the full amount as "Revenue Loss" and funds could be used for any governmental purpose. All ARPA funds must be obligated not later than December 31, 2024, and expended by December 31, 2026.

STROPE noted on June 13, 2022, the City Council held a Work Session to review project proposals identified by City staff and tentatively prioritized the projects. The City Council directed City staff to schedule a Virtual Town Hall/Work Session, to be held on September 14, 2022, to receive additional public input from the community regarding the proposed projects.

STROPE mentioned at the September 14, 2022, Virtual Town Hall/Work Session, the Department Directors, again, presented the proposed projects and responded to questions from the City Council. During the Work Session, the City Council reviewed public comments received prior to the Work Session, comments submitted online during the Work Session, and heard public comments from those in attendance to assist in reaching consensus on the final priority ranking. The City Council added projects submitted by the public to those presented by City staff prior to their discussions regarding funding allocations.

STROPE explained that at the September 14, 2022, Virtual Town Hall/Work Session, the City Council reached consensus on a prioritized list of project funding based on input from staff and the public which included the Eastside Housing Water and Sewer Infrastructure Project, various Street Projects, and up to \$250,000 of gap funding for water and sewer improvements at the Union County Fairgrounds, contingent upon the outcome of outstanding funding requests. Further, the City Council indicated they would not consider any additional projects for ARPA funding with the intent that funding not expended on or allocated to the Eastside Housing Water and Sewer Infrastructure and Union County Fairgrounds shall be used to fund street projects until all ARPA funds were depleted.

STROPE explained the proposed Resolution allocated the American Rescue Plan Act (ARPA) funds based on the consensus reached at the September 14, 2022, Work Session. Upon passage, and assuming the priorities remained unchanged, Public Works would immediately begin the process to complete the design and prepare and publish the bid documents for the Eastside Housing Water and Sewer Infrastructure Project. Additionally, Public Works would move forward with the process to complete the 16th and 12th Street projects. The Council action item to establish the priority order for funding and completion of the remaining street projects would be on the November Regular Session agenda.

STROPE noted the City Council was scheduled to meet with the Fair Board in a Work Session on October 24, 2022, to discuss the Fairground Water and Sewer Infrastructure Project but it was not anticipated that decisions regarding the \$250,000 of gap funding would be included on the

Council's November Regular Session agenda given the outside funding requests would still be in process.

PUBLIC TESTIMONY

None

COUNCIL DISCUSSION

LILLARD expressed concern in supporting the Eastside Infrastructure Project based on current mortgage rates, supply chain issues, and labor shortages which make it difficult for contractors to proceed with projects. He voiced the Infrastructure Project seemed too high risk and speculative with the unknowns of whether developers were interested and what they might propose to do. He compared the situation to the infrastructure of the Business Park.

Mayor CLEMENTS commented he had recently reviewed the Housing Production Strategy and asked if there were funds the City has now to use, should a developer want to move forward with developing that area, to which STROPE stated the City could always use General Fund Revenues for any purpose. STROPE noted he would not advocate for using them for water and sewer. The City could take water and sewer reserves and put them towards that project, recognizing that those reserves were also one-time dollars. In terms of the water fund, the City would like to keep enough money in the bank in case a well goes out and a new one needed to be built. Another option would be to create a Local Improvement District, funded with those water/sewer reserve funds, where the benefited property would be responsible for paying back that debt.

Mayor CLEMENTS commented on the fact that he advocated strongly for the Eastside Infrastructure Project because of the potential for development and that it would also bring back returns to the City. Subsequent to that, he noted interest rates had gone up considerably and existing home sells were dropping, making him question whether this project should still be considered.

BOZARTH spoke on how interest rates fluctuate over time and the current economic situation would most likely not last forever. He expressed the Eastside Infrastructure Project was an investment for our future and hearing comments from residents earlier tonight, stating there was a lack of homes within our community, he felt it would be very short-sided to not approve funds for that project.

LILLARD stated since these were one-time funds, he would like to see them used on something that the City could buy and will stay bought. There were too many unknowns with the infrastructure project.

ROCK noted there was limited land available in the City of La Grande for development and if the funds were not

allocated for these types of projects now, it could really affect our future.

HOWARD agreed that housing was needed within the City, but felt that she could not support allocating the funds to anywhere but the street projects. She noted residents of La Grande have been suffering under the adverse conditions of the City's roads and this would benefit them sooner rather than later.

GLABE stated he would be happy if all of the funds went towards roads, but could not help but wonder if not moving forward with the Infrastructure Project would be a missed opportunity, due to the dire need for housing in our community.

A brief Council discussion took place regarding other options for funds that could help the Infrastructure Project if it did not get awarded ARPA funds.

LILLARD noted that in the twenty (20) years he had been a member of the Council, the thing most residents want to see improved was the roads.

GLABE commented that he would be in favor of removing the Fairground Project for funding consideration and putting those funds into road improvements.

STROPE clarified stipulations that would come forth if using funds from the water or sewer reserves to fund the Infrastructure Project. In response to Mayor CLEMENTS' procedural question, STROPE noted the simplest way, would be to take each item, one at a time, and entertain a motion.

In response to MIESNER's question in regards to putting aside funds for the Water and Sewer Infrastructure Project with the option to reevaluate where to obligate those funds in 2024, if no one steps forward to utilize that land to build upon, STROPE stated he would urge them not to do that. To get the project designed and engineered by the 2026 deadline, the City would need to start expending money now. Any money spent on design, the City would have to cover outside of ARPA funds, whether or not the project moved forward to build. STROPE explained in terms of capacity within that time frame to complete all of the street projects, the City would be able to complete them. Between Public Works and Contractors, he was very confident all of the ARPA funds could get spent on streets.

MIESNER stated she felt torn on where to award the ARPA funding, but felt the Fairground Water and Sewer Project should still be included in the discussion.

The following Motion was introduced by HOWARD;
LILLARD providing the Second:

MOTION

MOTION: I move that the proposed Resolution allocating American Rescue Plan Act funding to exclusively be used for road projects be read by Title Only, Put to a Vote, and Passed.

COUNCIL DISCUSSION

STROPE explained that if this motion was successful, the Resolution would be revised to simply allocate all of the funds to roads. Staff would immediately start work on the design piece for 12th and 16th Streets and present the Council with a prioritized list of roads being recommended at the November 2, 2022, Regular Session City Council Meeting.

GLABE stated that he was struggling with his vote, and if there was a developer already interested in the Eastside Infrastructure Project, it would be an easy decision. The complicated part was that there were about six (6) different owners within that area and a lot could happen that the City would not have control over.

ROCK stated he would vote in opposition, not because he does not want the infrastructure, but because he would like to see funds go towards the Fairground Project and the remaining funds be spent on street and road repairs.

LILLARD asked how much of the funds were being discussed for the Fairground Project, to which STROPE stated two-hundred fifty thousand dollars (\$250,000), contingent on other funding requests submitted by the Fair Board.

HOWARD asked if that was a friendly amendment to the original Motion, to which ROCK stated yes. HOWARD noted she would accept that amendment to her Motion.

Mayor CLEMENTS clarified that Councilor ROCK supported funds being put towards the Fairground Project.

STROPE informed the Councilors that whomever made the Second on the Motion would have to amend it, to which LILLARD agreed that he would amend.

GLABE expressed that while he agreed the Fairgrounds needed restrooms, and since they might be able to get the funding elsewhere, he would oppose including them in receiving any ARPA funds.

ROCK mentioned he pushed for the Fairgrounds because of tourism. He believed by supplying the Fairgrounds with the water and sewer infrastructure, it would help attract more

people into our community and the City would benefit from the incoming tourism.

STROPE explained that the amended Motion would be for the \$2 million dollars (plus), more or less, allotted for roads and two-hundred fifty thousand dollars (\$250,000) reserved as gap funding for the Fair.

Mayor CLEMENTS voiced he would agree with Councilor GLABE on not awarding any funds to the Fairground Project.

In response to MIESNER's question, ROCK clarified that he wanted to help the Fairgrounds out by including that allocation in the Motion, but he was not sure how it worked if they do not get the money from the other sources.

STROPE explained how the proposed Resolution was currently structured, so that two-hundred fifty thousand dollars (\$250,000) was reserved for the Fairgrounds and the Council would have to approve those funds at a later date. If that remained in the Resolution, and the Resolution passed, as well as after the Work Session with the Fair Board, the Council would then decide to either give the Fair Board that money to help with their project or to deny them of those funds.

A Council discussion took place regarding ARPA funding being reserved for the Fairgrounds.

STROPE explained that with the amended Motion and the amended Second, the way the Resolution would be approved was by removing the \$1.5 million dollars (\$1,500,000.00) for the Eastside Infrastructure Project and to add those funds towards the streets. The Fairground Project would remain as-is.

STROPE read the paragraph in the Resolution regarding the Fairground Project.

Mayor CLEMENTS commented that if other organizations, who might award the Fairgrounds some funding for their project, might not give them the amount they were asking for if they see that the City of La Grande had a Resolution stating that two-hundred fifty thousand dollars (\$250,000) was reserved for them in lieu of other funding.

Mayor CLEMENTS asked for a Roll Call vote on the amended motion.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ALLOCATING AMERICAN RESCUE PLAN ACT FUNDING TO SPECIFIC PROJECTS [4827]

VOTE

**MSC: 4-3 (Yes: LILLARD, HOWARD, MIESNER, and ROCK;
No: CLEMENTS, BOZARTH and GLABE)**

Mayor CLEMENTS commented he was proud of how the Council handled the discussion and even though everyone may not have agreed on the outcome, he had a lot of respect for what they did.

UNION COUNTY COMMISSIONER UPDATE

Commissioner Matt SCARFO stated the Election Ballots would be mailed on October 19, 2022. He mentioned Eastern Oregon University's homecoming weekend was October 21, 2022 to October 22, 2022. He reminded everyone of the Broadband survey that was sent out in the mail. The Federal Government was issuing one billion dollars to support broadband needs. There was a website (www.fasterinternetoregon.org) and a phone number (541-426-7500) to participate in the survey.

Once people access the website or call in by phone, Mayor CLEMENTS asked if the data supplied would help to create a map of internet speed connections around the County, to which SCARFO noted yes.

STAFF COMMENTS

CARPENTER mentioned the Community Wide leaf pickup was taking place in November. He also noted the snow plows were getting prepped for Winter.

CARPENTER was anticipating the Grind and Inlay Project on Gekeler Street would begin towards the end of October and it should be finished before snowfall.

BELL announced that on Saturday, October 29, 2022, was Drug Take-Back Day. It was from 10:00 a.m. to 2:00 p.m. at Safeway in La Grande.

BISHOP congratulated Councilor MIESNER on receiving the Oregon Main Street Leadership Award.

MIESNER voiced that she also accepted the Outstanding Project Award on behalf of Brickyard Lanes and shared that The Local won an Award for the Adaptive Re-use of a Building.

CITY MANAGER COMMENTS

STROPE updated the Council on the ARPA Resolution revised language, stating the Street Project amount would now equal two million seven-hundred and seventy-three thousand and eight hundred seventy-two (\$2,773,872) dollars. He expressed his appreciation for the work the Council put in trying to figure out the best way to use these dollars for the community. He stated that a priority order list of the street projects would be presented to the Council for consideration at the November 2, 2022, Regular Session City Council Meeting.

CITY COUNCIL COMMENTS

LILLARD noted he attended a Senior Council Meeting on Wednesday, September 28, 2022. He brought them up to speed on the ARPA discussion and the BnB moratorium. He stated most attendees were in favor of the moratorium and funding the street projects.

HOWARD thanked the Planning Commission for how much work they had been doing and the extra time they had dedicated.

Mayor CLEMENTS read a Proclamation for Extra Mile Day and proclaimed November 1, 2022, as *Extra Mile Day* in La Grande. He urged each person in the community to take time on this day to not only go the extra mile, but to also acknowledge all those who are inspirational in their efforts and commitment to their organization, family, community, and county.

Mayor CLEMENTS noted that since Measure 110 had passed in 2020, and went into effect February, 1st 2021, it pretty much legalized any drug. He stated money should be coming in from State services to help people who may need to seek treatment. He voiced, in his opinion, the whole Measure had been a mess for a lot of reasons. He asked Chief BELL to give a brief summary on some of the impacts Measure 110 has had on the community. He stated this request was inspired by an email he received regarding a letter that the City of Ontario's City Council wrote and sent to the Governor of Oregon.

BELL stated that since February 2021, the agency and public safety within our community had been impacted by Measure 110. He clarified there had not been any legalization of drugs, but use or possession had been decriminalized. He shared an example of how fentanyl has been disguised and distributed in communities to appeal to children and young adults. He noted how when he started serving our community as a Police Officer in the nineteen nineties and that the prevalence of drugs was greater today than throughout his nearly thirty (30) year career as a Police Officer.

BELL explained data suggested that Oregon was amongst the highest in addiction rates and amongst the worst for accessible treatment. Measure 110 promised certain results but BELL's opinion was that Measure 110 has only proven to be flawed. Measure 110 has almost been in effect for two (2) years and not a lot had changed in regards to available treatment options. The only change he had seen was more people who were addicted to drugs, overdosing, and dying.

BELL noted how behavioral health issues and substance abuse had been stressing the resources within our

community. He expressed concern for how our state and community members have been negatively impacted by Measure 110. He provided an example that someone could have 39 fentanyl pills in their possession before it became a criminal offense and if someone were to have more than the legal amount in their possession, it would result in a citation, one-hundred (100) dollar bail, and the violator was only provided a card with a number they could call with information on treatment options or they could choose to go to court. He noted locally and statewide people were not choosing to go to court, so nothing happens.

BELL stated that the crimes and penalties associated with the distribution and manufacturing of drugs still exist; however, the mechanism to investigate and enforce those crimes had diminished.

A discussion was held in regards to writing a similar letter to address local concern for Measure 110 to send to the Governor and Gubernatorial Candidates, to which it was agreed that Mayor CLEMENTS and Chief BELL would work on the letter together and present the letter for City Council approval at the November 2, 2022, Regular Session City Council meeting.

Mayor CLEMENTS addressed a rumor in regards to his authority as Mayor and reminded everyone that he does not have the authority to tell someone what they can or cannot do with a piece of property, that would only be the La Grande Planning Department. Every piece of property was zoned a particular way and there was a process one would have to go through if they desired to use a property for a different purpose than what it was zoned for.

There being no further business to come before this Regular Session of the Council, Mayor CLEMENTS adjourned the meeting to the Urban Renewal Agency Regular Session at 7:50 p.m. The Council is scheduled to meet again in Regular Session on Wednesday, November 2, 2022, at 6:00 p.m., in the Council Chambers of City Hall, 1000 Adams Avenue, La Grande, Oregon.

Kayla A. Brainerd
Assistant to the City Manager

Stephen E. Clements
Mayor

APPROVED: _____

CITY of LA GRANDE

COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Robert Strope, City Manager

COUNCIL ACTION: **CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN LEASE AGREEMENT RENEWAL; SAC ANNEX PARKING LOT, 2022- 2027**

- 1. MAYOR: Request Staff Report
- 2. MAYOR: Invite Public Comments
- 3. MAYOR: Invite Council Discussion
- 4. MAYOR: Entertain Motion

Suggested Motion: I move that the City Manager be authorized to sign the renewal of the Parking Lot Lease Agreement with Sac Annex LLC, as presented.

- 5. MAYOR: Invite Additional Council Discussion
- 6. MAYOR: Ask for the Vote

EXPLANATION: The City and Sac Annex LLC have had a reciprocal parking agreement for a number of years for spaces in the Fir Street and Washington Avenue parking lot. Under the agreement, the parking area owned by the Sac Annex, LLC is available for public parking. The current lease expired on June 30, 2021, and the manager of the property indicated a desire to renew the agreement without any changes. Attached is the new lease through June 30, 2027, no provisions of the agreement have changed.

The City Manager recommends that the Council ratify his action to sign the agreement.

Reviewed By: (Initial)

City Manager _____

City Recorder _____

Aquatics Division _____

Building Department _____

ED Department _____

Finance _____

Fire Department _____

Human Resources Dept _____

Library _____

Parks Department _____

Planning Department _____

Police Department _____

Public Works Department _____

COUNCIL ACTION (Office Use Only)

Motion Passed

Motion Failed; _____

Action Tabled: _____

Vote: _____

Resolution Passed

Effective Date: _____

Ordinance Adopted

First Reading: _____

Second Reading: _____

Effective Date: _____

CITY OF LA GRANDE

LEASE

This Lease, made this ~~Second~~~~First~~ (2nd~~1st~~) Day of ~~November~~July, 20~~22~~16, by and between the City of La Grande, Oregon, 1000 Adams Avenue, P.O. Box 670, La Grande, Oregon, 97850 (hereinafter "City"), and Sac Annex Building LLC, 105 Fir Street, La Grande, OR 97850 (hereinafter "Sac Annex").

WITNESSETH

City, in consideration of and under the terms, covenants and conditions hereinafter set forth, hereby leases and grants to Sac Annex the premises described as follows:

A tract of land described as beginning at the most easterly corner of Lot 10, Block 107, Chaplin's Addition to La Grande, Union County, Oregon, according to the recorded plat thereof, thence North 48 20' West 88.7 Feet; thence South 41 40' West 50.0 Feet; thence South 48 20' East 28.7 Feet; thence North 41 40' East 13.9 Feet; thence South 48 20' East 60 Feet; thence North 41 40' East 36.1 Feet, to the point of beginning.

Sac Annex, in consideration of and under the terms, covenants and conditions hereinafter set forth, hereby leases and grants to City the premises described as follows:

A tract of land described as beginning at the most southerly corner of Block 107, Chaplin's Addition to La Grande, Union County, Oregon, according to the recorded plat thereof, thence North 41 40' East 60.0 Feet; thence North 48 20' West 60.0 Feet; thence South 41 40' West 60.0 Feet; thence South 48 20' East 60.0 Feet, to the point of beginning.

TERM: This Lease shall commence on the ~~Second~~~~First~~ (2nd~~1st~~) Day of ~~November~~July, 20~~22~~16, and shall continue until June 30, 2027~~4~~ or until a new Lease is negotiated. Either party may terminate this Lease at any time and for any reason, upon ninety (90) days' notice to the other party.

COMPLIANCE WITH LAW: Both parties agree that they will, at their own expense, promptly observe and comply with all present and future laws, orders, regulations, rules, Ordinance, and requirements of Federal, State, County, and City governments with respect to the use, care and control of the premises leased.

REPRESENTATIONS: Each party acknowledges that they have accepted this Lease and executed it on the basis of their own examination and personal knowledge of the value, condition, or repair of such premises leased and that no representation as to the value, condition or repair of said premises has been made by the Lessors or their agents. Both parties acknowledge that the rent paid for each piece of property is the use by each party of the others' real property. Each party acknowledges that the person executing this Lease on behalf of the party herein is authorized to act on behalf of the entity and is acting with full knowledge and authority of that party.

RETURN OF PREMISES: Upon the expiration of this Lease, unless extended or its termination for any cause, each party agrees to surrender the premises leased in as good order as when received and improved. Reasonable wear and tear, damage from the elements, fire, acts of God or other casualty are expected.

INJURY TO PROPERTY OR PERSON: Each party shall be responsible for the condition of the premises during the term of this Lease and any damage or injury to property or person resulting from the condition of said premises or sidewalk or the activities of the Lessess, their agents and employees thereon, or any independent contractor hired, and each agrees to indemnify the other as a named insured on its liability policy.

INSURANCE AND TAXES: Each party shall ensure its own property. The City shall pay real estate taxes and assessments on both properties. This Lease agreement reflects a savings on behalf of the City as a result of City having filed for an exemption from property taxes. Should the City not qualify for said exemption, the City shall assume full financial responsibility for said property taxes.

QUIET ENJOYMENT: Each party covenants that the other, on entry into the premises leased and performance of each of the terms of this Lease on their part to be performed, shall have full freedom and use of said premises in accordance with the terms thereof and quietly enjoy the same without lawful claim on the part of any person.

CONDITIONS: If, with respect to the property leased to it, either party fails to perform any of the covenants herein or files a petition in bankruptcy or is declared bankrupt or insolvent according to law or makes an assignment for the benefit of its creditors or if the leasehold estate is taken on execution, then at the option of the Lessor thereof, this Lease shall, with respect to the property leased to it, terminate, and the Lessor thereof, without notice or demand, may re-enter the premises and remove all persons and effects without prejudice to any remedy which might otherwise be used for breach of the covenants hereof.

HOLDING OVER: Holding over by either party after the expiration of the term of this Lease or the term of any extension thereof shall be as tenancy from month to month and not otherwise.

TITLE: Each party covenants that they have good title to the premises leased by them.

INTERPRETATION: All of the covenants, agreements, conditions and terms contained in this Lease shall be binding upon, apply and inure to the benefit of the successors in interest of each parties hereto, and all of said covenants shall be construed as covenants running with the land.

WAIVER: Failure of either party hereto to insist upon the strict performance of the terms, covenants, agreement and conditions in the Lease contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of rights to hereafter enforce such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

IN WITNESS WHEREOF, the City Manager of City of La Grande, Oregon, a municipal corporation, is vested with the authority to execute this Lease and to cause this Lease to be attested by the City Recorder of the City of La Grande, Oregon, and the City's corporate Seal to be hereunto affixed.

CITY OF LA GRANDE

SAC ANNEX BUILDING LLC

By: _____
Robert A. Strope
City Manager

By: _____
Chris Dunn
Managing Member

Date: _____

Date: _____

ATTEST:

~~Angelika N. Brooks~~ Stacey M. Stockhoff
Acting City Recorder

Date: _____

CITY OF LA GRANDE

LEASE

This Lease, made this Second (2nd) Day of November, 2022, by and between the City of La Grande, Oregon, 1000 Adams Avenue, P.O. Box 670, La Grande, Oregon, 97850 (hereinafter "City"), and Sac Annex Building LLC, 105 Fir Street, La Grande, OR 97850 (hereinafter "Sac Annex").

WITNESSETH

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Sac Annex, in consideration of and under the terms, covenants and conditions hereinafter set forth, hereby leases and grants to City the premises described as follows:

A tract of land described as beginning at the most southerly corner of Block 107, Chaplin's Addition to La Grande, Union County, Oregon, according to the recorded plat thereof, thence North 41 40' East 60.0 Feet; thence North 48 20' West 60.0 Feet; thence South 41 40' West 60.0 Feet; thence South 48 20' East 60.0 Feet, to the point of beginning.

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COMPLIANCE WITH LAW: Both parties agree that they will, at their own expense, promptly observe and comply with all present and future laws, orders, regulations, rules, Ordinance, and requirements of Federal, State, County, and City governments with respect to the use, care and control of the premises leased.

REPRESENTATIONS: Each party acknowledges that they have accepted this Lease and executed it on the basis of their own examination and personal knowledge of the value, condition, or repair of such premises leased and that no representation as to the value, condition or repair of said premises has been made by the Lessors or their agents. Both parties acknowledge that the rent paid for each piece of property is the use by each party of the others' real property. Each party acknowledges that the person executing this Lease on behalf of the party herein is authorized to act on behalf of the entity and is acting with full knowledge and authority of that party.

RETURN OF PREMISES: Upon the expiration of this Lease, unless extended or its termination for any cause, each party agrees to surrender the premises leased in as good order as when received and improved. Reasonable wear and tear, damage from the elements, fire, acts of God or other casualty are expected.

INJURY TO PROPERTY OR PERSON: Each party shall be responsible for the condition of the premises during the term of this Lease and any damage or injury to property or person resulting from the condition of said premises or sidewalk or the activities of the Lessess, their agents and employees thereon, or any independent contractor hired, and each agrees to indemnify the other as a named insured on its liability policy.

INSURANCE AND TAXES: Each party shall ensure its own property. The City shall pay real estate taxes and assessments on both properties. This Lease agreement reflects a savings on behalf of the City as a result of City having filed for an exemption from property taxes. Should the City not qualify for said exemption, the City shall assume full financial responsibility for said property taxes.

QUIET ENJOYMENT: Each party covenants that the other, on entry into the premises leased and performance of each of the terms of this Lease on their part to be performed, shall have full freedom and use of said premises in accordance with the terms thereof and quietly enjoy the same without lawful claim on the part of any person.

CONDITIONS: If, with respect to the property leased to it, either party fails to perform any of the covenants herein or files a petition in bankruptcy or is declared bankrupt or insolvent according to law or makes an assignment for the benefit of its creditors or if the leasehold estate is taken on execution, then at the option of the Lessor thereof, this Lease shall, with respect to the property leased to it, terminate, and the Lessor thereof, without notice or demand, may re-enter the premises and remove all persons and effects without prejudice to any remedy which might otherwise be used for breach of the covenants hereof.

HOLDING OVER: Holding over by either party after the expiration of the term of this Lease or the term of any extension thereof shall be as tenancy from month to month and not otherwise.

TITLE: Each party covenants that they have good title to the premises leased by them.

INTERPRETATION: All of the covenants, agreements, conditions and terms contained in this Lease shall be binding upon, apply and inure to the benefit of the successors in interest of each parties hereto, and all of said covenants shall be construed as covenants running with the land.

WAIVER: Failure of either party hereto to insist upon the strict performance of the terms, covenants, agreement and conditions in the Lease contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of rights to hereafter enforce such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

IN WITNESS WHEREOF, the City Manager of City of La Grande, Oregon, a municipal corporation, is vested with the authority to execute this Lease and to cause this Lease to be attested by the City Recorder of the City of La Grande, Oregon, and the City's corporate Seal to be hereunto affixed.

CITY OF LA GRANDE

SAC ANNEX BUILDING LLC

By: _____
Robert A. Strope
City Manager

By: _____
Chris Dunn
Managing Member

Date: _____

Date: _____

ATTEST:

Stacey M. Stockhoff
Acting City Recorder

Date: _____

CITY of LA GRANDE
COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Gary Bell, Police Chief

COUNCIL ACTION: CONSIDER APPROVING MEASURE 110 LETTER

- 1. MAYOR: Request Staff Report
- 2. MAYOR: Invite Public Comment
- 3. MAYOR: Invite Council Discussion
- 4. MAYOR: Entertain Motion

Suggested Motion: I move that the open letter from the City of La Grande regarding Measure 110 be approved and signed by the Mayor and Councilors.

- 5. MAYOR: Invite Additional Council Discussion
- 6. MAYOR: Ask for the Vote

EXPLANATION: At the October Regular Session of the City Council, the Mayor shared a letter from the City of Ontario regarding the adverse impacts of Measure 110. Following Council discussion and remarks from Police Chief Bell, the City Council reached consensus on drafting a similar letter from the City of La Grande, regarding the failure of Measure 110. The attached draft was prepared by the Mayor with input from Chief Bell and will be sent to Oregon Governor Kate Brown, Gubernatorial candidates Christin Drazan, Betsy Johnson, and Tina Kotek, Representative Bobby Levy and Senator Bill Hansell if approved

The City Manager recommends approval of this Agenda item as presented by Staff.

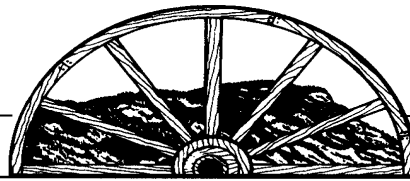
Reviewed By: (Initial)

City Manager _____
 City Recorder _____
 Aquatics Division _____
 Building Department _____
 ED Department _____
 Finance _____
 Fire Department _____

Human Resources Dept _____
 Library _____
 Parks Department _____
 Planning Department _____
 Police Department _____
 Public Works Department _____

COUNCIL ACTION (Office Use Only)

- Motion Passed
- Motion Failed; _____
- Action Tabled: _____
Vote: _____
- Resolution Passed
Effective Date: _____
- Ordinance Adopted
First Reading: _____
Second Reading: _____
Effective Date: _____



October 26, 2022

An open letter from the City of La Grande to:

Oregon Governor Kate Brown
Gubernatorial candidates: Christine Drazan, Betsy Johnson, and Tina Kotek
Representative Bobby Levy
Senator Bill Hansell

The City of La Grande is disappointed.

Measure 110 is a failure! Rather than being an avenue to addiction recovery, M110 enables, and coupled with readily available Narcan, exasperates drug use. The voters of Oregon were sold a faulty bill of sale, that sale **MUST** be rescinded!

Measure 110 (M110) does nothing to prevent or reverse drug addictions, basically because there are no longer any consequences for possession of illegal drugs. Our Chief of Police, Gary Bell, reports the majority of individuals cited for possession are ignoring the citation they are issued. "Offenders," which according to M110 may not be an appropriate term, are cited and released and because there are no repercussions for their drug use, few seek any help. The "hotline" set up for individuals seeking treatment is really a "cold-line;" the number of actual calls received is a tiny fraction compared to the number of citations issued.

If M110 was intended to get drugs off the street, it fails. Before M110, arresting officers had some leverage to encourage users to reveal information about where they scored their drugs. This information periodically resulted in arrests of dealers, large and small. This leverage no longer exists, and rather than reducing the amount of drugs on the street, that amount and the number of users is increasing at unprecedented rates.

We understand that funding for treatment services will go to cities throughout the State. Honestly, we are skeptical that the amount of money La Grande and Union County will eventually receive is close to adequate to address the problems created by M110. And, why bother spending the money in the first place when the individuals it is intended to help are refusing to seek it?

Please, for the citizens of La Grande, Union County, Eastern Oregon and the entire State, do something to reverse Measure 110 as soon as possible.

Thank you for your time and consideration.

Respectfully submitted,

Mayor, Steve Clements

Mayor Pro, Tem Gary Lillard

Councilor, John Bozarth

Councilor, Dave Glabe

Councilor, Nicole Howard

Councilor, Mary Ann Miesner

Councilor, Justin Rock

CITY of LA GRANDE
COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Michael Boquist, Community Development Director

COUNCIL ACTION: **CONSIDER APPEAL OF PLANNING COMMISSION DECISION: CONDITIONAL USE PERMIT, FILE NUMBERS 01-PCA-22 AND 11-CUP-22**

1. **MAYOR:** Open the Public Hearing and ask the City Recorder to read the Rules of Order in their entirety.
2. **MAYOR:** Request Staff Report
3. **MAYOR:** Invite Public Testimony from the Applicant, followed by those in Favor, in Opposition, Neutral to the proposed Ordinance and then Rebuttal Testimony.
4. **MAYOR:** Invite Council Discussion
5. **MAYOR:** Close the Public Hearing and Entertain a Motion:

SUGGESTED MOTION 1: *(Affirm the Planning Commission Decision)*
I move that the Finding of Fact and Conclusions set forth in the Draft Decision Order be (adopted / amended) and that the Planning Commission Decision be upheld, resulting in the Conditional Use Permit being denied.

OR

SUGGESTED MOTION 2: *(Reverse the Planning Commission Decision)*
I move that the Finding of Fact and Conclusions set forth in the Draft Decision Order be amended and that the Planning Commission Decision be reversed, resulting in the Conditional Use Permit being approved.

6. **MAYOR:** Invite Additional Council Discussion
7. **MAYOR:** Ask for the Vote

EXPLANATION: The Appellant is appealing the Planning Commission decision, denying Conditional Use Permit application, File Number 11-CUP-22, to expand an existing Conditional Use Permit, File Number 08-CUP-21. Such expansion will add a second Bed and Breakfast Inn (BnB) on the owner's property.

In July, 2021, the property owner received approval of their first BnB Conditional Use Permit from the Planning Commission to rent the main dwelling (a one-bedroom home). In August, 2022, the property owner submitted a Conditional Use Permit request to expand the BnB business on the property to operate a second one-bedroom BnB rental unit. If approved, the owner will improve the rear of the detached garage and the upper floor to establish the second BnB unit.

During the September, 2022, Planning Commission Public Hearing, the Commission heard testimony from the adjacent neighbor to the East, in opposition to the BnB. The neighbor cited privacy, safety and other neighborhood conflicts that they are experiencing with the existing BnB on this property and one located directly across Y Avenue. The neighbor stated such impacts are anticipated to increase as a result of approving a second BnB on the applicant's property. In addition to the neighbor's written and oral testimony at the Public Hearing, the Planning Commission received testimony in support of the proposed BnB expansion from other residents in the neighborhood.

Such supporting testimony included oral testimony, letters in support, and a signed petition submitted by the applicant's legal counsel.

Based on the evidence and testimony received, the Planning Commission denied the Conditional Use Permit upon finding that adding a second BnB on the applicant's property would result in significant adverse impacts on the livability and use of the neighbor's property. The Planning Commission's Decision Order, along with the evidence presented during the September 13, 2022, Public Hearing are attached to the Draft Decision Order for the City Council's reference (see Exhibit A).

The appellant is appealing the Planning Commission's decision "on the grounds that the findings of fact set out in the Decision Order are not supported by substantial evidence in the record and do not properly address the applicable criteria set out in Land Development Code Ordinance Section 8.5.003." (see Exhibit B, appellant's letters dated September 26, 2022, and September 27, 2022).

As the City Council considers this appeal, the Council has the following options:

1. Affirm (uphold) the Planning Commission decision (Suggested Motion 1).
2. Reverse the Planning Commission decision. (Suggested Motion 2).

(If this Motion is selected, the Council discussions should clearly identify what they disagree with in the PC decision and how/why they have determined that this request "will not have a significant adverse effect." These reasons will then become the Findings of Fact to support the City Council's decision)

3. Remand the decision back to the Planning Commission.
(Note: This option is not recommended. The Planning Commission considered and deliberated on this request for 1.5 hours and would likely arrive at the same or similar Findings. Also, in accordance with State law, ORS 227.178, the City is required to issue a final decision including the conclusion of all appeals on an application within 120 days of the date an application was submitted and deemed complete. Remanding this decision back to the Planning Commission and to allow opportunities for further appeals would be difficult within the 120-day limit, by April 14, 2023.)
4. Modify the Planning Commission decision.
(Note: This option is generally not applicable for applications that were denied. This option is sometimes considered on applications that are "conditionally" approved and where modification as sought to specific conditions of approval. This is not the case with this appeal.)

It is Staff's opinion, that the Planning Commission decision is justified. It is based on existing conflicts experienced by the adjacent property owner that are anticipated to increase, and which the Planning Commission deemed as significant adverse impacts. Based on this, Staff recommends that the City Council affirm (uphold) the Planning Commission's decision.

See Attached Staff Report and Exhibits A and B for the Planning Commission Record and Appeal information.

The City Manager supports the Planning Commission's and Staff's position and recommends that the Council proceed with Suggested Motion 1.

Reviewed By: (Initial)

City Manager MS

City Recorder SMS

Aquatics Division _____

Building Department _____

ED Department _____

Finance _____

Fire Department _____

Human Resources Dept _____

Library _____

Parks Department _____

Planning Department MS

Police Department _____

Public Works Department _____

COUNCIL ACTION (Office Use Only)

- Motion Passed
- Motion Failed; _____
- Action Tabled; _____
Vote: _____
- Resolution Passed # _____
Effective Date: _____
- Ordinance Adopted # _____
First Reading: _____
Second Reading: _____
Effective Date: _____

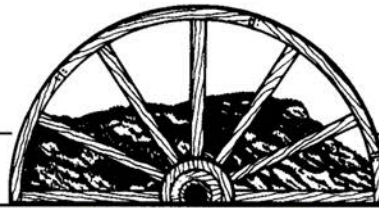
RULES OF ORDER FOR A PUBLIC HEARING

The following is a step-by-step description of the order of events necessary to hold a Public Hearing.

CITY RECORDER READS TO THE PUBLIC:

- A. The City Council will conduct one (1) Quasi-Judicial Public Hearing. These Rules of Order are applicable to the Public Hearing to consider an Appeal of a Planning Commission Decision, File Number 01-PCA-22, Applicant: Kimberly Rose.
- B. The Hearing will proceed as follows:
1. The Mayor will request the Staff Report, which includes applicable criteria and standards for the issues under consideration in the application.
 2. Subsequent to opening the Public Hearing, the Mayor will accept testimony relating to the application. The Mayor may state a time limit for testimony. All testimony must be directed toward the applicable criteria. Oregon Land Use Law requires that all issues raised by a participant during the Hearing must be sufficiently clear and specific to allow the hearing body and other parties an opportunity to respond to those issues. Failure to raise the issues during the Hearing may invalidate future appeal.
 3. The proceedings are being electronically recorded, to be transcribed in written Minutes. When testifying, please step to the podium and state your name. Before leaving the podium, please complete the speaker sign-in sheet.
 4. The applicant will be invited to speak first, followed by proponents, then by opponents, and then by any parties neutral to the application. An opportunity will be provided to parties to clarify any issues raised or to rebut testimony. Proponents, then opponents, will be provided an opportunity to clarify any issues or to rebut testimony.
 5. If additional documents or new evidence is introduced during the Hearing, any participant may request a continuation of the Hearing. Any participant may request that the Hearing Record be kept open for seven (7) days to submit additional written evidence or testimony for the purpose of responding to new evidence. Unless waived, the applicant has seven (7) days to submit a written response.
 6. Members of the City Council may ask questions of the Staff or Hearing participants at any time. The Mayor may then close the Hearing or continue the Hearing at a specified time and place.
 7. All decisions must be based on findings of fact from the Staff Report or evidence and testimony received which relate to the criteria of the land use decision.
 8. An appeal of the City Council decision must be made in writing to the Oregon Land Use Board of Appeals, together with the required fee, within twenty-one (21) days from the date that the final decision is mailed to the applicant and interested participants.
- C. A Councilor must declare any ex parte or pre-hearing contact, including the person's name and the nature of the discussion, as well as any site visitations to the area in question. Councilors should declare any personal or financial interests in this matter and may disqualify themselves from participation in the Hearing. **Does any Councilor wish to make a declaration?**
- D. Does anyone in the audience wish to challenge the right of any Councilor to hear this matter? **Let the Record show that (there are no challenges) OR _____.**

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION • P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850
Phone: (541) 962-1307 • Fax: (541) 963-3333 • Web: www.cityoflagrande.org

**CITY COUNCIL
DECISION ORDER OF _____**

HEARING BODY(IES): City Council (Final Decision)
HEARING DATE(S): Wednesday, November 2, 2022
HEARING TIME(S): 6:00 p.m.
HEARING LOCATION: City Hall Council Chambers, located at 1000 Adams Avenue, La Grande, Oregon.

I. Application Information

File Number: 01-PCA-22 (Appeal of Planning Commission Decision)
Proposal: The applicant has filed an appeal of the Planning Commission's decision, denying Conditional Use Permit, File Number 11-CUP-22, which requested approval to expand an existing Conditional Use Permit, file number 08-CUP-21. If approved, such expansion would add a second Bed and Breakfast Inn (BnB) on the owner's property.
Applicant: Kimberly Rose
Address/Location: 1502 Y Avenue, T3S, R38E, Section 05BD, Tax Lot 5800
Union County Ref. #687
Decision Order Prepared By: Michael J. Boquist, Community Development Director

II. Schedule of Procedural and Public Hearing Requirements

In accordance with Land Development Code Ordinance 3252, Series 2021, Articles 9.3 and 9.4, Conditional Use Permit Applications are subject to the Planning Commission's review and decision authority. Appeals of a Planning Commission decision is subject to the City Council's review and decision authority. In accordance with Article 9.5, public hearings for the consideration of the proposal were scheduled as follows:

Planning Commission Process	August 12, 2022.....	Conditional Use Permit Application received and deemed complete.
	August 15, 2022.....	Public notice mailed to surrounding property owners within 100' and development review agencies.
	September 3, 2022.....	Advertised notice was published in <i>The Observer</i> , advertising the Public Hearing before the Planning Commission for September 13, 2022.
	September 13, 2022.....	Public Hearing before the Planning Commission.
	September 15, 2022.....	Planning Commission decision mailed to applicant and other parties.
	September 27, 2022.....	Expiration of 12-day appeal period to City Council.
City Council Process	September 26, 2022.....	Application for Appeal received.
	September 27, 2022.....	Additional information was submitted by Applicant. Application was deemed complete.
	October 7, 2022.....	Public notice mailed to surrounding property owners within 100' and development review agencies.
	October 20, 2022.....	Advertised notice was published in <i>The Observer</i> , advertising the Public Hearing before the City Council for November 2, 2022.
	November 2, 2022.....	Public Hearing before the City Council.
	November 4, 2022.....	City Council decision mailed to applicant and other parties.
	November 25, 2022.....	Expiration of 21-day appeal period to the Oregon Land Use Board of Appeals (LUBA).

III. Public Notice Information

Public notice was issued in accordance with City and State laws. Notice was provided in accordance with Land Development Code Ordinance 3252, Series 2021, Article 9.6, Section 9.6.001(B). Notice of all Public Hearings were published in the local newspaper of general circulation, with mailed notice provided to the applicant and to the owners of record of property located within one hundred feet (100') of the subject property. Additionally, all Public Hearing materials, including the Draft Decision Order was published on the City of La Grande – Planning Division's webpage.

IV. Review Process and Appeals

A Conditional Use Permit is a quasi-judicial land use action that is subject to the Planning Commission's review and approval. The Planning Commission's review includes a Public Hearing where testimony is accepted from interested persons and which results in a decision being issued in accordance with Chapter 9 of Land Development Code Ordinance 3252, Series 2021.

A decision of the Planning Commission is final unless appealed to the City Council within twelve (12) days from the date the Planning Commission decision is mailed to the applicant.

A decision of the City Council is final unless appealed to the Oregon Land Use Board of Appeals (LUBA) within twenty-one (21) days from the date the City Council decision is mailed to the applicant.

V. LDC Section 9.7.004 – Initiation of Appeal

A decision of a review authority pursuant to Chapter 8 shall be appealed by a party with standing within the time limits prescribed in Chapter 9 of this Code. The filing of a Notice of Appeal shall be accompanied by the fee prescribed by Resolution of the City Council. The Notice of Appeal shall be submitted upon the form provided by the Community Development Department/Planning Division, shall include any such information as listed on the application submittal checklist and contain the following:

- A. A concise description of the land use decision sought to be reviewed, including the date of decision.

Recommended City Council Finding: The applicant is being represented by legal Counsel, D. Zachary Hostetter, Hostetter Law Group, LLP. Mr. Hostetter submitted a letter addressing the appeal, states that this request was appealing the Planning Commission's decision to deny Conditional Use Permit, File Number 11-CUP-22. The Planning Commission Hearing was held on September 14, 2022, at which time a decision was issued. This standard is met.

- B. A statement of the interest of the appellant seeking review and, that the appellant was a party to the initial proceedings.

Recommended City Council Finding: The applicant and their legal Counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, were present and party to the initial proceedings. This standard is met.

- C. The grounds relied upon for review.

Recommended City Council Finding: The letter submitted by the applicant's legal Counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, states that the "*Appellant appeals the decision on the grounds that the findings of fact set out in the Decision Order are not supported by substantial evidence in the record and do not properly address the applicable criteria set out in Land Development Code Ordinance Section 8.5.003 (See attached).*"

The appellant's grounds are specifically related to the Findings of Fact in LDC Section 8.5.003, Criterion C, which is provided in Decision Order Section XI below. The grounds presented by the appellant have been incorporated into Decision Order Section XI and the City Council Findings of Fact below. This standard is met.

VI. Staff Recommended Conclusions and Order

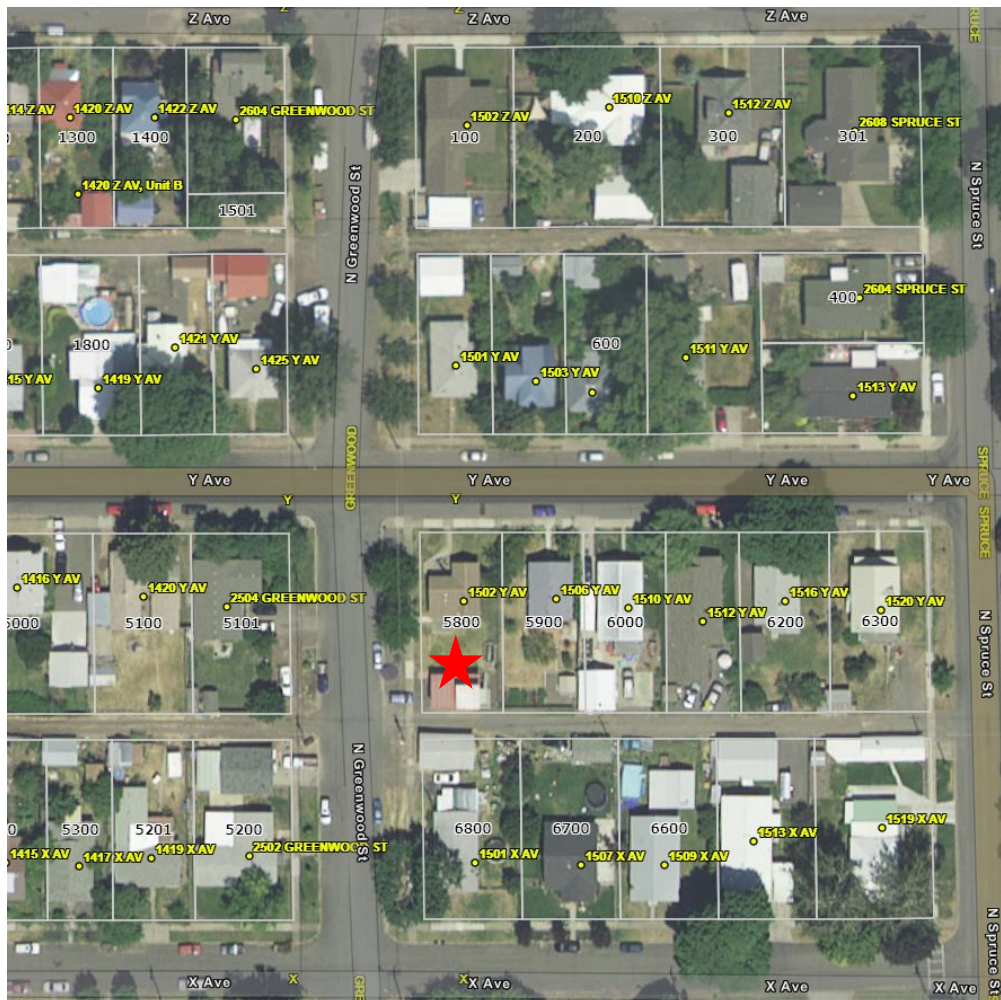
Based on the analysis and Findings of Fact in this Decision Order, the proposed Conditional Use Permit **does not** meet the requirements established in Land Development Code Ordinance 3252, Series 2021, Article 8.5, specifically for Criterion C. The Planning Commission determined that by approving the request, the proposed BnB will “*have significant adverse effects on the use or development of abutting properties.*” Specifically, the Planning Commission determined that the neighbor immediately to the East would be adversely impacted, with such impacts significantly affecting the livability and use of his property. **Planning Staff agrees with the Planning Commission’s determination and recommends the City Council’s consideration of Option 1, below:**

Option 1 (Disapproval): Affirm the Planning Commission Decision and Deny the Conditional Use Permit.

Option 2 (Approve): Reverse the Planning Commission Decision and Approve the Conditional Use Permit.

VII. General Facts and Overview

1. The subject property is located at the Southeast corner of “Y” Avenue and N. Greenwood Street. It is bordered on the South by a public alley.



2. The subject property is developed with a one-bedroom single-family dwelling, a detached garage with storage areas in the rear of the garage and upper floor. One off-street parking space is currently provided in front of the garage, off N. Greenwood Street for the use by the main single-family dwelling.
3. In July, 2021, the Planning Commission approved Conditional Use Permit, File Number 08-CUP-21, granting permission for the applicant to rent the main dwelling (a one-bedroom home) as a Bed and Breakfast. The parking space in front of the existing garage satisfies the one parking space requirement for this BnB. *(Note: City Code requires one off-street parking space per guest sleeping room.)*



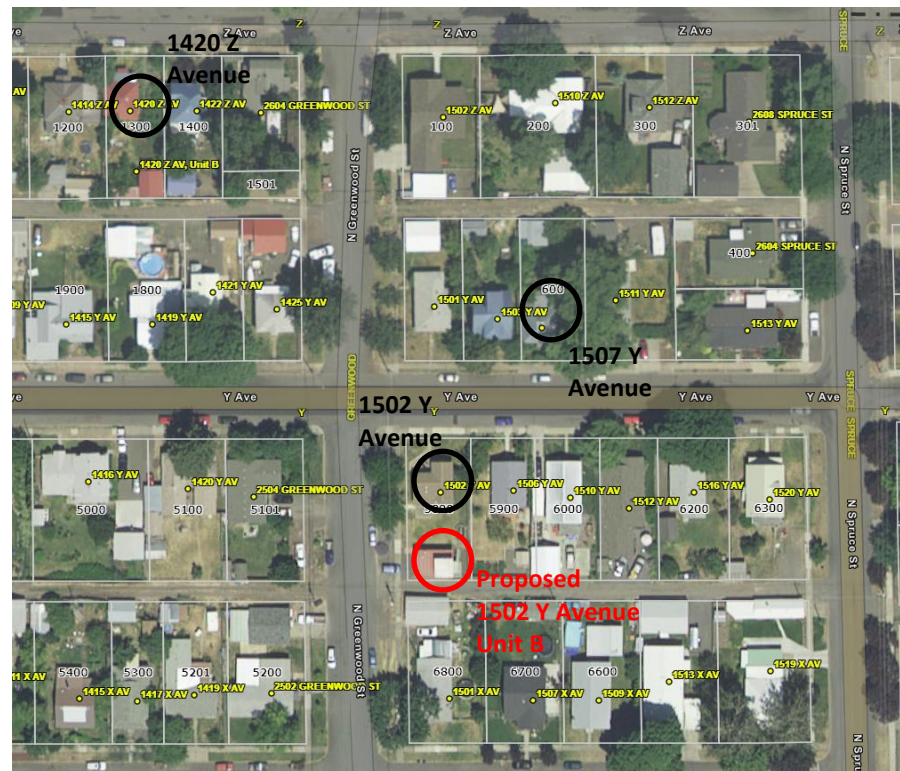
4. The proposed Conditional Use Permit (File Number 11-CP-22), which is the subject of this appeal, requests to improve the rear storage area and upper floor of the garage into a second BnB, a one-bedroom unit. If approved, this will result in two (2) BnB rental units on the owner's property. To satisfy the City's parking requirements, the applicant intends to construct a second parking space at the northeast corner of the property, within a new driveway off Y Avenue. ***(See Decision Order Section X below for additional discussions and Findings related to the City's off-street parking requirements.)***



5. The property is zoned Medium Density Residential (R-2). Lodging uses, limited to Bed and Breakfast Inns are permitted by Conditional Use Permit only, under Land Development Code Ordinance 3252, Series 2021, Section 2.2.005(C)(9). **(See Decision Order Section XI below for Findings related to satisfying the Conditional Use Permit Review Criteria.)**
6. Under LDC Article 1.3, the City of La Grande defines all residential home or room rentals of less than 30 days as a lodging use – Bed and Breakfast Inn. The City does not have a specific definition or category for Air BnBs, VRBO/vacation rentals, and other short-term rentals. Under Section 2.1.003 these uses are classified under a “closest fit” evaluation, which for all short-term lodging (30 days or less), therefore they are considered “Bed and Breakfast Inns.”
7. A Bed and Breakfast Inn is defined under LDC Article 1.3, as follows:

*“Bed and Breakfast Inn – A structure designed and occupied as a residence in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility. The Bed and Breakfast establishment **has no more than five (5) guest sleeping rooms** provided on a daily or weekly basis for the use of no more than a total of ten (10) travelers or transients at any one time.” (Note: Bold added for emphasis.)*

(Note: Hotels and Motels are defined by City Code as lodging uses with more than five (5) guest sleeping rooms. Such uses are only permitted in the City’s commercial zones.)
8. Within the immediate surrounding area, there are currently three (3) approved BnB rentals. This request, if approved, would result in the establishment of a 4th BnB unit rental.



VIII. Agency Comments

In accordance with City of La Grande Land Development Code Ordinance (LDC) 3252, Series 2021, Chapter 9, notice of the land use application was mailed to the following agencies: City of La Grande Building Department, City of La Grande Fire Department, City of La Grande Planning Department, City of La Grande Police Department, City of La Grande Public Works Department, Avista Utilities, Charter Communications, City Garbage Service, Frontier Communications, Oregon Department of Transportation, and Oregon Trail Electric Cooperative.

1. No written comments or concerns were received from notified affected agencies.

IX. Public Comments

In accordance with City of La Grande Land Development Code Ordinance (LDC) 3252, Series 2021, Chapter 9, public notice was mailed to the owners of properties located within one hundred feet (100') of the subject property.

1. No written comments or concerns were received from affected property owners regarding this appeal. However, the comments submitted as part of the Planning Commission Public Hearing remain valid. Such comments are as follows:
 - a. Bill Riley, 1506 Y Avenue (letter in opposition): Mr. Riley submitted a letter in opposition, requesting that the Planning Commission deny the application as the property lacks the off-street parking to satisfy the City's parking standards. The proposed parking off the alley is not accessible due to the narrow alley width and narrow parking space between the existing garage, which is insufficient space for vehicles to maneuver into the parking space. Additionally, the alley is not maintained from snow in the winter, further making alley parking not feasible. Mr. Riley also presented concerns related to property impacts/damage, traffic, and neighborhood safety. Mr. Riley's letter was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. Mr. Riley submitted oral testimony during the Public Hearing, along with a written copy of his testimony. Such testimony was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. **(See Findings in Decision Order Section X, Conditional Use Permit Review Criteria C, for a brief summary of this testimony.)**
 - b. Linda Carlsen, Tom Woodruff, 1510 Z Avenue (letter in support): Ms. Carlsen and Mr. Woodruff submitted a letter in support of the application, discussing financial benefits of elderly and retired people renting their homes. They also manage a BnB at 1507 Y Avenue and offered to allow interested parties to review their occupancy rates, and further advised that immediate neighbors would be willing to testify that there have not been any conflicts with the BnB at 1507 Y Avenue.
 - c. Additional public testimony (in support): Letters in support of the request, along with a petition was submitted to the Planning Commission during the Public Hearing by the applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP. Such testimony was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. **(See Findings in Decision Order Section X, Conditional Use Permit Review Criteria C, for a brief summary of this testimony.)**

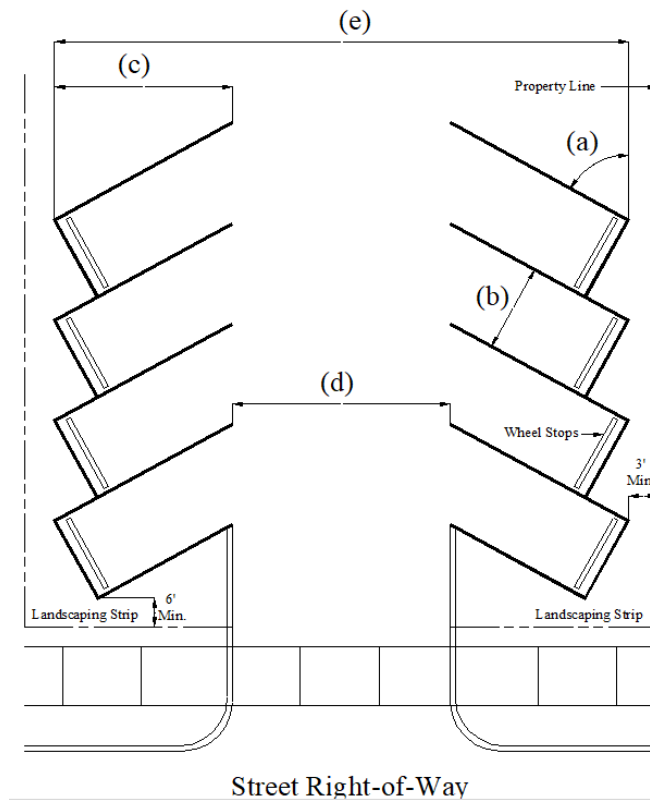
X. Analysis of Applicable Standards

Conditional Use Permits are required to satisfy the review criteria contained in the City of La Grande Land Development Code Ordinance 3252, Series 2021 (LDC), Article 8.5, Section 8.5.003, **as well as other applicable criteria and standards of the Land Development Code**, other City Ordinances and State law.

LDC, Article 5.7, Section 5.7.009 – Table of Off-Street Parking Requirement: For all lodging uses, **the minimum parking required is One (1) space for each guest room** up to forty (40) guest rooms.

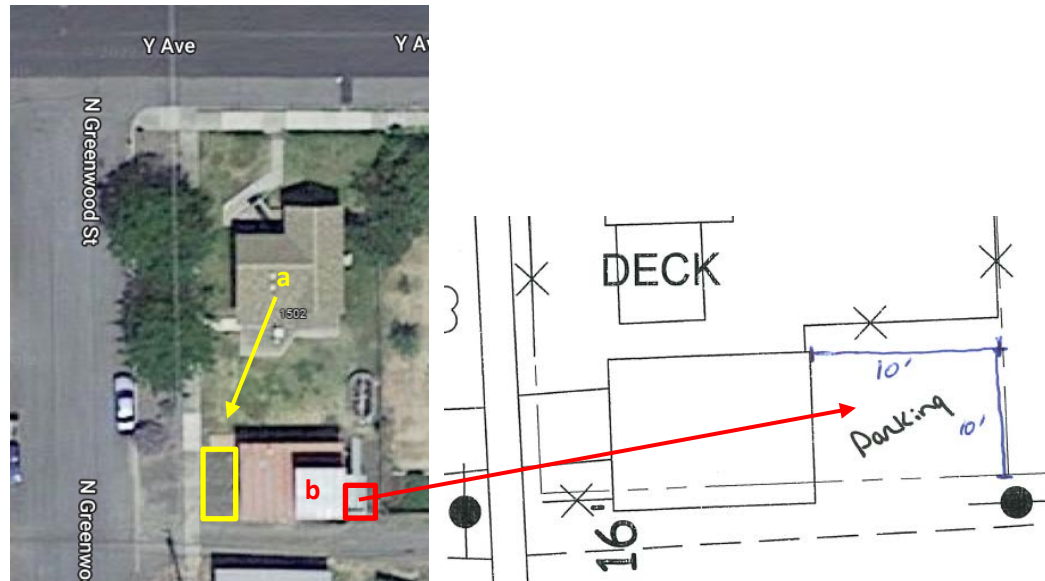
LDC, Article 5.7, Section 5.7.005 – Parking Design Standards: The minimum parking space dimensions **for 90° perpendicular parking shall be 9' wide x 18' deep, with the access aisle being a minimum of 24' wide.** The Code allows for some variation in minimum design based on the angle of the parking space, parking space dimensions, and access aisle width, see table below.

Angle (a)	Space Width (b)	Space to Curb (c)	Aisle ¹ (d)	Tier Width ² (e)
0° - 45°	9'-0"	19'-0"	16'-0"	54'-0"
	10'-0"	20'-0"	14'-0"	54'-0"
46° - 60°	9'-0"	20'-0"	18'-0"	58'-0"
	10'-0"	20'-8"	16'-0"	57'-4"
61° - 90°	9'-0"	18'-0"	24'-0"	60'-0"
	10'-0"	18'-0"	22'-0"	58'-0"



1. **INITIAL Application Submittal (August 12, 2022):**

The applicant's initial submittal identified the following two (2) parking spaces to support the BnB expansion. Parking space "a" is existing and serves the main dwelling unit. Parking space "b" is proposed to accommodate the new BnB, which would be accessed from the adjacent alley. (Note: Parking space "b" does not meet minimum design requirements as provided in Section 5.7.005 above, as it is only 10' deep and not of sufficient size to function as a parking space).



- a. Parking Space "a": For the one-bedroom BnB that is located within the main dwelling, a 9'x18' parking space is provided in front of the garage, accessed from N. Greenwood Street.

Planning Commission Finding: As discussed in *Decision Order Section VII – General Findings (#3)*, above, in July, 2021, the Planning Commission approved Conditional Use Permit, File Number 08-CUP-21, granting permission for the applicant to rent the main dwelling (a one-bedroom home) as a BnB. The parking space in front of the existing garage (parking space "a") satisfies the one parking space requirement for this BnB.

- b. Parking Space "b": For the proposed one-bedroom BnB within the garage, a 10'x10' parking space is "to be" improved on the East side of the garage, accessed off the alley.

Planning Commission Finding: The proposed 10'x10' parking space for the second BnB (parking space "b") does not meet the minimum design standards for space dimension or access aisle in accordance with LDC Section 5.7.005, as highlighted above. See revised Site Plan submittal with 9'x18' spaces to address this requirement.

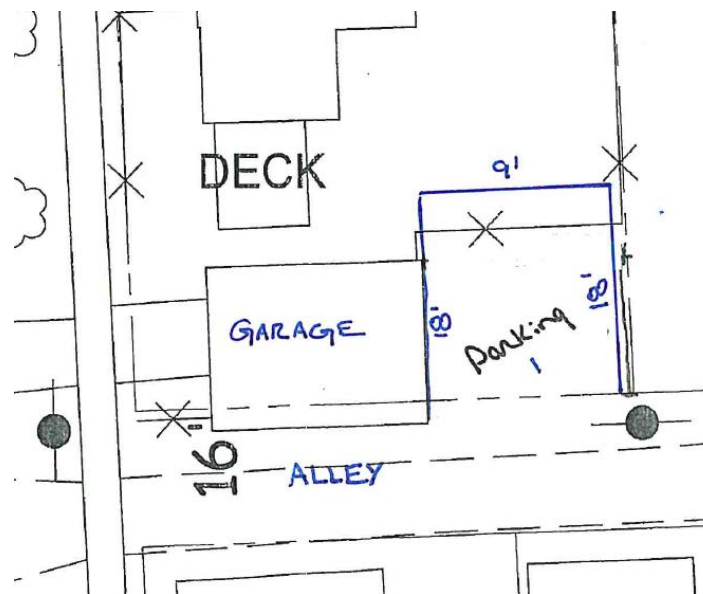
2. **REVISED Application Submittal (September 6, 2022):**

On August 24, 2022, the applicant was notified via email of Staff's review and determination that the proposed 10'x10' parking space does not meet minimum City standards, as discussed above. Staff provided the applicant the opportunity and recommended that they submit a revised application to address this conflict as it may result in a negative decision as originally proposed.

On August 31, 2022, Staff followed up with the applicant via email on the status of submitting a revised application. At that time, the applicant was also provided a copy of the letter submitted in opposition by Bill Riley, 1506 Y Avenue. On September 6, 2022, the applicant (through their legal counsel, Hostetter Law Group, LLP) submitted a revised application to address the minimum parking requirements and to re-address the Conditional Use Permit review criteria. **(See Decision Order Section XI for Conditional Use criteria).**

Following are the 2 revised options presented by the applicant (Option 1 and Option 2):

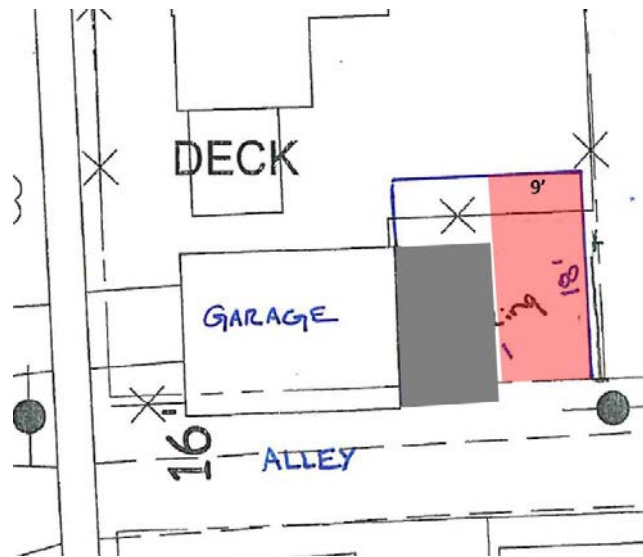
- a. **Parking Option 1:** *The site plan is amended to increase the 10'x10' parking space on the East side of the garage to a 9'x18' space in compliance with City code; or,*



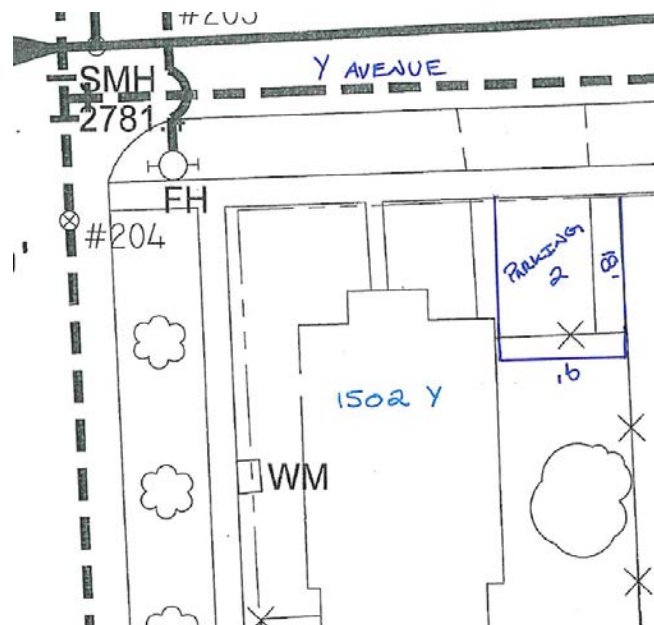
Planning Commission Finding: This proposed Parking Option 1 meets the minimum dimensional standard for a parking space (9'x18'), but **this option does not meet the minimum access requirements which must include 24' aisle width** in accordance with Section 5.7.005, as highlighted above. This parking space utilizes the existing 16' wide alley for access, which is 8' short of the 24' needed.

Other considerations – The site plan is not drawn to scale and does not accurately represent the space available. Below is a closer representation of actual conditions.

- The garage has a 2-story addition constructed on the back of the garage, with a deck constructed over the proposed parking space.
- The space between the garage and the East fence is roughly 9' wide, bordered the wall of the garage and a fence. This space is likely too narrow for a person to get in and out of a vehicle when in the parking space.
- The existing building appears to encroach into the alley, making the alley narrower than 16' wide. Due to the narrow alley and tight maneuvering space, this parking space would not be easy to access and may not be accessible by most vehicles. **(Again, City standards in Section 5.7.005 are not met with this option.)**



- b. **Parking Option 2:** Alternatively, a 9'x18' parking space could be located at the NE corner of the property, accessed off a new driveway approach from "Y" Avenue.



Planning Commission Finding: This proposed Parking Option 2 meets both the parking space dimensional requirement, as well as the access coming off a City street. The driveway cut would require obtaining a Driveway Permit from the City of La Grande Public Works Department, and the construction of the driveway approach (curb & sidewalk transition) must be improved with concrete meeting City specifications. **City standards are met with this option.**

Note: At the beginning of the Planning Commission Public Hearing, the applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, submitted a copy of an email from Danny Martens, Public Works Engineering Department, confirming that the proposed parking space could meet City requirements.

XI. LDC Section 8.5.003 – Review Criteria

A Conditional Use Permit shall be granted only if the review authority shall find that it satisfies the following criteria, as well as all other criteria and standards of this Code and other applicable codes and Ordinances.

A. That the use is conditionally permitted in the zone in which it is proposed to be located.

Planning Commission Finding: The subject property is located within a Medium Density Residential (R-2) zone. Bed and Breakfast Inns are permitted by Conditional Use Permit only, under Land Development Code Ordinance 3252, Series 2021, Section 2.2.005(C)(9).

As defined under LDC Article 1.3, a Bed and Breakfast Inn is limited to five (5) sleeping guest rooms (aka bedrooms). This request expands a previously approved Conditional Use Permit, File Number 08-CUP-21, for using the existing one-bedroom home as a BnB; to include the conversion/use of the rear and upper floor of the garage as a second one-bedroom BnB. Together, both BnB units would provide two (2) total guest bedrooms on the property which meets this standard.

B. That the proposed development is timely, considering the availability and adequacy of the transportation system, and public facilities and services.

Planning Commission Finding: This criterion generally applies to areas where City standard improvements are missing (e.g. no streets, sidewalks, water, sewer, etc.) and where large projects require the extension or widening of streets and/or constructing other infrastructure improvements. For this request, the subject property is located along N. Greenwood Street, which is a fully improved paved City street. The continued use of the dwelling and expanded use to include the upper floor of the garage as a BnB will not require any new public infrastructure to be constructed. This criterion is satisfied.

C. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not have significant adverse effects on the use or development of abutting properties or surrounding neighborhood with uses permitted in the underlying zone.

Planning Commission Finding¹: When determining conformance with this criterion, attention should be focused on the “location, size, design and operating characteristics” of the proposed use.

The revised application (September 6, 2022), submitted by the applicant’s legal counsel, Hostetter Law Group, LLP, states, *“The proposed development will be compatible with and will not have adverse effects on the use or development of abutting properties. The occupancy impacts of the proposed rental will be similar to the impacts that would exist if the property is used as a single-family dwelling property. The surrounding neighborhood is predominantly single-family homes. The off-street parking will ensure that any vehicle occupancy will not impact the neighboring properties’ available street parking.*

The applicant’s original and revised submittals were made part of the record and are on file in City of La Grande Planning Division office, in File Number 11-CUP-22.

Planning Commission Finding²: Public Hearing –Testimony and Planning Commission Deliberations related to Criteria C:

Following is a brief summary of the testimony received, upon which the Planning Commission based its decision:

- A. (In Favor) – The applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, provided testimony to the Planning Commission, referring to Criteria C and explaining that all other City requirements are satisfied. Mr. Hostetter also submitted four (4) letters from residents in the vicinity of the applicant's property in support of the BnB request, along with a petition in support.
1. Jerry Rector, 1425 Y Avenue: Located across Y Avenue, northwest of the subject property. Mr. Rector's letter explained that he has not experienced any conflicts with the existing Rose BnB, and that he is confident that the Rose family will maintain a safe environment.
 2. Renee Hays, 1507 X Avenue: Located across the adjacent alley, southeast of the subject property. Ms. Hays explained that Ms. Rose can screen her renters to maintain a high rating and has to keep the property maintained, neither of which is required for a permanent tenant. Additional comments were provided regarding the difficulty in evicting long-term renters.
 3. Jeff Stremcha, 2502 N. Greenwood Street: Located across N. Greenwood Street, southwest of the subject property. Mr. Stremcha's letter encouraged the commission to support this request.
 4. Robin Johnson, 2504 N. Greenwood Street: Located across N. Greenwood Street, west of the subject property. Ms. Johnson's letter explains there is a history of crime and nuisances in the neighborhood and this BnB request will help ensure a safer neighborhood and improve the aesthetics of the block.
 5. Petition: The petition included 2 pages with 38 signatures supporting the application request. This petition was intended to reflect the neighborhood general sentiment on BnBs in the area.
- B. (In Favor) – Dustin Fuchs, representing the applicant, also provided testimony, explaining that he occasionally stays in the garage when visiting the property to care for family. He explained his planned improvements for the garage structure to be converted to a dwelling unit and to support the second BnB. He also advised that this will be a part-time BnB, which he would also occupy at times.
- C. (In Favor) – Sabrina Stremcha, 2502 N. Greenwood Street. Voiced support and wanted to ease people's concerns about BnBs. Air BnBs have rigorous screening criteria.
- D. (In Opposition) – Bill Riley, 1506 Y Avenue. Mr. Riley explained the process, timing and communications he has with the applicant. He is opposed to the request to add a second BnB on the property. Feels it should be the responsibility and burden of the business proposing to locate in a residential area, that they will not cause any adverse effects on the neighbors. The BnB permit runs with the property and can be sold to anyone, including a corporation out of state to manage and operate. Additional discussion included – when there are conflicts between businesses and neighboring residents, the business interests wins. A copy of Mr. Riley's testimony was provided in writing for the record.
- E. (In Rebuttal) – The applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, provided rebuttal, explaining that the applicant contracted with legal counsel to help better prepare and present their application. Additional clarifications were presented on the process, revising the application and intentions.

Planning Commission Finding³: Planning Commission Deliberation:

The Planning Commission discussions and deliberations resulted in the Commission finding that Criteria C was not met. The following points were discussed by the Commission and influenced this decision.

- A. This is a second BnB rental unit on the same property, it is a 2-story ADU/structure that overlooks the neighboring property and presents adverse impacts that will negatively affect the livability, privacy and safety of the neighbor's property.
- B. This request will result in significant adverse effects on the neighboring property based on the neighbor's (Bill Riley's) letter dated August 31, 2022, and his testimony during the public hearing.
 - The BnB is rarely vacant.
 - The BnB is located roughly 20' from his house and bedroom window.
 - BnB guests are continually changing, strangers come and go daily, are not members of the community and never seen before. This is a potential safety concern.
 - Guests (strangers) are easily able to look in his windows, watch him and his grandchildren on his property. It's an invasion of his privacy and significantly affects his ability to feel safe and keep his grandchildren safe. His grandchildren are no longer able to play outside, in the backyard, alone, due to the safety concerns.
- C. This neighborhood includes small houses that are very close together, very little space between the dwellings, which increases how adverse impacts affect neighboring properties. Larger properties where houses are more spread out have much lower impacts. In this case, since development in this area is very compact and tightly packed in together, this is very concerning. Such environment makes the neighboring property owner and long-term resident feel uncomfortable and unsafe. This is a significant adverse impact that changes the character and residential atmosphere of a neighborhood.
- D. Neighborhoods are where residents may know each other at some level, feel comfortable talking to each other, possibly have block parties, and there is a sense of community. This request reduces this sense of neighborhood as there would be no established relationships or the ability for such, it is in conflict with the neighbor's ability to use and enjoy their property and detracts from the sense of community for this particular property and immediate vicinity.
 - BnBs are a commercial use, not a residential use, and they have commercial impacts.
 - There are three (3) BnBs within the immediate vicinity, and there is point where adding more BnBs significantly affects a neighborhood's livability for long-term residents, which is the case with this request (adding a 4th BnB).
- E. Some Commissioners were supportive of the fact that the applicant intended to rent the BnB part-time, and to use it for their personal housing at other times. However, this is something that cannot be monitored and controlled, as there is nothing to prevent the BnB from being used full-time as a BnB.
- F. The letters and petition received in support of the BnB request, submitted from other neighbors and residents in the vicinity was not very helpful in addressing this review criteria as these residents are not directly impacted. The immediate neighbor to the East is directly impacted and such impacts are significant adverse impacts that affect the use, livability, quality of life, privacy and safety/security of the neighboring property.
- G. The garage proposed to be converted is a nonconforming structure in that it is too close, and even encroaches into the alley. It is very close to neighboring properties which adds to or would increase the adverse impacts to neighboring properties.
- H. A person's property is precious to them. One of the worst life nightmares an owner can imagine is being in deep conflict with your neighbors and how upsetting and impactful that

can be. This request will result in a deep neighbor conflict that the Commission considers being a significant adverse impact that alters the character of the neighborhood.

Appellant Grounds for Appeal with Community Development Director's Analysis and Comments: Pertaining to Criterion C, Planning Commission Findings.

By letter dated September 27, 2022, following are the appellants grounds for appeal, stating that the Planning Commission's findings of fact *"are not supported by substantial evidence in the record and do not properly address the applicable criteria set out in Land Development Code Ordinance Section 8.5.003."*

1. ***The vast majority of the neighbors in the neighborhood support Ms. Rose's application. Only one neighbor (Bill Riley) voiced any opposition. His testimony is the only place in the record where any evidence supporting a denial can be found. The findings of fact state that the neighbor feels "uncomfortable and unsafe" by the prospect of the AirBnB. That is all that he said.***

Community Development Director's Analysis & Comments:

The proposed BnB is a corner property that is bordered on 2 sides by City streets and an alley on the South side. It is immediately bordered by only property which is owned and occupied by Mr. Bill Riley, 1506 Y Avenue. Mr. Riley's property is the only neighboring property that is directly impacted by the proposed BnB. Mr. Riley's property is separated by the BnB by a four foot (4') tall fence and does not provide any visual buffer or privacy from activities that may occur on the BnB property.

All other neighboring properties in the area are indirectly impacted. None of them directly abut the BnB property and all of them are buffered from the activities that may occur on the BnB property by accessory structures (garages and sheds), or by a City street.

The concerns and impacts expressed by Mr. Riley do focus on feeling "uncomfortable and unsafe," as mentioned by the appellant, but such conflicts were explained and justified in his testimony and the Planning Commission's Findings of Fact, which are as follows:

- The proposed BnB is a 2-story ADU/structure that overlooks Mr. Riley's property and presents significant adverse impacts that will negatively affect the livability, privacy and safety of Mr. Riley's property.
 - The BnB is rarely vacant.
 - The existing single-family BnB is located roughly 20' from his house and bedroom window.
 - BnB guests are continually changing, strangers come and go daily, are not members of the community and never seen before. This is a potential safety concern.
 - Guests (strangers) are easily able to look in his windows, watch him and his grandchildren on his property. It's an invasion of his privacy and significantly affects his ability to feel safe and keep his grandchildren safe. His grandchildren are no longer able to play outside, in the backyard, alone, due to the safety concerns.
2. ***The lone position of one neighbor stating that he doesn't like the idea of people he doesn't know entering onto the neighboring property is not substantial evidence to support a conclusion that the proposed use will have "significant adverse effects on the use or development" of Mr. Riley's property. The present state of affairs is that Ms. Rose (and any other neighbor of Mr. Riley) can have guests, invitees, or renters enter***

her property at any time for any lawful reason, and that those persons will include people that Mr. Riley "doesn't know". Whether or not Mr. Riley might find that such visitors may in the future make him feel "uncomfortable or unsafe" is not a significant adverse effect on Mr. Riley's use of his own property. Landowners in a residential area must routinely deal with the fact that their neighboring landowners' will have invitees, family members, guests, and renters that they do not know and that, therefore, might impinge upon their personal sense of privacy. That is part of living in a neighborhood.

Community Development Director's Analysis & Comments:

Given that Mr. Riley is the only neighbor that is directly impacted by the proposed BnB, the Planning Commission considered the adverse impacts to his property as significant.

The appellant's explanation of people coming and going from Ms. Rose's property which Mr. Riley doesn't know may be accurate (e.g. guests, invitees or renters, etc.) However, the feeling of comfort and safety may be very different with guests visiting owner/renter occupied home vs. BnB transient guests coming and going daily.

When a home is occupied by an owner or full-time renter, their guests or invitees coming and going would be considered normal and expected, they would likely not make a neighbor feel uncomfortable or unsafe. Similar to an owner/renter being welcome or non-threatening on their own property, by extension their guests would likely also be welcome and non-threatening.

However, for a home that is not owner/renter occupied, all visitors to the property may be viewed as strangers and potentially not welcomed. They are not known friends or guests of the property owner, but rather are transient guests and random business customers. Mr. Riley's concern for strangers of this manner being in close proximity to his property and being an invasion of his privacy and safety is a valid feeling and concern.

The Planning Commission agreed with Mr. Riley and determined that adding a second BnB to this property would increase the existing adverse impacts Mr. Riley was experiencing and such increase created a significant adverse impact on the livability and use of Mr. Riley's property.

3. *The findings of fact state that the request reduces the "sense of neighborhood" in which residents "may know each other at some level, feel comfortable talking to each other, [and] possibly have block parties ... ". The "sense of neighborhood" described in the findings of fact does not constitute a "substantial adverse effect" on the use or development of the neighborhood. There is nothing about this request which would preclude such activities. That is especially true considering the overwhelming support for this application among the surrounding neighbors elicited.*

Community Development Director's Analysis & Comments:

There are currently three (3) BnBs within a one-block radius of the appellant's and Mr. Riley's property. One (1) is the appellant's existing BnB that is immediately next door to Mr. Riley's property. A second (2nd) BnB is located directly across Y Avenue, with a third (3rd) BnB located approximately one block to the northwest.

This proposed Conditional Use Permit would result in a fourth (4th) BnB in the neighborhood, and a 3rd BnB unit adjacent to Mr. Riley's property. Since Mr. Riley is currently experiencing adverse impacts with the two (2) existing BnBs adjacent to his property, having a third (3rd) BnB adjacent to his property is not a hypothetical

or perceived impact. It is a real impact that Mr. Riley is experiencing and which he predicts will increase as a result of the third (3rd) BnB being added.

Mr. Riley feels that the BnBs are changing the character of his block and the neighborhood to one that is more commercial in nature, and it is changing the "sense of neighborhood." The Planning Commission agreed with Mr. Riley and determined that this change is a significant adverse impact to this neighborhood.

4. *For these reasons, the "evidence" submitted by Mr. Riley does not support the finding that the proposed development will result in significant adverse impacts on abutting properties or on the surrounding neighborhood. It is significant that the "facts" set out in the findings include that the AirBnB currently approved for the residence has rarely been vacant, and that strangers are coming and going daily. That "fact" establishes, if anything, that what Mr. Riley fears is already in existence, and that approval of this application will, therefore, have no significant impacts on the current neighborhood environment.*

Community Development Director's Analysis & Comments:

The Planning Commission recognized that Mr. Riley's testimony and concerns are based on his experience with the two (2) existing BnBs that he lives next to. Both of these were approved and began operation within the past two (2) years. Based on the testimony received, these two (2) BnBs have resulted in adverse impacts to Mr. Riley and his property, significantly affecting his feeling of privacy and safety. The Planning Commission agreed with Mr. Riley that adding a third (3rd) BnB adjacent to his property will result in a significant adverse impact to Mr. Riley's livability and use of Mr. Riley's property.

The Planning Commission's decision to deny this third (3rd) BnB does not change or revoke any prior Conditional Use Permits for the other two (2) BnB adjacent to Mr. Riley's property. Also, the decision does not mitigate or relieve Mr. Riley of any existing adverse impacts generated from the existing BnBs. However, the Planning Commission determined that approving a third (3rd) BnB adjacent to Mr. Riley's would result in additional conflicts with the privacy and use of Mr. Riley's property, and such conflicts are significant adverse impacts.

5. *Footnote: ¹ One commissioner erroneously expressed that if any neighbor objects, the commission is obliged to deny the application. That misstatement of the law was never corrected and may have served as the underlying reason for the Commission's decision.*

Community Development Director's Analysis & Comments:

This Commissioner comment was made, but did not refer to any specific law or imply that such law exists. This comment was expressed solely as an opinion of a single Commissioner at that moment in time. This comment was not shared by other Commissioners by a Majority or by consensus. As such, this single Commissioner's opinion is not a Findings of Fact, is not a misstatement of the law and does not warrant a correction.

City Council Findings:

This section is a placeholder and will be filled in as part of the Public Hearing to support the City Council's final decision. Planning Staff will complete these Findings based on the Council discussions during the Hearing. This may include (1) supporting the Planning Commission's Findings, along with adding additional Findings per Council discussions; or (2) developing new Findings if the Council disagrees with the Planning Commission's Findings.

XII. Conclusions and Order

Based on the Findings of Fact above, the City Council concludes that the Conditional Use Permit application (does/does not) meet the requirements established in LDC Article 8.5, specifically Criteria C, and hereby:

SUGGESTED MOTION¹: (*Affirm the Planning Commission Decision*)

I move that the Finding of Fact and Conclusions set forth in the Draft Decision Order be (adopted / amended) and that the Planning Commission Decision be upheld, resulting in the Conditional Use Permit being denied.

OR

SUGGESTED MOTION²: (*Reverse the Planning Commission Decision*)

I move that the Finding of Fact and Conclusions set forth in the Draft Decision Order be amended and that the Planning Commission Decision be reversed, resulting in the Conditional Use Permit being approved.

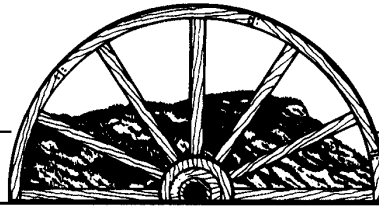
(If this Motion is selected, the Council discussions should clearly identify what they disagree with in the PC decision and how/why they have determined that this request “will not have a significant adverse effect.” These reasons will then become the Findings of Fact to support the City Council’s decision and will be shown above)

EXHIBIT A

PLANNING COMMISSION DECISION

SEPTEMBER 13, 2022

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

PLANNING DEPARTMENT • P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850
Phone: (541) 962-1307 • Fax: (541) 963-3333 • Email: kvanleave@cityoflagrande.org • Web: www.planning.cityoflagrande.org

September 15, 2022

Kimberly Rose
1513 Z Avenue
La Grande, OR 97850

RE: **DENIAL** of Conditional Use Permit File Number 11-CUP-22 for property located at 1502 Y Avenue, T3S, R38E, Section 05BD, Tax Lot 5800 Union County Ref. #687

Dear Ms. Rose,

This letter is to confirm that the City of La Grande Planning Commission held a public hearing last evening, September 14, 2022, to consider your new conditional use permit application, requesting to expand your prior/existing conditional use permit, file number 08-CUP-21, to add a second bed and breakfast (BnB) on your property. Unfortunately, the Planning Commission voted 3-0 (1 abstaining) to deny your request pursuant to Article 8.5 of the City of La Grande Land Development Code Ordinance 3252, Series 2021. The Planning Commission found that Review Criterion C was not met, and therefore denied the request.

The Planning Commission's Decision Order is enclosed. If you would like to appeal this decision to the City of La Grande City Council, you have twelve (12) days from the date of this decision to file such request (by September 27, 2022). If you wish to file an appeal, please contact my office to obtain an application and the review criteria for submitting such request.

If you have any questions regarding the attached Decision Order, please contact me at 541-962-1307.

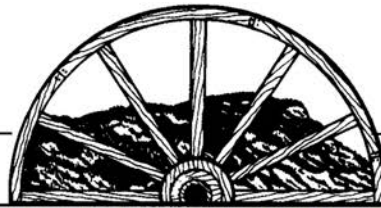
Sincerely,

A handwritten signature in blue ink that reads 'Michael J. Boquist'.

Michael J. Boquist
City Planner

Enclosures: Planning Commission Decision Order
Copy of the Record.

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION • P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850
Phone: (541) 962-1307 • Fax: (541) 963-3333 • Web: www.planning.cityoflagrande.org

PLANNING COMMISSION DECISION ORDER OF DENIAL

HEARING BODY(IES):	Planning Commission (Final Decision)
HEARING DATE(S):	Tuesday, September 13, 2022
HEARING TIME(S):	6:00 p.m.
HEARING LOCATION:	City Hall Council Chambers, located at 1000 Adams Avenue, La Grande, Oregon. The Planning Commission meeting can be viewed on Facebook Live at the following link: https://www.facebook.com/LaGrandeCityManager . Community members may submit comments or questions in writing in advance of the meeting. These written comments need to be received by 5:00 p.m. on date of the scheduled meeting, which will be read during the public comment section of the Public Hearing. Community members may also attend the meeting virtually through electronic means by request and reservation only. Issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing or presented orally during the Public Hearing and with sufficient specificity to enable the Planning Commission or City Council to respond to the issues. Reading or presenting written and oral comments into the record may be subject to a three-minute time limit per community member.

I. Application Information

File Number:	11-CUP-22
Proposal:	The applicant has filed this conditional use permit application for the Planning Commission's consideration, to expand their existing conditional use permit, file number 08-CUP-21, to add a second bed and breakfast (BnB) on their property.
Applicant:	Kimberly Rose
Address/Location:	1502 Y Avenue, T3S, R38E, Section 05BD, Tax Lot 5800 Union County Ref. #687
Decision Order Prepared By:	Michael J. Boquist, Community Development Director

II. Schedule of Procedural and Public Hearing Requirements

In accordance with Land Development Code Ordinance 3252, Series 2021, Articles 9.3 and 9.4, Land Development Code Amendments are subject to the City Council's review and decision authority, upon receiving a recommendation from the Planning Commission. In accordance with Article 9.5, public hearings for the consideration of the proposal were scheduled as follows:

- August 12, 2022.....Conditional Use Permit Application received and deemed complete.
- August 15, 2022.....Public notice mailed to surrounding property owners within 100' and development review agencies.
- September 3, 2022.....Advertised notice was published in *The Observer*, advertising the public hearing before the Planning Commission for September 13, 2022.
- September 13, 2022.....Public Hearing before the Planning Commission
- September 15, 2022.....Planning Commission decision mailed to applicant and other parties.
- September 27, 2022.....Expiration of Appeal period.

III. Public Notice Information

Public notice was issued in accordance with City and State laws. Notice was provided in accordance with Land Development Code Ordinance 3252, Series 2021, Article 9.6, Section 9.6.001(B). Notice of the public hearing was published in the local newspaper of general circulation, with mailed notice provided to the applicant and to the owners of record of property located within one hundred feet (100') of the subject property. Additionally, all public hearing materials, including the Draft Decision Order was published on the City of La Grande – Planning Division's webpage.

IV. Review Process and Appeals

A Conditional Use Permit is a quasi-judicial land use action that is subject to the Planning Commission's review and approval. The Planning Commission's review includes a public hearing where testimony is accepted from interested persons and which results in a decision being issued in accordance with Chapter 9 of Land Development Code Ordinance 3252, Series 2021.

A decision of the Planning Commission is final unless appealed to the City Council within twelve (12) days from the date the Planning Commission decision is mailed to the applicant. If the subject property is located within the Urban Growth Boundary, the decision of the City Council may be appealed to the Union County Board of Commissioners in accordance with the Joint Management Agreement and Union County Ordinance.

V. Staff Recommended Conclusions and Order

Based on the analysis and Findings of Fact in this Decision Order, the proposed Conditional Use Permit meets the requirements established in Land Development Code Ordinance 3252, Series 2021, Article 8.5, specifically with regards to parking requirements.

The Planning Commission has three options with respect to the Conditional Use Permit:

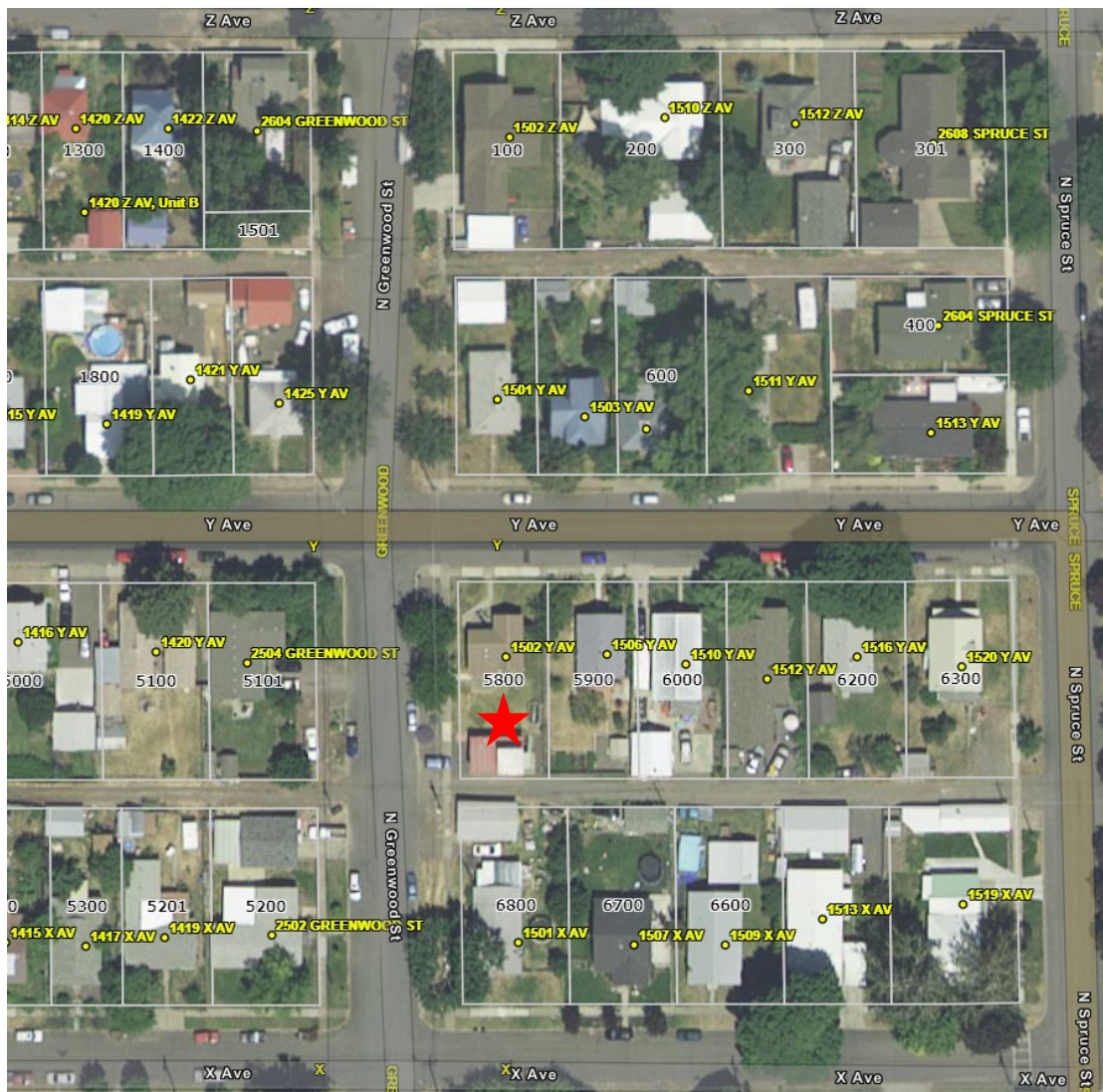
Option 1 (Approve): Approve the Conditional Use Permit as presented; or,

Option 2 (Conditionally Approve): Approve the Conditional Use Permit as amended, with Conditions;

Option 3 (Disapproval): Deny the Conditional Use Permit.

VI. General Facts and Overview

1. The subject property is located at the Southeast corner of "Y" Avenue and N. Greenwood Street.



2. The subject property is developed with a one-bedroom single-family dwelling, a detached garage with an upper floor, and one off-street parking space which is located in front of the garage, off N. Greenwood Street. A second parking space is located within the garage, but is not eligible as meeting the off-street parking requirement as it is a stacked and blocked in space.
3. In July 2021, the Planning Commission approved conditional use permit, file number 08-CUP-21, granting permission for the applicant to rent the main dwelling (a one-bedroom home) as a bed and breakfast. The parking space in front of the existing garage satisfies the one parking space requirement for this BnB.



4. This request is to improve the upper floor of the garage into a second BnB, one-bedroom unit, on the property. If approved, the applicant intends to construct a second parking space to the expanded BnB use. **(See Decision Order Section IX below for Findings related to satisfying the City's parking requirements.)**
5. The property is zoned Medium Density Residential (R-2). Lodging uses, limited to Bed and Breakfast Inns are permitted by Conditional use Permit only, under Land Development Code Ordinance 3252, Series 2021, Section 2.2.005(C)(9). **(See Decision Order Section X below for Findings related to satisfying the Conditional Use Permit Review Criteria.)**
6. Under LDC Article 1.3, the City of La Grande defines all residential home or room rentals of less than 30 days as a lodging use. The City does not have a specific definition or category for Air BnBs, VRBO/vacation rentals, and other short-term rentals. Under Section 2.1.003 these uses are classified under a "closest fit" evaluation, which for all short-term lodging (30 days or less), they are considered "Bed and Breakfast Inns."
7. A Bed and Breakfast Inn is defined under LDC Article 1.3, as follows:
*"Bed and Breakfast Inn – A structure designed and occupied as a residence in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility. The Bed and Breakfast establishment **has no more than five guest sleeping rooms** provided on a daily or weekly basis for the use of no more than a total of ten (10) travelers or transients at any one time." (Note: Bold added for emphasis.)*

8. Within the immediate surrounding area, there are currently three (3) approved BnBs. This request, if approved, would result in the establishment of a 4th BnB.



VII. Agency Comments

In accordance with City of La Grande Land Development Code Ordinance (LDC) 3252, Series 2021, Chapter 9, notice of the land use application was mailed to the following agencies: City of La Grande Building Department, City of La Grande Fire Department, City of La Grande Planning Department, City of La Grande Police Department, City of La Grande Public Works Department, Avista Utilities, Charter Communications, City Garbage Service, Frontier Communications, Oregon Department of Transportation, and Oregon Trail Electric Cooperative.

1. No written comments or concerns were received from notified affected agencies.

VIII. Public Comments

In accordance with City of La Grande Land Development Code Ordinance (LDC) 3252, Series 2021, Chapter 9, public notice was mailed to the owners of properties located within one hundred feet (100') of the subject property.

1. Bill Riley, 1506 Y Avenue (letter in opposition): Mr. Riley submitted a letter in opposition, requesting that the Planning Commission deny the application as the property lacks the off-street parking to satisfy the City's parking standards. The proposed parking off the alley is not accessible due to the narrow alley width and narrow parking space between the existing garage, which is insufficient space for vehicles to maneuver into the parking space. Additionally, the alley is not maintained from snow in the winter, further making alley parking not feasible. Mr. Riley also presented concerns related to property impacts/damage, traffic,

- and neighborhood safety. Mr. Riley's letter was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. Mr. Riley submitted oral testimony during the Public Hearing, along with a written copy of his testimony. Such testimony was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. **(See Findings in Decision Order Section X, Conditional Use Permit Review Criteria C, for a brief summary of this testimony.)**
2. Linda Carlsen, Tom Woodruff, 1510 Z Avenue (letter in support): Ms. Carlsen and Mr. Woodruff submitted a letter in support of the application, discussing financial benefits of elderly and retired people renting their homes. They also manage a BnB at 1507 Y Avenue and offered to allow interested parties to review their occupancy rates, and further advised that immediate neighbors would be willing to testify that there have not been any conflicts with the BnB at 1507 Y Avenue.
 3. Additional public testimony (**in support**), along with a petition was gathered and submitted at the the Planning Commission Public Hearing by the applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP. Such testimony was made part of the record and is on file in City of La Grande Planning Division office, in File Number 11-CUP-22. **(See Findings in Decision Order Section X, Conditional Use Permit Review Criteria C, for a brief summary of this testimony.)**

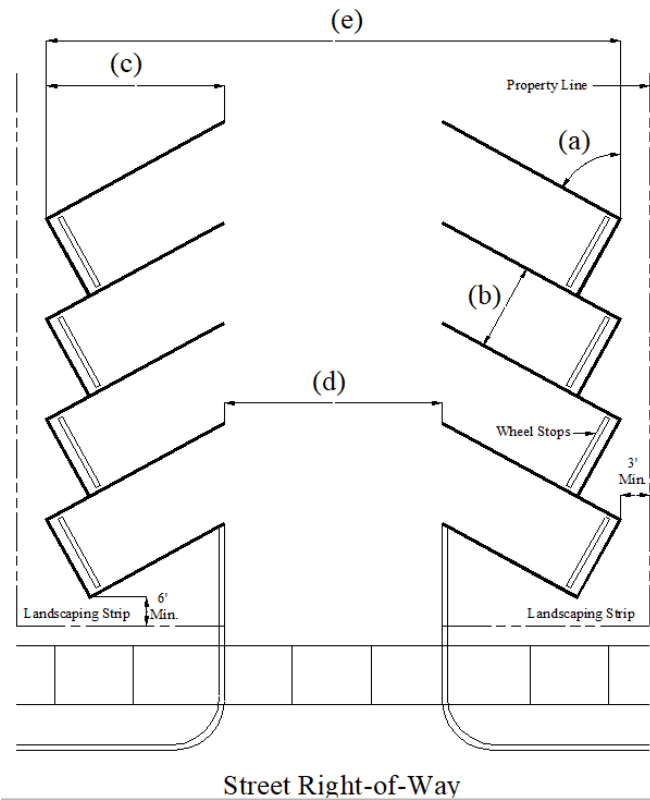
IX. Analysis of Applicable Standards

Conditional Use Permits are required to satisfy the review criteria contained in the City of La Grande Land Development Code Ordinance 3252, Series 2021 (LDC), Article 8.5, Section 8.5.003, as well as other applicable criteria and standards of the Land Development Code, other City Ordinances and State law.

LDC, Article 5.7, Section 5.7.009 – Table of Off-Street Parking Requirement: For all lodging uses, **the minimum parking required is One (1) space for each guest room** up to forty (40) guest rooms.

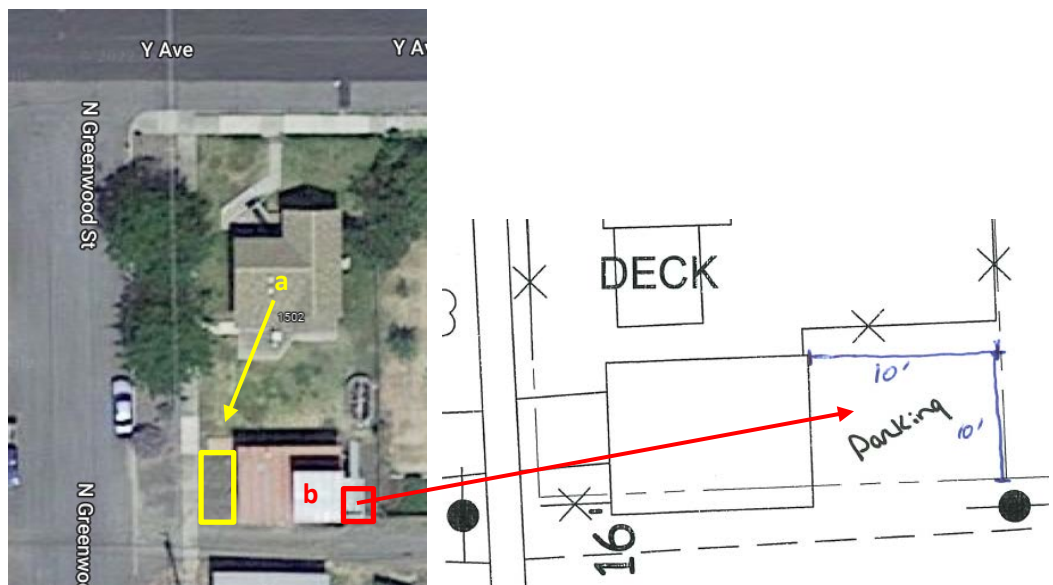
LDC, Article 5.7, Section 5.7.005 – Parking Design Standards: The minimum parking space dimensions **for 90° perpendicular parking shall be 9' wide x 18' deep, with the access aisle being a minimum of 24' wide.** The Code allows for some variation in minimum design based on the angle of the parking space, parking space dimensions, and access aisle width, see table below.

Angle (a)	Space Width (b)	Space to Curb (c)	Aisle ¹ (d)	Tier Width ² (e)
0° - 45°	9'-0"	19'-0"	16'-0"	54'-0"
	10'-0"	20'-0"	14'-0"	54'-0"
46° - 60°	9'-0"	20'-0"	18'-0"	58'-0"
	10'-0"	20'-8"	16'-0"	57'-4"
61° - 90°	9'-0"	18'-0"	24'-0"	60'-0"
	10'-0"	18'-0"	22'-0"	58'-0"



1. **Application Submittal (August 12, 2022):**

The applicant's initial submittal identified the following two (2) parking spaces, accessed off N. Greenwood Street and the adjacent alley. (Note: Parking space "b" does not meet minimum design requirements).



- a. For the one-bedroom BnB within the main dwelling, a 9'x18' parking space is provided in front of the garage, off N. Greenwood Street; although, it would be accessed off the alley for a vehicle to park within this space and not obstruct the public sidewalk.

Finding: As discussed in *Decision Order Section VI – General Findings (#3)*, above, in July 2021, the Planning Commission approved conditional use permit, file number 08-CUP-21, granting permission for the applicant to rent the main dwelling (a one-bedroom home) as a bed and breakfast. The parking space in front of the existing garage (parking space “a”) satisfies the one parking space requirement for this BnB.

- b. For the one-bedroom BnB above the garage, a 10'x10' parking space is “to be” improved on the East side of the garage, accessed off the alley. This parking space does not meet minimum design requirements, and thus is not a qualifying parking space.

Finding: The proposed parking space for the second BnB, to be improved East of the existing garage (parking space “b”) does not meet the minimum design standards for space dimension or access aisle in accordance with LDC Section 5.7.005, as highlighted above. See revised Site Plan submittal with 9'x18' spaces to address this requirement.

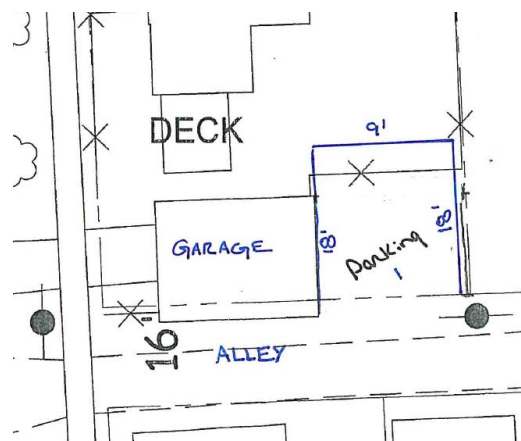
2. **REVISED Application Submittal (September 6, 2022):**

On August 24, 2022, the applicant was notified via email of Staff’s finding regarding the proposed 10'x10' parking space not meeting minimum City standards. Staff recommended that the applicant submit a revised application to address this conflict as it may result in a negative decision.

On August 31, 2022, Staff followed up with the applicant via email on the status of submitting a revised application. The applicant was also provided a copy of the letter in opposition submitted by Bill Riley, 1506 Y Avenue. On September 6, 2022, the applicant (through their legal counsel, Hostetter Law Group, LLP) submitted a revised application to address the minimum parking requirements and to re-address the Conditional Use Permit review criteria. **(See Decision Order Section X for Conditional Use criteria).**

Following are the 2 revised options presented by the applicant (Option 1 and Option 2):

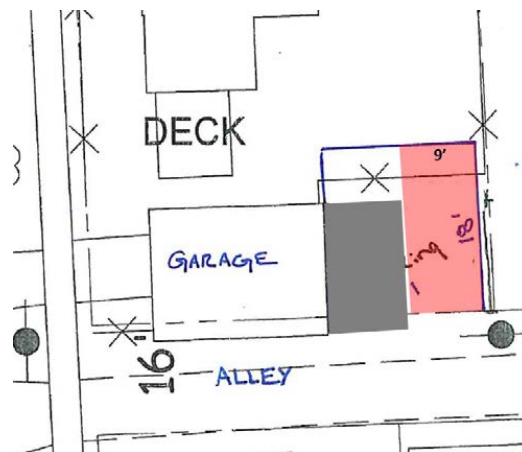
- a. **Parking Option 1:** *The site plan is amended to increase the 10'x10' parking space on the East side of the garage to a 9'x18' space in compliance with City code; or,*



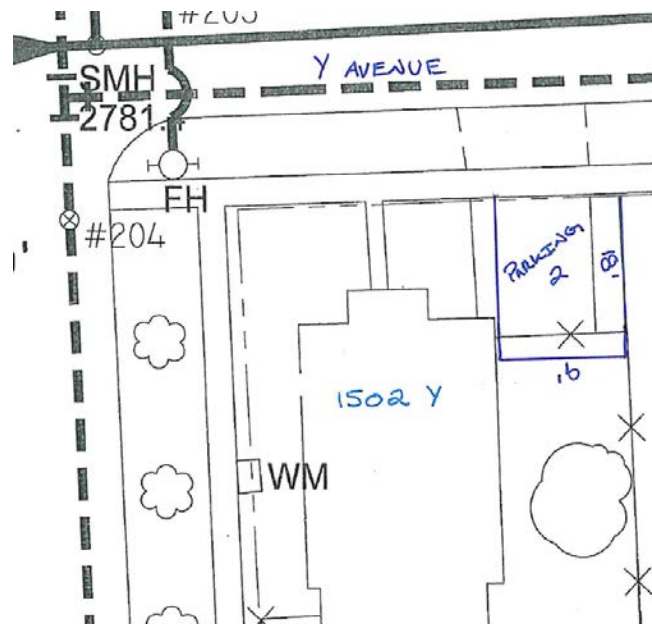
Finding: This proposed Parking Option 1 meets the minimum dimensional standard for a parking space (9'x18'), but **this option does not meet the minimum access requirements which must include 24' aisle width.** This parking space utilizing the existing 16' wide alley for access, which is 8' short of the 24' needed.

Other considerations – the site plan is not drawn to scale to accurately represent the space available. Below is a closer representation of actual conditions.

- The garage has a 2-story addition constructed on the back, with a deck constructed over the proposed parking space.
- The existing building appears to encroach into the alley, making the alley narrower than 16' wide. Due to the narrow alley and tight maneuvering space, this parking space would not be easy to access and may not be accessible by most vehicles. **(Again, City standards are not met with this option.)**



- b. **Parking Option 2:** Alternatively, a 9'x18' parking space could be located at the NE corner of the property, accessed off a new driveway approach from "Y" Avenue.



Finding: This proposed Parking Option 2 meets both the parking space dimensional requirement, as well as the access coming off a City street. The driveway cut would require obtaining a Driveway Permit from the City of La Grande Public Works Department, and the construction of the driveway approach (curb & sidewalk transition) must be improved with concrete meeting City specifications.
City standards are met with this option.

Note: At the beginning of the Planning Commission Public Hearing, the applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, submitted a copy of an email from Danny Martens, Public Works Engineering Department, confirming that the proposed parking space meeting City requirements.

X. LDC Section 8.5.003 – Review Criteria

A Conditional Use Permit shall be granted only if the review authority shall find that it satisfies the following criteria, as well as all other criteria and standards of this Code and other applicable codes and Ordinances.

A. *That the use is conditionally permitted in the zone in which it is proposed to be located.*

Finding: The subject property is located within a Medium Density Residential (R-2) zone. Bed and Breakfast Inns are permitted by Conditional use Permit only, under Land Development Code Ordinance 3252, Series 2021, Section 2.2.005(C)(9).

As defined under LDC Article 1.3, a Bed and Breakfast Inn is limited to five (5) sleeping guest rooms (aka bedrooms). This request expands a previously approved conditional use permit, file number 08-CUP-21, for using the existing one-bedroom home as a BnB; to include the conversion/use of the upper floor of the garage as a second one-bedroom BnB. Together, both BnBs would provide two (2) total guest bedrooms on the property which meets this standard.

B. *That the proposed development is timely, considering the availability and adequacy of the transportation system, and public facilities and services.*

Finding: This criterion generally applies to areas where City standard improvements are missing (e.g. no streets, sidewalks, water, sewer, etc.) and where large projects require the extension or widening of streets and/or constructing other infrastructure improvements. For this request, the subject property is located along N. Greenwood Street, which is a fully improved paved City street. The continued use of the dwelling and expanded use to include the upper floor of the garage as BnBs will not require any new public infrastructure to be constructed. This criterion is satisfied.

C. *That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not have significant adverse effects on the use or development of abutting properties or surrounding neighborhood with uses permitted in the underlying zone.*

Finding¹: When determining conformance with this criterion, attention should be focused on the "location, size, design and operating characteristics" of the proposed use.

The revised application, submitted by the applicant's legal counsel, Hostetter Law Group, LLP, states, *"The proposed development will be compatible with and will not have adverse effects on the use or development of abutting properties. The occupancy impacts of the proposed rental will be similar to the impacts that would exist if the property is used as a single-family dwelling property. The surrounding neighborhood is predominantly single-family homes. The off-street parking will ensure that any vehicle occupancy will not impact the neighboring properties' available street parking.*

The applicants original and revised submittals were made part of the record and are on file in City of La Grande Planning Division office, in File Number 11-CUP-22.

Finding²: Public Hearing –Testimony and Planning Commission Deliberations related to Criteria C:

Following is a brief summary of the testimony received:

- A. (In Favor) – The applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, provided testimony to the Planning Commission, referring to Criteria C and explaining that all other City requirements are satisfied. Mr. Hostetter also submitted four (4) letters from residents in the vicinity of the applicant's property in support of the BnB request, along with a petition in support.
 1. Jerry Rector, 1425 Y Avenue: Located across Y Avenue, northwest of the subject property. Mr. Rector's letter explained that he has not experienced any conflicts with the existing Rose BnB, and that he is confident that the Rose family will maintain a safe environment.
 2. Renee Hays, 1507 X Avenue: Located across the adjacent alley, southeast of the subject property. Ms. Hays explained that Ms. Rose can screen her renters to maintain a high rating and has to keep the property maintained, neither of which is required for a permanent tenant. Additional comments were provided regarding the difficulty in evicting long-term renters.
 3. Jeff Stremcha, 2502 N. Greenwood Street: Located across N. Greenwood Street, southwest of the subject property. Mr. Stremcha's letter encouraged the commission to support this request.
 4. Robin Johnson, 2504 N. Greenwood Street: Located across N. Greenwood Street, west of the subject property. Ms. Johnson's letter explains there is a history of crime and nuisances in the neighborhood and this BnB request will help ensure a safer neighborhood and improve the aesthetics of the block.
 5. Petition: The petition included 2 pages with 38 signatures supporting the application request. This petition was intended to reflect the neighborhood general sentiment on BnBs in the area.
- B. (In Favor) – Dustin Fuchs, representing the applicant, also provided testimony, explaining that he occasionally stays in the garage when visiting the property to care for family. He explained his planned improvements for the garage structure to convert it to a dwelling unit and to support the BnB. He also advised that this will be a part-time BnB, which he would occupy at times.
- C. (In Favor) – Sabrina Stremcha, 2502 N. Greenwood Street. Voiced support and wanted to ease people's concerns about BnB. Air BnB has rigorous screening criteria.
- D. (In Opposition) – Bill Riley, 1506 Y Avenue. Mr. Riley explained the process, timing and communications he has with the applicant. He is opposed to the request to add a second BnB on the property. Feels it should be the responsibility and burden of the business proposing to locate in a residential area that they will not cause any adverse effects on the neighbors. The BnB permit runs with the property and can be sold to anyone, including a corporation out of state to manage and operate. Additional discussion included – when there are conflicts between businesses and neighboring residents, the business interests wins. A copy of Mr. Riley's testimony was provided in writing for the record.
- E. (In Rebuttal) – The applicant's legal counsel, D. Zachary Hostetter, Hostetter Law Group, LLP, provided rebuttal, explaining that the applicant contracted with legal council to help better prepare and present their application. Additional clarifications were presented on the process, revising the application and intentions.

Finding³: Planning Commission Deliberation:

The Planning Commission discussions and deliberations resulted in the Commission finding that Criteria C was not met. The following points were discussed by the Commission and influenced this decision.

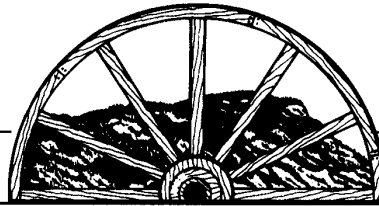
- A. This is a second BnB on the same property, it is a 2-story ADU/structure that overlooks the neighboring property and presents adverse impacts that will negatively affect the livability, privacy and safety of the neighbor's property.
- B. This request will result in significant adverse effects on the neighboring property based on the neighbor's (Bill Riley's) letter dated August 31, 2022, and his testimony during the public hearing.
 - The BnB is rarely vacant.
 - The BnB is located roughly 20' from his house and bedroom window.
 - BnB guest are continually changing, strangers come and go daily, are not members of the community and never seen before. This is a potential safety concern.
 - Guests (strangers) are easily able to look in his windows, watch him and his grandchildren on his property. It's an invasion of his privacy and significantly affects his ability to feel safe and keep his grandchildren safe. His grandchildren are no longer able to play outside, in the backyard, alone, due to the safety concerns.
- C. This neighborhood includes small houses that are very close together, very little space between the dwellings, which increases how adverse impacts affect neighboring properties. Larger properties where houses are more spread out have much lower impacts. In this case, since development in this area is very compact and tightly packed in together, this is very concerning. Such environment makes the neighboring property owner and long-term resident feel uncomfortable and unsafe. This is a significant adverse impact that changes the character and residential atmosphere of a neighborhood.
- D. Neighborhoods are where residents may know each other at some level, feel comfortable talking to each other, possibly have block parties, and there is a sense of community. This request reduces this sense of neighborhood as there would be no established relationships or the ability for such, it is in conflict with the neighbor's ability to use and enjoy their property and detracts from the sense of community for this particular property and immediate vicinity.
 - BnB's are a commercial use, not a residential use, and they have commercial impacts.
 - There are 3 BnB within the immediate vicinity, and there is point where adding more BnB's significantly affects a neighborhood's livability for long-term residents, which is the case with this request.
- E. Some Commissioners were supportive of the fact that the applicant intended to rent the BnB part-time, and to use it for their personal housing at other times. However, this is something that cannot be monitored and controlled, as there is nothing to prevent the BnB from being used full-time as a BnB.
- F. The letters and petition received in support of the BnB request, submitted from other neighbors and residents in the vicinity was not very helpful in addressing this review criteria as they are not directly impacted. The immediate neighbor to the East is directly impacted and such impacts are significantly adverse impacts that affect the use, livability, quality of life, privacy and safety/security of the neighboring property.

- G. The garage proposed to be converted is a nonconforming structure in that it is too close, and even encroaches into the alley. It is very close to neighboring properties which adds to or would increase the adverse impacts to neighboring properties.
- H. A person's property is precious to them. One of the worst life nightmares an owner can imagine is being in deep conflict with your neighbors and how upsetting and impactful that can be. This request will result in this conflict which is a significant adverse impact that alters the character of the neighborhood.

XI. Conclusions and Order

Based on the Findings of Fact above, the Planning Commission concludes that the Conditional Use Permit application does not meet the requirements established in LDC Article 8.5, specifically Criteria C, and hereby denies the Conditional Use Permit.

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION • P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850
Phone: (541) 962-1307 • Fax: (541) 963-3333 • Web: www.cityoflagrande.org

PLANNING COMMISSION RECORD APPLICATION MATERIALS AND TESTIMONY RECEIVED

HEARING BODY(IES):	Planning Commission
HEARING DATE(S):	Tuesday, September 13, 2022
HEARING TIME(S):	6:00 p.m.
HEARING LOCATION:	City Hall Council Chambers, located at 1000 Adams Avenue, La Grande, Oregon.

APPLICATION FOR LAND USE REVIEW

**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**
Planning Division
 1000 Adams Avenue, P.O. Box 670
 La Grande, OR 97850
 (541) 962-1307
 Fax (541) 963-3333



CITY of LA GRANDE
 THE HUB OF NORTHEASTERN OREGON

LAND USE APPLICATIONS

- | | | |
|--|--|--|
| <input type="checkbox"/> Annexation Petition
<input type="checkbox"/> Appeal of Planning Division Decision
<input type="checkbox"/> Appeal of Planning Commission Decision
<input type="checkbox"/> Appeal of Landmarks Commission Decision
<input type="checkbox"/> Comprehensive Plan Document or Map Amendment
<input checked="" type="checkbox"/> Conditional Use Permit
<input type="checkbox"/> Duplex Division
<input type="checkbox"/> Fence Height Waiver
<input type="checkbox"/> Floodplain Development Permit <i>(Separate Applic. Required)</i>
<input type="checkbox"/> Geologic Hazard Site Plan
<input type="checkbox"/> Historical Landmarks Review
<input type="checkbox"/> Home Occupation Permit
<input type="checkbox"/> | <input type="checkbox"/> Land Development Code Amendment
<input type="checkbox"/> Land Use Approval Time Extension
<input type="checkbox"/> Livestock Permit
<input type="checkbox"/> Lot Line Adjustment
<input type="checkbox"/> Major Land Partition
<input type="checkbox"/> Minor Land Partition
<input type="checkbox"/> Planned Unit Development
<input type="checkbox"/> Preliminary Land Use Review
<input type="checkbox"/> Public Right-of-Way Encroachment
<input type="checkbox"/> Public Right-of-Way Dedication
<input type="checkbox"/> Public ROW Vacation <i>(Separate Applic. Required)</i> | <input type="checkbox"/> Site Plan Review
<input type="checkbox"/> Segregation of Tax Lot
<input type="checkbox"/> Sign Permit
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Temporary Use Permit
<input type="checkbox"/> Variance - Administrative
<input type="checkbox"/> Variance - Commission
<input type="checkbox"/> Wetland Development Permit
<input type="checkbox"/> Zoning Approval
<input type="checkbox"/> Zone Change Designation
<input type="checkbox"/> |
|--|--|--|

OWNER/APPLICANT INFORMATION

Applicant/Agent: <u>Kimberly Rose</u>	Land Owner: <u>Kimberly Rose</u>
Mailing Address: <u>1513 Z. Ave</u>	Mailing Address: <u>1513 Z. Avenue</u>
City/State/Zip: <u>LAGrande, Oregon 97850</u>	City/State/Zip: <u>LAGrande, Oregon 97850</u>
Telephone: <u>541-910-0316</u>	Telephone: <u>541-910-0316</u>
Fax: _____	Fax: _____
Email: <u>Kimmirose@icloud.com</u>	Email: <u>Kimmirose@icloud.com</u>

PROJECT INFORMATION

Site Address: <u>1502 Y. Avenue</u>	Description: <u>operation of Air B-B</u>
Legal Desc.: <u>T 3 S, R 38 E, Section 1560, Tax Lot 5800</u>	_____
Project Value: _____ <i>(Based on contractors bid estimate.)</i>	_____

APPLICANT/OWNER CERTIFICATION

The applicant/owner understands and agrees that:

- The applicant/owner assumes all legal and financial responsibilities for establishing and clearing marking the location of all necessary property lines as determined necessary by the City for the proposed development;
- Building setbacks shall be measured from an established property line, not from the street, curb, sidewalk, or other improvement that is not based on a recorded survey;
- Any approvals associated with this request may be revoked if found in conflict with information represented in this application;
- The approval of this request does not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by City of La Grande ordinances, codes or regulations;
- The applicant hereby authorizes City officials of the City of La Grande to enter the property and inspect activity in conjunction with the proposed development project.
- **ASBESTOS:** If the project includes demolition, Oregon law may require an asbestos inspection by an accredited inspector. The applicant/owner hereby understands and agrees to have an asbestos inspection performed, if required by law, and to have a copy of the inspection report available on-site for the duration of the project.

Applicant Signature: Kimberly Rose Owner Signature: Kimberly Rose

Kimberly Rose
1513 Z Avenue
La Grande, OR 97850
541-910-0316

8-12-2022

City of La Grande
1000 Adams Avenue
La Grande, OR 97850
541-962-1307

To Whom it May Concern:

I am submitting an application for a Conditional Use Permit for the detached garage of my home, located at 1502 Y Avenue, La Grande OR, 97850 for the purposes of using it as a part-time vacation rental. It is my commitment to maintain a quiet, friendly, respectful neighborhood and as such I have spoken with the neighbors about my ambitions and asked for their input prior to the submission of this application. Their input is outlined below, as well as our parking ambitions in order to meet the conditional use permit criteria for both the house and the garage.

The garage is located next to the alley between Greenwood street and X Avenue. Suitable off-street parking for this dwelling will be a 10' X 10' space located behind the garage next to the alley, where a support beam currently exists and will be removed to create the parking space- please see attached photo. Presently neighbors do not feel the need to use the public parking that is available around this home, and there will always be access as if there was ever a need. I have spoken with the City of La Grande Public Works, and there are other options for off-street parking in the future as well if a problem were ever to arise.

Upon consulting with neighbors, we will be raising the railing of the balcony so that someone who occupies the balcony will be able to enjoy the fresh air and the sky, but will not be able to see the surrounding neighbors or their yards. Quiet hours will be enforced for anyone wishing to occupy the property. The Conditional Use Permit application will not impact our existing Use Permit in any way, including the currently available off-street parking for the current permit I already have. Once again the safety and privacy of our community is of the highest importance to me, and I am committed to maintaining a quiet and respectful neighborhood.

Sincerely,



Kimberly Rose

Google Maps 2502 N Greenwood St



Image capture: Apr 2012 © 2022 Google

La Grande, Oregon

Google

Street View - Apr 2012



Google Maps 2504 N Greenwood St



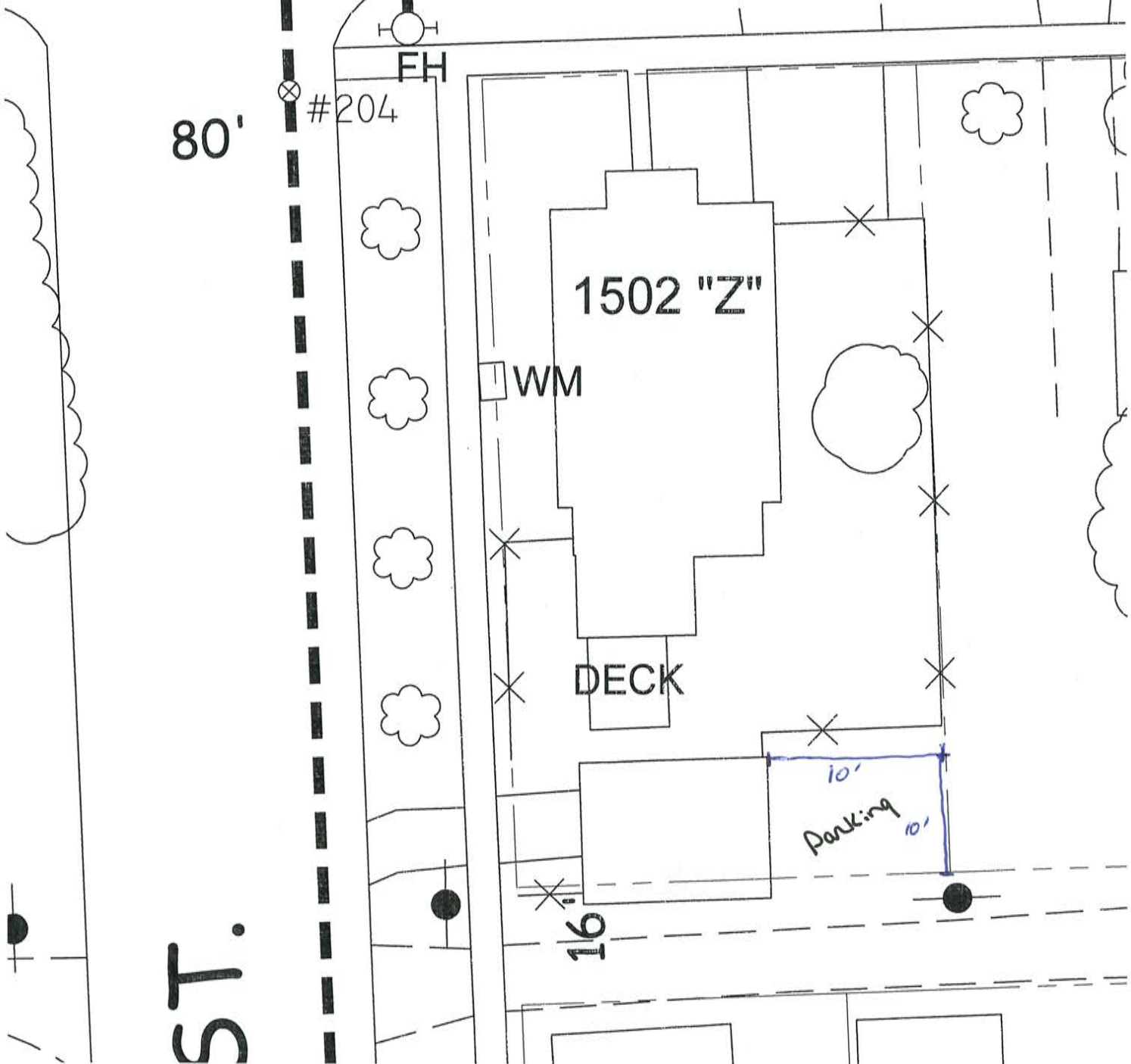
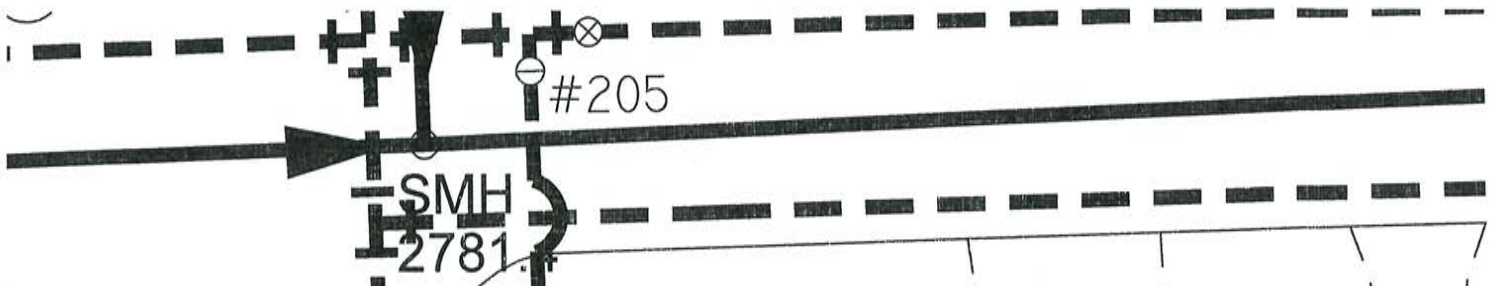
Image capture: Apr 2012 © 2022 Google

La Grande, Oregon

Google

Street View - Apr 2012









Bill Riley
1506 Y Avenue
La Grande OR 97850

City of La Grande

AUG 31 2022

Received
Planning/Economic Dev Dept.

City of La Grande Planning Department
1000 Adams Avenue
La Grande OR 97850

Date: August 31, 2022

Re: Conditional Use Permit Application for 1502 Y Avenue. 11-CUP-22

I urge you to deny this application because the property lacks off-street parking that meets minimum required parking standards.

About a year ago, while abstaining from the formal vote as a La Grande City Planning Commission member, I supported the one bedroom Airbnb motel application at 1502 Y Avenue because I trusted that the owners and my former neighbors, the Kimberly Rose family, would always deal with any problems I presented fairly and honestly. Now, after seeing the bad faith that is contained in this application together with information that she would knowingly and willfully subject my private property to repeated costly damage, that trust has eroded. But unfortunately, for those of us who are just the plain, ordinary citizens of La Grande in this process we quickly discover that what we want doesn't matter because it carries no weight and has no authority. Once an Airbnb motel applicant meets the minimum standards that are required for off-street parking, they can do whatever they want, including use the taxpayers' public street as their customer parking lot. There is no mechanism for accountability for these very lucrative businesses in our neighborhoods.

It looks to me, that after significant upgrades, 1502 Y Avenue will begin taking customers soon. I don't have to guess or speculate what the customer traffic will look like at 1502 Y Avenue, I have year-long historical data from the one bedroom Airbnb motel that is out my front door at 1507 Y Ave. It will almost never be vacant, almost all the customers will be one or two people and almost all will stay for only one or two nights. Nearly all will be people/vehicles that I have never seen before and will never see again. The second motel that is proposed in the application will double this traffic that is just on the other side of my fence.

I supported them knowing that I would bear a cost: watching strangers come and go daily, the burden of wondering who and why that person is looking in my window or looking over at me at all, being sure to always lock my car and also my house whenever I leave. Each day I pick up my two grandchildren after school, kindergarten age little girls, and bring them to my house until Mommy and Daddy come to get them after their workday. I am now in the position of having to tell them that I cannot assure that they are safe on the other side of that fence so they must never talk to anyone over there and must stay away from there because I don't know who those people are nor what they are up to. Small town La Grande has taken on an aspect of big city Chicago for us. By adding a second Airbnb motel, the applicant seeks to double my cost.

1502 Y Avenue will make piles of money, with gross receipts of anywhere from \$3000.00 (\$100/night) to as much as \$6000.00 a month (\$200/night) if full occupancy is maintained. Full occupancy has been maintained at 1507 Y Avenue consistently for one year. What other business can you start in La Grande, often with a small capital investment, and get these immediate returns and full cash flow on month number one? The second motel that is proposed in the application will double these returns.

The owner of this property, Kimberly Rose, in a letter to the City of La Grande in paragraph one states "I have spoken with the neighbors about my ambitions and asked for their input prior to the submission of this application." The letter is dated August 12, 2022. I am the "neighbor" most effected by this application since the property at 1502 is next door, on the other side of a see-

through chain link fence that is twenty feet from the west wall of my house. 1502 Y Avenue shares the long city lot border with my property. 1502 Y Avenue is a corner lot. With the exception of one neighbor located behind a garage building across the alley in back the closest neighbors are either across the street on Y Avenue or across the street on Greenwood. As of the date of this letter Kimberly has never spoken to me, face-to-face or by telephone, and has never contacted me by any other available means about this application. Her son spoke to me on August 17th, the week following the formal submission of the application. During this conversation I was never told that there was an application that had been submitted that would increase the direct impact on me, by doubling the customer traffic on the other side of my fence. I discovered that the application had already been submitted before this discussion when I received the post card in the mail from the city planning department the next day, August 18, 2022. I think providing you with information that is this inaccurate to use to make your decision, whether caused by incompetence or intentional deception, constitutes bad faith on the part of the applicant.

The diagram and photo of the chain link gate that was submitted shows and describes the dimensions of the proposed parking area. What it leaves out is that any vehicle approaching that spot, which is on the north side of the alley, would need to make an immediate 90 degree turn to get into it from the alley and would have to do so without running into either their building, which is the west side border of the proposed parking spot, or my five foot tall chain link fence, which is the east side border of the proposed parking spot. The south side of the alley, directly across from the proposed parking spot, is bordered by a fence line. My Subaru Outback is slightly short of 16 feet long and I could not make the turn into the proposed parking spot when I tried approaching from both the east and the west sides without hitting their building or my fence. If I somehow had managed to get my vehicle into the spot I would not have been able to fully open the doors. With both front doors open, my car measures 13 feet 6 inches in width. A typical full size club cab pickup (using a GMC Sierra) is 19 feet long and 8 feet wide (including a 12 inch mirror on each side). It is physically impossible for a full size pickup, a vehicle that is guaranteed to be owned by many of their customers, to make that turn at that location. My description of the alley above, and in the photos that were submitted, is only the condition of this alley during the warm months of the year. In the winter that alley is not plowed. All winter it consists of two ruts, with about a one foot high berm in the middle and berms on each side that are 3 feet high or more. Some days it is deep fresh powder snow, other days it is soft snow with compressed icy tracks in the ruts, other days it is a crust covering soft snow, other days melting slush, other days refrozen wet snow that covers the tracks with very slippery ice. A vehicle turning into the alley coming from Greenwood St. would only travel about 30 feet before having to execute a 90 degree left turn over three berms and two ruts. They would slide forward or get stuck, need to rock their vehicle to get free and would slip and slide in unpredictable directions. A left turn from that direction that was executed at less than 90 degrees would cause them to crash into my fence and lay it on top of my car that is always parked just behind it. This situation is obvious to anyone who takes the time to look. I think the applicant understands this as well. When I told my insurance company that this situation sets me up for repeated and expensive property damage from a constant stream of customers, I was advised to consult my attorney in order to assure that the first time it occurs I will be prepared to sue the applicant, not wait to hear "It wasn't me, I don't live there" or "I don't know which customer did it but if it was Mr. X who stayed there that night he's already back home in Atlanta by now" or similar deflections of responsibility from the applicant. Customers getting stuck and unable to free their vehicle for hours or days, thereby blocking the alley, will be a common occurrence. That specific alley is used as access to primary vehicle parking for 10 families whose addresses are on both X and Y Avenues. There are only two ways in and out, by way of Spruce St. and Greenwood St.. Blocking the ally presents a hardship to all of us, frequently blocking the alley by people from wherever-they-live who could care less about any of our hardships or about La Grande in general makes it worse on those who live and work here. The application does not accurately describe the condition of the alley. Again, I think providing you with information that is this inaccurate to use to make your decision constitutes bad faith on the part of the applicant.

Thank you for your expert attention to this matter.





September 6, 2022

SENT VIA EMAIL ONLY: mboquist@cityoflagrande.org

City of La Grande
1000 Adams Avenue
La Grande, OR 97850

Re: Kimberly Rose - Conditional Use permit

To Whom it May Concern:

I represent Kimberly Rose in relation to a Conditional Use Permit Application (the "Application") dated August 12, 2022, and which will be addressed at the public hearing scheduled for September 13, 2022.

The Site Plan that was initially submitted with the application reflects that a 10 foot x10 foot parking space will be created. This is to amend the Application and the Site Plan to provide that the dimensions of the parking space will be a minimum of 9 x 18 feet. The Amended Site Plan is enclosed herewith. The parking space is identified on the Amended Site Plan as "Parking 1". There is also a second alternative location for a parking space which meets the minimum standards and which is identified on the Amended Site Plan as "Parking 2". Either location meets the minimum specifications set out in the City Code.

As set out in the letter of Kimberly Rose dated August 12, 2022, the applicant, Ms. Rose, intends to convert the detached garage into a part time vacation rental. The rental would be either a studio or a one-bedroom accommodation, and will therefore meet the criteria for a "Bed and Breakfast Inn" set out in LDC Article 1.3.

Ms. Rose's Property is in the R2 zone for which Bed and Breakfast Inns are conditionally permitted pursuant to Land Development Code Ordinance 3252, Series 2021, Section 2.2.005(C)(9). The proposed development will not require any new public infrastructure or services because the property is located on Y Avenue, which is a fully developed street meeting all City standards. The proposed development will be compatible with and will not have adverse effects on use or development of abutting properties. The occupancy impacts of the proposed rental will be similar to the impacts that would exist if the property is used as a single family dwelling property. The surrounding neighborhood is predominantly single-family homes. The off-street parking will ensure that any vehicle occupancy will not impact the neighboring properties' available street parking.



City of La Grande
September 6, 2022
Page 2

Ms. Rose reaffirms that she directed her son (on her behalf) to contact neighbors (including Mr. Riley) in order to describe the intended rental unit, and to solicit input regarding that intention, and to report back to her regarding responses. This was done prior to the submission of the Application. Additional information regarding their efforts will be provided at the hearing.

Based on the foregoing, the documents submitted with the Application, and the amendments thereto enclosed with this letter, Ms. Rose respectfully requests a finding that the proposed use meets the requirements established in LDC Article 8.5, and that the Conditional Use Permit be approved.

Should you require additional information regarding this Application, please do not hesitate to contact me.

Sincerely yours,

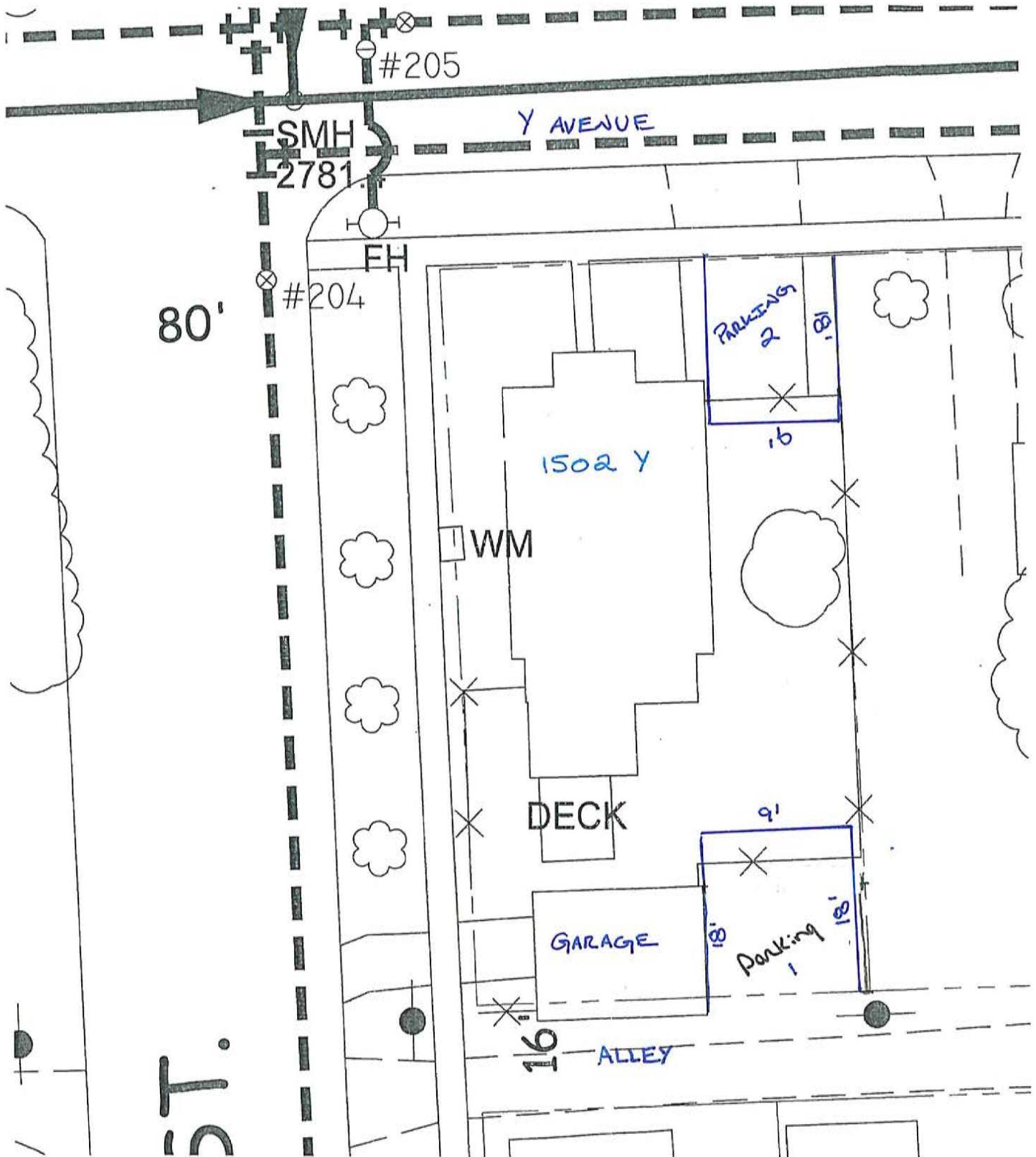
A handwritten signature in blue ink, appearing to read 'DZH', written over a blue circular scribble.

D. Zachary Hostetter

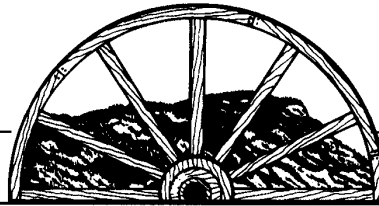
DZH/dzh
Enclosures

cc: Client

KIMBERLY ROSE
CONDITIONAL USE PERMIT
AMENDED SITE PLAN



CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION • P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850
Phone: (541) 962-1307 • Fax: (541) 963-3333 • Web: www.cityoflagrande.org

**TESTIMONY RECEIVED
FOR
PLANNING COMMISSION
CONSIDERATION ON
SEPTEMBER 13, 2022**

9/10/22

Linda Carlsen, Tom Woodruff; 1510 Z Ave; La Grande OR 97850

SEP 12 2022

Received
Planning/Economic Dev Dept

City of La Grande Planning Department; 1000 Adams Ave; La Grande OR 97850

Re: Conditional Use Permit for 1502 Y Ave; La Grande OR 97850

We spoke to Kimberly Rose prior to her submission for establishment of an Airbnb at 1502 Y Ave. We are in favor and support of P said document. There is off-street parking and since it is a corner lot there are other parking spots available. The tax-payers public street is public. As a matter of point, at one time, Mr. Bill Riley attempted to block the public from parking in front of his house at 1506 Y Ave by putting up barriers.

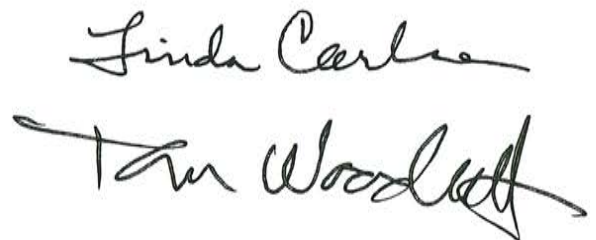
As long time La Grande residents, we have seen our community struggle to make the area more viable. This includes attractive and comfortable places to stay. One way for elderly and retired people to sustain their life style is to rent out the homes that reflect their life long equity. If one decides to rent homes on a more permanent basis, there are many more questionable outcomes such as the extremely stringent eviction laws in Oregon. (See enclosed concerns about the rental at 1502 Z Avenue.) Neither of the Airbnbs on Y were ever rented out on a monthly basis prior to the change over to the Airbnb process.

If any one is interested in looking at occupancy rates for the 1507 Y Ave Airbnb, the public records are available that show our payments of tax to the city. The winter months are far from 100% occupancy. In fact our longest stay was this summer. A grandma was able to help her son by taking care of his three boys. It fulfilled her particular needs so well; she will be coming back next summer. We make a point of keeping a cooperative spirit in the neighborhood. It should be noted that Dan and Carol Rudolph, 1509 Y Ave and Stacy Shown 1505 Y Avenue have told us that they can be quoted testifying to the absence of any problems due to the 1507 Airbnb. Every single person who has stayed with us comments on the friendly people of La Grande.

Why shouldn't the plain ordinary citizens of La Grande be able to prosper?

Respectfully,

Tom Woodruff and Linda Carlsen

Handwritten signatures of Linda Carlsen and Tom Woodruff. Linda's signature is in cursive and appears to read 'Linda Carlsen'. Tom's signature is also in cursive and appears to read 'Tom Woodruff'.

Our neighborhood has been ^{experiencing} ~~experiencing~~ repeated disturbances since May of 2021 due to the behavior of Jessee Stewart and Christine Hale. They live at 1502 Z Avenue, La Grande, OR. [City of La Grande](#)

These are just a few of the experiences:

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Planning/Economic Dev Dept.

- Police intervention at least four times.
- Loud arguing using extremely foul language. This can be heard sometimes inside when the windows are closed. Some of these comments include threats of physical violence. This has been known to happen nearly every other day at times.
- Throwing of articles including furniture off the front and back porch and out the windows.
- Entering one home without permission while being what seemed to be extremely drunk. It should be noted that Christy was giving snacks from a Super Bowl party in which none of their guests showed up.
- Taunting people who are driving or walking by. One incident included a teen age girl in which lewd language was used.
- Writing disconcerting comments on the side walk with chalk and painting the fire hydrant non-standard colors.

Jinda Carlson

Tom Woodruff

September 10th, 2022

To the Committee of La Grande Oregon,

My name is Jerry Rector and I live at 1425 Y Avenue in La Grande Oregon, which is right across the street from the Rose families property. I have known the Rose family for many years, including Dustin who has been taking care of his family and occupying the very shop that is proposed to be converted into a vacation rental before you. He has been there for many years taking care of his family, and I think it is important to approve this permit so he may continue to do so when he needs to be home, and renting it out part-time when he needs to be elsewhere. I am in full support of the current vacation rental application that you see before you as well as the one that has already been approved, and I have full confidence that the Rose family will continue to take care of our neighbors as well as our neighborhood while operating these vacation rentals.

The Rose family has proven to be kind, genuine, gentle, understanding neighbors over the years that I have lived here, and I know if we ever have any issues, then I will reach out to the family and they will respond and take care of our concerns. Vacation rentals such as the ones you see before you and the others that are in my neighborhood, maintain the stability and security that I want in my neighborhood. For instance, with the Rose family operating these vacation rentals, they have the capacity to instantly escort people off of the property by police if there was ever an issue, and because I know the Rose family, I am confident that they are interested in our concerns and in continuing to maintain a safe environment for me and my neighbors. The amount of work and attention they have put into their property over the last year should be seen as a very good example as to how they will be taking care of the surrounding neighborhood in the coming future. Approving this conditional use permit means that you are giving the Rose family the opportunity to take care of their family as it evolves, as well as taking care of our community.

Sincerely,



Jerry Rector, 1425 Y Avenue, La Grande, OR 97850

City of La Grande

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Planning/Economic Dev Dept.

September 10, 2022

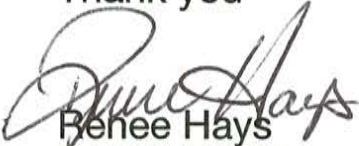
To Whom it may concern:

I am writing this letter in regards to the short term vacation rentals at 1502 Y. Avenue, La Grande, Oregon 97850. I live at 1507 X Avenue, La Grande, Oregon. The back of my home is behind this home. I received the two proposals for the short term vacation rentals on the behalf of Kimberly Rose.

I do not have any issues or objections to either of the dwellings being or becoming short term vacation rentals. I had spoke with Kim about the garage being converted to a Air BnB a few months ago. Again, I have no objections. In fact I believe having this property as a short term vacation rental is a fantastic idea. Kim can screen the renters and will know that they have a high rating as renters. Also in order for her to rent this property she has to keep it maintained at all times. The yard and home must always look nice to be presentable for renters. That is not the case when you have regular rentals. It's my opinion that regular rentals have very little restrictions. The properties can easily become trash heaps and overran with stray animals or aggressive dogs. As I have experienced with one of my neighbors. Getting regular renters evicted is very difficult . With the short term vacation rentals , renters can't stay beyond the agreed terms and if they misbehave or damage property, they have to leave. A police officer can be called and they will be escorted off the property immediately. Parking won't be a issue as the home is a corner lot and has plenty of parking.

Please reach out if you have any further questions.

Thank you


Renee Hays
541-805-1218

City of La Grande

SEP 13 2022

Received
Planning/Economic Dev Dept.

To: whom it may Concern

Re: Property at 1502 Y Avenue

From: Jeff Stremcha Co Owner J&N Custom Renovations

09/12/2022

I Have no issue with My neighbor Kimberly Rose using her property at 1502 Y Avenue as an Air B-n-B property I actually encourage it and would hope this body and all governing bodies would approve her motion to do so.

I live across the street from the garage and the backdoor of the house. My property is at 2502 N Greenwood Street.

Thank you for your consideration in this matter

Sincerely



City of La Grande

SEP 13 2022

Received
Planning/Economic Dev Dept.

September 11th, 2022
Robin Johnson
2504 North Greenwood Street
La Grande, OR, 97850

Dear Committee:

My name is Robin Johnson and I live directly across from the garage that Kimberly Rose would like to convert as a vacation rental. Kimberly has my support of this application, and I would like to see her garage get converted to a vacation rental. There is a history of crime and nuisance in our neighborhood, and Kimberly's property helps to ensure a safer and more livable place for all of us around her. I have watched Kimberly and the Rose family convert her home into something that benefits our neighborhood, our community, our economy, and the aesthetics of our block, and I look forward to her doing the same with her garage. Converting her garage to a vacation rental along with her house will further help reduce the crime around here, and I would rather see her garage occupied by people who have been vetted and that she can control. There are two other rentals like this in my neighborhood, and I have never seen or heard of any issues with the people that occupy them. I want a quiet and respectful place to live, and I expect Kimberly's property to be even better than what I have witnessed so far with other vacation rentals.

Thank you in advance for voting yes for this conditional use permit.

Sincerely,



Robin Johnson

City of La Grande

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Planning/Economic Dev Dept.

September 2022

I am signing as a neighbor to 1502 Y Ave. I would like to see this property occupied with short-term rentals. With the laws regarding rentals in Oregon, and the state of rentals in La Grande, this will help keep this corner lot clean, and keep the neighborhood nice. The other vacation rentals in the neighborhood have proven that this helps keep the properties nice and safe, and regulates negative neighborhood traffic. There have been no issues with parking, noise, or safety. I am in support of Kimberly Rose operating vacation rentals at 1502 Y Ave.

Name Address Signature

Joan Horn 2507 N. Fir Joan Horn

Brian Scott 2702 N Greenwood Brian Scott

Joan Scott 2702 N Greenwood Joan Scott

Blanche Leonard 1511 Z Ave Blanche Leonard

Jesse Stuart 1502 Z AVE Jesse Stuart

Emery Leonard 1511 Z Ave Emery Leonard

Janet Zuber 2702 N Spruce Janet Zuber

Sandy Franks 2702 Spruce ↑

TC Hull 1515 Z Ave TC Hull

Nolan McBrew 2402 N Spruce Ave Nolan McBrew

Tiffany Tucker 1513 W AVE Tiffany Tucker

Cassandra Howard 1501 X ave Cassandra Howard

Mark Glendon 1572 Z ave Mark Glendon

Justin Dean 1418 X ave Justin Dean

Tara Anonille 1406 X Ave Tara Anonille

Hayley Cook 2417 N Fir Hayley Cook

Paul Cook 2004 N FIR Paul Cook

Paul Cook 1401 Y AVE Paul Cook

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I am signing as a neighbor to 1502 Y Ave. I would like to see this property occupied with short-term rentals. With the laws regarding rentals in Oregon, and the state of rentals in La Grande, this will help keep this corner lot clean, and keep the neighborhood nice. The other vacation rentals in the neighborhood have proven that this helps keep the properties nice and safe, and regulates negative neighborhood traffic. There have been no issues with parking, noise, or safety. I am in support of Kimberly Rose operating vacation rentals at 1502 Y Ave.

Name	Address	Signature
<u>Dawn & Barb Bell</u>	<u>1513 Y Ave</u>	<u>Dawn Bell</u>
<u>Sheila Ward</u>	<u>2505 N. Spruce</u>	<u>Sheila Ward</u>
<u>Lamar Langsdrik</u>	<u>2505 N. Spruce</u>	<u>Lamar Langsdrik</u>
<u>RYAN DENIS</u>	<u>1519 X AVE</u>	<u>Ryan Denis</u>
<u>Erin Dickhausen</u>	<u>1513 X Ave</u>	<u>Erin Dickhausen</u>
<u>George Rohman</u>	<u>1510 X AVE</u>	<u>George Rohman</u>
<u>Shelby Tishmack</u>	<u>1509 X Ave</u>	<u>Shelby Tishmack</u>
<u>Dallon Paul</u>	<u>2408 N Greenwood</u>	<u>Dallon Paul</u>
<u>Pat Kelly</u> <u>Patricia Kelly</u> <u>Edwards</u>	<u>1417 X Labor</u>	<u>Pat Kelly</u>
<u>Lisa King</u>	<u>1415 X Ave</u>	<u>Lisa King</u>
<u>Matha Tommy</u>	<u>1416 X Ave</u>	<u>Matha Tommy</u>
<u>Ruth Marx</u>	<u>1411 'X' Ave</u>	<u>Ruth Marx</u>
<u>Jamie LaBelle</u>	<u>1401 X Ave</u>	<u>Jamie LaBelle</u>
<u>Sally Coxen</u>	<u>1416 Y Ave</u>	<u>Sally Coxen</u>
<u>Joe Boggs</u>	<u>1416 Y Ave</u>	<u>Joe Boggs</u>
<u>Joe Boggs</u>	<u>2503 Spruce St.</u>	<u>Joe Boggs</u>

OVER → more

UNA KATTER

2603 N. Spruce

Undere Katter

Kristi Long

1402 Z Ave

[Signature]

Tim Sudbrock

1411 Z Ave

[Signature]

Harry B. Witten

1401 Z Ave

Harry B. Witten

Deborah Witten

1401 Z Ave

Deborah Witten

SEP 13 2022

Verbal Testimony Before the City of La Grande Planning Commission
September 13, 2022 - 11-CUP-22

Received
Planning/Economic Dev Dept.

I'm Bill Riley, living at 1506 Y Ave. in LaGrande.

If I may ask the Chair to inquire if the applicant's attorney is in the room and if so would they identify themselves as such. Thank you.

I stand before you intimidated and fearful that I may be at-risk for legal threats to my well-being. I'm very nervous and am going to use this water to keep my mouth from being so dry. I hope that's OK.

Isn't this application evidence that your process has moved from, "I'd welcome your feedback about putting a motel next door" to "You better not get in my way?"

Don't you see that your process operates on the presumption that the resistant resident is wrong and as a result we know that the dumbest thing for us to say is, "I just don't want it there"?

I received the post card from city planning announcing this application on August 19 and that same day was handed an application with a submission date of August 12. Assuming it was the final application, I submitted written feedback a few days later, pointing out noncompliance issues with the objective of stopping it. Serving as essentially no-cost development consultants to the applicant, city staff appeared to have then used my information as a part of helping them improve their application. Nobody informed me that this was going to happen, or that it was happening. I did not discover that the application was nothing but a first draft until I received the packet for this meeting last week.

Residents receive no such support, we are, each individually, on our own.

Why should you and me bear the burden of having to mount a defense against the businesses' money, lawyers and the city to just continue how we live on our own place? What justifies the entitlement and preferential treatment over tax paying, law abiding citizens? Why shouldn't these businesses have to prove to us that they will create no negative impacts on anybody and gain our approval instead of the other way around?

Against these odds is it really a mystery why so few of La Grande's common folk are willing to carry the stress it takes to do what I am doing right now? Really? So I must ask, with all these elected and appointed officials, who can we look to as our advocate, who will speak for the 13,000?

The free market is about business competing with business. Can you understand what it's like when a business competes with a resident? When speaking out to be able to continue to live peacefully in your home makes you a business problem that must be dealt with? Do you understand that we are not competitive and just get run over?

If the applicant is saying that she will no longer comply with the conditions she agreed to for the first motel because they will not use the parking spot which allowed them the permit, does that not void the current conditional use permit? Doesn't that require the submission of a new application for the first motel if they intend to do future business there under the authority of a permit from the city?

Did you know that if this application is approved, the applicant will possess a motel campus that can be immediately sold to anyone from Seattle, San Francisco who could begin operating the business from afar as soon as they chose without speaking to anyone locally. These permits are assigned by the city to the property, not the owner, and have neither any termination date or termination conditions. The new owner could then resell as could the next and the next whenever they chose and at whatever price they could get.

Has anyone before this ever applied for a permit by saying they will build something that is not there if you will only give them the permit now? If I applied because I have a shed in the back and promised to build a short-term rental there if you give me the permit now, would you give me the permit? Would that even count as a real application?

As this and other cities are trying to figure out how to spread these out, isn't stuffing two onto one small city lot a terrible precedent to set at this time?

Isn't it clear that we have reached the tipping point, that all this is now in a whole other league from before? Hasn't all of this become beyond the scope and responsibility of the City Planning Commission?

Shouldn't this application be denied so it can then come before the La Grande City Council and City Attorney?

From: Danny Martens DMartens@cityoflagrande.org
Subject: 1502 Y
Date: September 9, 2022 at 2:00 PM
To: Kimmiesrose@icloud.com

Kim

I met with your representative at 1502 Y on August 19th and approved a driveway location for a curb cut and approach for an off street parking space located on Y Avenue.

Danny Martens
City of La Grande
Public Works Department
Engineering Division

City of La Grande

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Planning/Economic Dev Dept.

CITY OF LA GRANDE

Planning Commission Meeting

Regular Session

September 13, 2022

6:00 p.m.

La Grande City Hall
1000 Adams Avenue

MINUTES

COMMISSIONERS PRESENT:

Liberty Avila, Chair
Ann Morrison, Vice Chair
Dave Felley
Matthew Gougherty

COMMISSIONERS ABSENT:

Roxie Ogilvie

STAFF PRESENT:

Michael Boquist, City Planner
Kendra VanCleave, Planning Secretary

DISCUSSION/DISPOSITION

CITIZENS PRESENT:

Dustin Fuchs
Zach Hostetter
Bill Riley
Sabrina Stremke

CALL TO ORDER/ROLL CALL

AVILA, Chair, called this Regular Session of the Commission to order at 6:08 p.m. and conducted a Roll Call; a quorum was determined to be present.

The Agenda was approved as presented

AGENDA APPROVAL

CONSENT AGENDA

MORRISON introduced the following Motion, with FELLEY providing the Second.

MOTION: That the Consent Agenda be approved as presented for the July 12, 2022 meeting.

PUBLIC COMMENTS

MSC: Unanimous
NONE

NEW BUSINESS

NONE

PUBLIC HEARING

- a. Conditional Use Permit
File Number: 11-CUP-22
Kimberly Rose

(PUBLIC HEARING OPENED 6:10 PM)

AVILA asked for the Rules of Order to be Read. AVILA announced that she drove by the site. MORRISON announced that she drove by the site and visited with Bill Riley the next-door neighbor at 1506 Y Avenue. There were not challenges from the audience.

AVILA asked for the staff report.

STAFF REPORT

BOQUIST opened with the application to allow for the operation of a short-term rental.

1. The subject property is developed with a one-bedroom single-family dwelling, a detached garage with an upper floor, and one off-street parking space which is located in front of the garage, off N. Greenwood Street. A second parking space is located within the garage, but is not eligible as meeting the off-street parking requirement as it is a stacked and blocked-in space.

2. July 2021, the Planning Commission approved conditional use permit, file number 08-CUP-21, granting permission for the applicant to rent the main dwelling (a one-bedroom home) as a bed and breakfast. The parking space in front of the existing garage satisfies the one parking space requirement for this BnB.

3. This request is to improve the upper floor of the garage into a second BnB, one-bedroom unit, on the property. If approved, the applicant intends to construct a second parking space to the expanded BnB use.

4. Within the immediate surrounding area, there are currently three (3) approved BnBs

BOQUIST continued with the parking:

Application Submittal (August 12, 2022):

The applicant's initial submittal identified the following two (2) parking spaces, accessed off N. Greenwood Street and the adjacent alley. For the one-bedroom BnB within the main dwelling, a 9'x18' parking space is provided in front of the garage, off N. Greenwood Street; although, it would be accessed off the alley for a vehicle to park within this space and not obstruct the public sidewalk.

For the one-bedroom BnB above the garage, a 10'x10' parking space is "to be" improved on the East side of the garage, accessed off the alley. This space does not meet the minimum design standards for space dimension or access aisle in accordance with LDC Section 5.7.005, as highlighted above. See revised Site Plan submittal with 9'x18' spaces to address this requirement.

As a revision the applicant submitted another scenario:

REVISED Application Submittal (September 6, 2022)

The applicant (through their legal counsel, Hostetter Law Group, LLP) submitted a revised application to address the minimum parking requirements.

Parking Option 1: The site plan is amended to increase the 10'x10' parking space on the East side of the garage to a 9'x18' space in compliance with City code. This option does not meet the minimum access requirements which must include 24' aisle width. This parking space utilizing the existing 16' wide alley for access, which is 8' short of the 24' needed.

Parking Option 2: Alternatively, a 9'x18' parking space could be located at the NE corner of the property, accessed off a new driveway approach from "Y" Avenue. This meets both the parking space dimensional requirement, as well as the access coming off a City street. The driveway cut would require obtaining a Driveway Permit from the City of La Grande Public Works Department.

BOQUIST continued that there was a letter of opposition stating that this would be a 3rd BnB surrounding his property making it more commercialized and concerned with strangers coming and going daily. Also increased traffic. There was also letter in favor. These letters were scanned and were emailed to Commission. Additionally, there were support letters received prior to the start of the meeting that was copied and handed out at the meeting and also a confirmation email from Public Works saying they would support a permit for a curb cut. All of which are part of the permanent record.

GOUGHERTY asked has it been established if the structure is a detached accessory dwelling unit (ADU) and does it meet standards. BOQUIST responded it hasn't been established at this point. Subject to the Planning Commission decision, they will work with the Building Department to make it an ADU.

GOUGHERTY asked if the structure meets the height and setback standards. BOQUIST responded that it is a preexisting structure and is grandfathered, but any modification of the outside for example adding an addition would be subject to the current setback and non-conforming standard for improvements.

APPLICANT TESTIMONY

AVILA asked for testimony from the applicant.

Zach Hostetter made an introductory statement before the applicant testimony. He was hired to help and submit additional information specifically for Criteria C of the Conditional Use Permit code standard.

Additionally, he submitted a signed petition from people in other portions of the neighborhood that are in support of application and is a part of the permanent record.

Dustin Fuchs commented that they care about the neighborhood and desire to follow the rules. Worked with staff on the requirements of the submittal. Also spoke with Bill Riley the neighbor about his concerns and felt he didn't express anything during that conversation to be opposed. Additionally, a family member used to live in the main house before falling ill left it vacant when they applied for the first conditional use permit. He used to stay in the shop behind main house when he came back from Boise to help family and they would like to use the shop as the second BnB.

MORRISON asked if the second BnB has had any improvements done. FUCHS responded they haven't done anything currently. There is a bedroom above the garage, but they plan on using the garage as the conversion. MORRISON asked if they structure has running water. FUCHS responded not yet.

PUBLIC TESTIMONY

AVILA asked for testimony in favor.

Sabrina Stremke commented she is in support of the application. When she applied to be a member for the Air BnB website she had to go through rigorous questioning to become a member and feel they have very strict rules with who can list and who can rent. She has no problem with the property being an Air BnB.

AVILA asked for a few minutes so the Commission could read through the support letters that were handed out at the meeting.

FELLEY commented he sees two letters from Linda Carlsen and Tom Woodworth. BOQUIST commented staff received one letter and the other one was submitted at the meeting.

AVILA asked the applicant what percentage of the time will the rental be in use. FUCHS responded depends on when he is back from Boise so it would be used part of the time as a BnB.

AVILA asked for testimony in opposition

Bill RILEY commented he is the neighbor directly next door. Mr. Riley read from his letter he submitted as verbal testimony and is a part of the permanent record. RILEY voiced he feels he may be at risk for legal threats as the applicants hired an attorney. He

commented on the process of the conditional use permit applications. Upon receiving notice, he thought that was the final application and submitted his letter of opposition which in turn was used to help the applicant improve their application. Residents don't receive any support and individually have the burden of having to mount a defense against the "business". The "business" should have to prove they will create no negative impacts. If this application is approved, both BnB's could be immediately sold to anyone and begin operating without speaking to anyone as the permit goes with the property and not owner. Concerned with issuing the permit now with a 'will build and improve later' condition.

AVILA asked for applicant rebuttal.

HOSTETTER commented he disagreed with Mr. Riley's comments. He was hired to improve the application for the criteria regarding for neighborhood compatibility and the parking requirement. HOSTETTER indicated Mr. Riley throughout conversation said he would have to hire legal counsel if any damage occurred and the applicants saw that response with the first driveway option being proposed was potentially causing the neighbor thoughts something might be damaged and they took steps to move the driveway to a different place keeping their desire to work with neighbors. The criteria does not talk about going to talk to your neighbors ahead of time, but is a good thing to do. HOSTETTER continued in order to be unbiased and impartial which is a goal of the Commission, the application should only be denied if it doesn't meet the criteria. This BnB would be a part time rental which is going to be used substantially the same way that it is currently. The off-street parking proposed including the letters of support meets the criteria.

COMMISSION DISCUSSION

COMMISSION DISCUSSION

MORRISON commented she didn't realize the structure is not plumbed yet and asked if there has been an application similar to this situation. BOQUIST responded this is not a criteria but the typical process is apply for permits to get approved then you go build it.

FELLEY asked about the project at 2nd and H where nothing was built. BOQUIST responded yes that was an application where he got approved for four BnB's and then started construction.

GOUGHERTY asked if there is an option for altering the first application because the parking is being altered. BOQUIST responded regardless of how many BnB's on a property it's one application and its one

permit up to 5 bedrooms. This application expands the existing CUP to allow for the second BnB. If this application were to be denied, it doesn't affect the first permit.

FELLEY commented Criteria C for size, location, and will not have significant adverse impacts is subjective and hopefully will get worked out with future code changes. The opposing neighbor feels he is adversely impacted and the application should be denied. Additionally, if there is much doubt among the Commission and the application is denied, the application can be appealed to City Council and might be an unrelated advantage showing the City Council what the Commission has been dealing with BnB applications.

MORRISON commented this neighborhood has small lots, houses close together and compacted. She felt this makes a difference on how a neighborhood will be affected. She understands how someone could feel there is no sense of community or be able to establish relationships as people are always coming and going.

AVILA commented she has less concern with it being proposed as a part time rental. MORRISON added that there is no control from using it as part time or full time.

GOUGHERTY stated he feels the application meets the first 2 criteria, but not Criteria C.

The Commission continued the discussion of Criteria C (adverse effect) and character of neighborhood.

FELLEY stated that the neighbor that is opposed really feels he will be affected and is he concerned which is the adverse effect. MORRISON added on to that point the opposed defines specific factual concerns in his letter about why he is opposed to a second BnB

AVILA commented on the non-conforming setback of the structure and that it is close to the alley, close to other properties and asked if the structure has to conform if there is a change in use going from an ADU to a short-term rental. BOQUIST responded that if the building is not changing other than interior improvements you wouldn't have to move the building. The non-conforming elements could be an impact however, if there was a full-time renter would that impact be any different than a short-term renter.

MORRISON commented there isn't a description of what this neighborhood is like other than it is a residential neighborhood with more long-term occupants. With the introduction of a second BnB on

the same lot with people coming and going, she feels it becomes more of a commercial use in a neighborhood that is already compacted, could change the character and would be an impact.

AVILA commented she is hesitant to deny the application based on the character of the neighborhood would be impacted since other applications have gone through and agrees that the code needs to be looked into for better clarification. Additionally, she commented the application is different with the addition of the second BnB. FELLELY responded with the other applications there wasn't opposition, but this application the neighbor has a perception he will be adversely affected by the use of a second BnB.

BOQUIST showed the vicinity map in the staff report where he has circled the approved BnB's within the surrounding area of the proposed. He pointed to 1420 Z Avenue where the application was denied for a second BnB on the same property which is almost identical to this application. Both have a 2-story ADU on the alley that looks over the neighbor and received opposition from neighbors for adverse impacts.

MORRISON stated she recalled that application and the neighborhood is similar with it being compacted and there were neighbors that felt they would be adversely impacted and also concerned with have a second BnB on the same property.

AVILA asked about the process of amending an application up until the hearing date as it was raised during meeting. BOQUIST responded historically after notification is sent out and comments start coming in, if there is a conflict with an application, he sends out the comment to the applicant immediately as they need to be prepared to come to the meeting with a solution instead of having to "table" the application because not enough information was provided.

MORRISON commented with all the meetings that we have had for BnB's and with the amount of time spent on Criteria C, it is apparent that the code really needs to be looked at for a change.

FELLELY commented if we deny the application, it can be appealed to the City Council and by elevating it to that level is a valuable way to let them see what the Commission has been fighting with. Also, a person's property is a priceless thing and one person's objection because they feel they will be affected should hold weight. AVILA commented to the flip side to also not to set a precedent that an application is a risk for denial because one person objects.

(PUBLIC HEARING CLOSED 7:31P.M.)

MOTION

MORRISON introduced the following Motion with FELLEY providing the Second.

VOTE

MOTION: I move that the Conditional Use Permit be denied.

USC: 3 yes, 1 abstained

OLD BUSINESS:

None

CITY PLANNER COMMENTS:

None

COMMISSIONER COMMENTS:

AVILA asked about the status of the BnB moratorium. BOQUIST commented that it was just discussion at the September 7th meeting and the October 5th meeting Council will be voting.

FELLEY asked if this application is appealed when would City Council hear it. BOQUIST commented it would be the November meeting.

There being no further business to come before this Regular Session of the Commission, adjourned the meeting at 6:16 pm. The Commission is scheduled to meet again in Regular Session, Tuesday, August 9, 2022 at 6:00 p.m., in the Council Chambers of City Hall, 1000 Adams Avenue, La Grande, Oregon.

ATTEST:



Kendra VanCleave

CEDD Secretary

Date Approved: 10/11/22

APPROVED:



Chairperson

EXHIBIT B

APPLICATION FOR APPEAL

APPELLANT SUBMITTAL

SEPTEMBER 26-27, 2022

APPLICATION FOR LAND USE REVIEW

**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**
Planning Division
 1000 Adams Avenue, P.O. Box 670
 La Grande, OR 97850
 (541) 962-1307
 Fax (541) 963-3333



LAND USE APPLICATIONS

- | | | |
|---|--|--|
| <input type="checkbox"/> Annexation Petition
<input type="checkbox"/> Appeal of Planning Division Decision
<input checked="" type="checkbox"/> Appeal of Planning Commission Decision
<input type="checkbox"/> Appeal of Landmarks Commission Decision
<input type="checkbox"/> Comprehensive Plan Document or Map Amendment
<input type="checkbox"/> Conditional Use Permit
<input type="checkbox"/> Duplex Division
<input type="checkbox"/> Fence Height Waiver
<input type="checkbox"/> Floodplain Development Permit <i>(Separate Applic. Required)</i>
<input type="checkbox"/> Geologic Hazard Site Plan
<input type="checkbox"/> Historical Landmarks Review
<input type="checkbox"/> Home Occupation Permit
<input type="checkbox"/> | <input type="checkbox"/> Land Development Code Amendment
<input type="checkbox"/> Land Use Approval Time Extension
<input type="checkbox"/> Livestock Permit
<input type="checkbox"/> Lot Line Adjustment
<input type="checkbox"/> Major Land Partition
<input type="checkbox"/> Minor Land Partition
<input type="checkbox"/> Planned Unit Development
<input type="checkbox"/> Preliminary Land Use Review
<input type="checkbox"/> Public Right-of-Way Encroachment
<input type="checkbox"/> Public Right-of-Way Dedication
<input type="checkbox"/> Public ROW Vacation <i>(Separate Applic. Required)</i> | <input type="checkbox"/> Site Plan Review
<input type="checkbox"/> Segregation of Tax Lot
<input type="checkbox"/> Sign Permit
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Temporary Use Permit
<input type="checkbox"/> Variance - Administrative
<input type="checkbox"/> Variance - Commission
<input type="checkbox"/> Wetland Development Permit
<input type="checkbox"/> Zoning Approval
<input type="checkbox"/> Zone Change Designation
<input type="checkbox"/> |
|---|--|--|

OWNER/APPLICANT INFORMATION

Applicant/Agent: <u>D. Zachary Hostetter</u>	Land Owner: <u>Kimberly Rose</u>
Mailing Address: <u>PO Box 400</u>	Mailing Address: <u>1513 Z Avenue</u>
City/State/Zip: <u>Enterprise, OR 97828</u>	City/State/Zip: <u>La Grande, OR 97850</u>
Telephone: <u>(541) 426-4584</u>	Telephone: <u>(503) 989-8960</u>
Fax: <u>(541) 426-3281</u>	Fax: _____
Email: _____	Email: <u>kimmierose@icloud.com</u>

PROJECT INFORMATION

Site Address: 1502 Y Ave., La Grande, OR Description: _____

Legal Desc.: T 3 S, R 38 E, Section 05BD, Tax Lot 5800 _____

Project Value: _____ *(Based on contractors bid estimate.)* _____

APPLICANT/OWNER CERTIFICATION

The applicant/owner understands and agrees that:

- The applicant/owner assumes all legal and financial responsibilities for establishing and clearing marking the location of all necessary property lines as determined necessary by the City for the proposed development;
- Building setbacks shall be measured from an established property line, not from the street, curb, sidewalk, or other improvement that is not based on a recorded survey;
- Any approvals associated with this request may be revoked if found in conflict with information represented in this application;
- The approval of this request does not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by City of La Grande ordinances, codes or regulations;
- The applicant hereby authorizes City officials of the City of La Grande to enter the property and inspect activity in conjunction with the proposed development project.
- **ASBESTOS:** If the project includes demolition, Oregon law may require an asbestos inspection by an accredited inspector. The applicant/owner hereby understands and agrees to have an asbestos inspection performed, if required by law, and to have a copy of the inspection report available on-site for the duration of the project.

Applicant Signature: Owner Signature: _____
 D. Zachary Hostetter, for Landowner
 Kimberly Rose

APPLICATION FOR LAND USE REVIEW

PAGE 2

**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**
Planning Division
1000 Adams Avenue, P.O. Box 670
La Grande, OR 97850
(541) 962-1307
Fax (541) 963-3333



STAFF USE ONLY FOR ZONING APPROVAL

Project Elements:
 Demolition New Structure
 Addition to Structure Alterations/Repairs

Demolition Defined: "Any wrecking that that involves the removal of any load-supporting structural member or intentional burning."

Dwelling Standards: 1 2 3 4 5 6 7 8 9 10 11 12 N/A
Required for MH/SF/Duplex & Apartments [Section 3.2.003]

Access. Bldg. Standards Met: Yes No N/A [Article 5.9]

Setbacks Met: Yes No [Article 5.3]
 Front: _____ Left: _____ Right: _____ Rear: _____

Livestock setbacks: _____

Floodplain: Yes No Zone: _____ BFE: _____
If yes, an Elevation Certificate may be required
 If yes, a Floodplain Development Permit may be required. [Article 3.12]

Geologic Hazard Zone: Yes No
If yes, a Geologic Hazard Waiver is required. [Article 3.4]

Riparian Zone/Wetlands: Yes No
If yes, a wetland delineation and DSL Permit may be required. [Articles 3.9 and 3.19]

Fire Protect. Agrmt. Req.: Yes No [Article 3.2]

Parks & Recreation SDC: Yes No [Article 7.1]

ROW Improvement Req.: Yes No [Article 6.3]

LID Agreement Req.: Yes No [Article 6.3]

Zone: R2

Date Approved: _____

File Number: 01-PCA-22

Application Fee: 150.00

Receipt Number: _____

Date Submitted: _____

SEP 26 2022

Received
Planning/Economic Dev Dept.

COMMENTS: _____

Land Use Application Fee Schedule			
Annexation Petition	\$1000	Minor Land Partition	\$250 + \$5/lot
Appeal of Planning Division Decision	\$75	Planned Unit Development	\$500 + \$5/lot + Actual Costs for Advertising and Public Notice
Appeal of Planning Commission/Landmarks Commission Decision	\$150	Public Right-of-Way Encroachment	\$50 + Document Recording Fees
Comprehensive Plan Designation Change	\$300 + Actual Costs for Advertising and Public Notice	Public Right-of-Way Dedication	\$0
Comprehensive Plan Document Amendment	Actual Costs	Public Right-of-Way Vacation	Actual Costs
Conditional Use Permit	\$375	Preliminary Land Use Review (Pre-Application Meeting)	\$0
Duplex Division	\$250 + \$5/lot	Segregation of Tax Lot	\$25
Fence Height Waiver	\$25	Sign Permit	\$75
Floodplain Development Permit	\$75	Site Plan Review - New/Expansion	\$75 (Projects \$0-\$50k) \$150 (Projects \$50k-\$100k) (+ \$0.50/\$1000 over \$100k)
Geologic Hazard Site Plans	\$75	Subdivision	\$500 + \$5/lot + Actual Costs for Advertising and Public Notice
Historical Landmarks Review	\$75	Temporary Use Permit	\$125
Home Occupation Permit	\$75	Variance Permit (Administrative)	\$175
Land Development Code Amendment	Actual Cost	Variance Permit (Planning Commission)	\$450
Land Use Approval Time Extension	\$25	Wetland Plan Review	\$75
Lot Line Adjustment	\$150	Zone Change/LDC Amendment	\$300 + Actual Costs for Advertising and Public Notice
Livestock Permit	\$25	Zoning Approval	\$25.00
Major Land Partition	\$500 + \$5/lot		

*Applications based on actual costs require a deposit to cover the estimated fees. If there is a shortage of funds discovered during the review process, an additional deposit may be required to be paid. Any surplus or deficit of fees paid will be refunded or billed to the applicant.
 *Application fee for multiple planning actions is equal to the greatest single fee, not the sum of all fees.
 *Application fee may be increased to include a surcharge for a landowner.
 S:\Community Development\PLANNING\FORMS\APPLICATIONS\Version 2021\Land Use Application.docx
 Zachary Hostetter for Landowner
 Kimberly Rose



September 26, 2022

SENT VIA EMAIL ONLY:mboquist@cityoflagrande.org

Re: Appeal of Denial of Conditional Use Permit Application 11-CUP-22.
Our File No. 2001-01

To Whom it May Concern:

I represent Kimberly Rose, applicant/landowner concerning the above-referenced Condition Use Permit Application.

Enclosed herewith is my client's Notice of Appeal of the Planning Commission's denial of Conditional Use Permit Application 11-CUP-22. Appellant was a party to the initial proceeding held on September 14, 2022. Appellant appeals the decision of the grounds that the facts in the record do not support the finding that the proposed development will result in significant adverse impacts on abutting properties or the surrounding neighborhood.

Sincerely yours,

D. Zachary Hostetter

DZH/smt

Enclosure

cc: Client



September 27, 2022

SENT VIA EMAIL ONLY:mboquist@cityoflagrande.org

Re: Appeal of Denial of Conditional Use Permit Application 11-CUP-22.
Our File No. 2001-01

To Whom it May Concern:

I represent Kimberly Rose, applicant/landowner concerning the above-referenced Conditional Use Permit Application.

My client's Notice of Appeal of the Planning Commission's denial of Conditional Use Permit Application 11-CUP-22 was filed, and the filing fee paid on September 26, 2022. Appellant was and is the applicant and presented written and oral testimony (through representatives) at the proceeding held on September 14, 2022. Appellant appeals the decision on the grounds that the findings of fact set out in the Decision Document are not supported by substantial evidence in the record and do not properly address the applicable criteria set out in Land Development Code Ordinance Section 8.5.003.

The vast majority of the neighbors in the neighborhood support Ms. Rose's application. Only one neighbor (Bill Riley) voiced any opposition. His testimony is the only place in the record where any evidence supporting a denial can be found. The findings of fact state that the neighbor feels "uncomfortable and unsafe" by the prospect of the AirBnB. That is all that he said.

The lone position of one neighbor stating that he doesn't like the idea of people he doesn't know entering onto the neighboring property is not substantial evidence to support a conclusion that the proposed use will have "significant adverse effects on the use or development" of Mr. Riley's property. The present state of affairs is that Ms. Rose (and any other neighbor of Mr. Riley) can have guests, invitees, or renters enter her property at any time for any lawful reason, and that those persons will include people that Mr. Riley "doesn't know". Whether or not Mr. Riley might find that such visitors may in the future make him feel "uncomfortable or unsafe" is not a significant adverse effect on Mr. Riley's use of his own property. Landowners in a residential area must routinely deal with the fact that their neighboring landowners' will have invitees, family members, guests, and renters that they do not know and that, therefore, might impinge upon their personal sense of privacy. That is part of living in a neighborhood.

The findings of fact state that the request reduces the "sense of neighborhood" in which residents "may know each other at some level, feel comfortable talking to each other, [and] possibly



Appeal of Denial of Conditional Use Permit Application 11-CUP-22
September 27, 2022
Page 2

have block parties ...”. The “sense of neighborhood” described in the findings of fact does not constitute a “substantial adverse effect” on the use or development of the neighborhood. There is nothing about this request which would preclude such activities. That is especially true considering the overwhelming support for this application among the surrounding neighbors elicited.

For these reasons, the “evidence” submitted by Mr. Riley does not support the finding that the proposed development will result in significant adverse impacts on abutting properties or on the surrounding neighborhood. It is significant that the “facts” set out in the findings include that the AirBnB currently approved for the residence has rarely been vacant, and that strangers are coming and going daily. That “fact” establishes, if anything, that what Mr. Riley fears is already in existence, and that approval of this application will, therefore, have no significant impacts on the current neighborhood environment.¹

Sincerely yours,


D. Zachary Hostetter

DZH/smt

Enclosure

cc: Client

¹ One commissioner erroneously expressed that if any neighbor objects, the commission is obliged to deny the application. That misstatement of the law was never corrected and may have served as the underlying reason for the Commission’s decision.

Michael Boquist

From: D. Zachary Hostetter <zac@hostetterlawgroup.com>
Sent: Tuesday, September 27, 2022 3:55 PM
To: Michael Boquist
Subject: FW: Notice of Appeal

STOP and VERIFY - This message came from outside of the City of La Grande.

Mike.

Please see Kimberly's email confirmation regarding my representation for your file.

Zac



D. Zachary Hostetter

Partner

Hostetter Law Group, LLP

Attorneys at Law

203 E. Main Street, Suite 2, P.O. Box 400, Enterprise, OR 97828

p: 541. 426.4584 f: 541.426.3281 e: zac@hostetterlawgroup.com

PLEASE DO NOT read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential and/or privileged information intended only for the addressee. If you have received this communication in error, please call me immediately at (541)426-4584. Also, please e-mail me and notify me immediately that you have received the communication in error. Thank you.

From: Kimberly Rose <kimmiesrose@icloud.com>
Sent: Monday, September 26, 2022 4:58 PM
To: D. Zachary Hostetter <zac@hostetterlawgroup.com>
Subject: Re: Notice of Appeal

I confirm that Zac Hostetter represents me and is authorized to submit this appeal on my behalf.

Sincerely,

-Kimberly Rose

On Sep 26, 2022, at 4:56 PM, D. Zachary Hostetter <zac@hostetterlawgroup.com> wrote:

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Stephen Tollefson <stephen@hostetterlawgroup.com>
Sent: Monday, September 26, 2022 4:43:18 PM
To: kimmierose@icloud.com <kimmierose@icloud.com>
Cc: D. Zachary Hostetter <zac@hostetterlawgroup.com>
Subject: Notice of Appeal

Dear Ms. Rose,

Please find the attached correspondence and notice submitted to Mr. Boquist this afternoon.

Thank you,

Stephen Tollefson

<image001.jpg>

Stephen Tollefson

Senior Legal Assistant/Accounting

Hostetter Law Group, LLP

Attorneys at Law

203 E. Main Street, Suite 2, P.O. Box 400, Enterprise, OR 97828

p: 541.426.4584 f: 541.426.3281 e: accounting@hostetterlawgroup.com

PLEASE DO NOT read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential and/or privileged information intended only for the addressee. If you have received this communication in error, please call me immediately at (541)426-4584. Also, please e-mail me and notify me immediately that you have received the communication in error. Thank you.

<Notice.of.Appeal.11CUP22.pdf><Letter.Boquist.DZH.pdf>

CITY of LA GRANDE
COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Kyle Carpenter, Public Works Director

COUNCIL ACTION: **CONSIDER AWARDING BID FOR SANITARY SEWER REHABILITATION**

- 1. MAYOR: Request Staff Report
- 2. MAYOR: Invite Public Comments
- 3. MAYOR: Invite Council Discussion
- 4. MAYOR: Entertain Motion

Suggested Motion: I move that we award the 2022/2023 Sanitary Sewer Rehabilitation Project to **Planned and Engineered Construction, Inc.**, in the amount of **\$488,850**, as shown in the Bid Summary, and, further, that City Manager Strope be authorized to execute the contract documents for the bid for the Project.

- 5. MAYOR: Invite Additional Council Discussion
- 6. MAYOR: Ask for the Vote

EXPLANATION: Public Works Staff continually reviews the conditions of sewer mainlines with a camera designed to travel inside the main lines, allowing staff to view the existing condition of sewer mains, some of which have been in use for over 100 years. Several locations are in need of major repair and we have found cured-in-place pipe (CIPP) the most cost effective and least disruptive method to recondition these lines to like-new condition. The cured-in-place-pipe process installs a new pipe within the existing pipe and then reinstates the sewer services by cutting out the service line connections from within the new line. This process does not require excavation unless major problems develop. The City has eighty-five (85) miles of sewer main lines and has reconditioned approximately thirty (30) miles of main lines (5,840 feet in 2021) over the last thirty (30) years with the cured-in-place pipe lining with great success. This Bid Award will allow staff to proceed with the execution of this project.

Staff advertised for competitive bids and received **five (5)** qualified bids, with the low bid of **\$ 488,850**, from **Planned and Engineered Construction, Inc.**, of Helena, Montana. The project will consist of installation of approximately 2,625 L.F. of 27-inch cured-in-place pipe, 995 L.F. of 8-inch cured-in-place pipe, and reinstatement of service lines. The amount budgeted for this work is \$500,000.

The City Manager recommends awarding the bid as presented by Staff.

Reviewed By: (Initial)

City Manager _____
 City Recorder _____
 Aquatics Division _____
 Building Department _____
 ED Department _____
 Finance _____
 Fire Department _____

Human Resources Dept _____
 Library _____
 Parks Department _____
 Planning Department _____
 Police Department _____
 Public Works Department _____

COUNCIL ACTION (Office Use Only)

Motion Passed
 Motion Failed; _____
 Action Tabled: _____
 Vote: _____

Resolution Passed # _____
 Effective Date: _____
 Ordinance Adopted # _____
 First Reading: _____
 Second Reading: _____
 Effective Date: _____

2022-2023
Sanitary Sewer Rehabilitation Project
 Bid Opening: October 19, 2022 Time: 2:15 p.m.

				Iron Horse		Planned and Engineered Construction, Inc.		Allied Trenchless		Insituform Technologies		Insta-Pipe, Inc.	
NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	Mobilization/Demobilization (Not to exceed 7% of Total Bid)	All Req'd	L.S.	X X X	\$25,000.00	X X X	\$32,500.00	X X X	\$50,000.00	X X X	\$26,500.00	X X X	\$42,000.00
2	Temporary Protection and Direction of Traffic/Project Safety (Not to exceed 3% of Total Bid)	All Req'd	L.S.	X X X	\$30,000.00	X X X	\$12,205.00	X X X	\$5,000.00	X X X	\$21,000.00	X X X	\$19,000.00
3	8-Inch Diameter x 6 mm CIPP	995	L.F.	\$62.00	\$61,690.00	\$36.00	\$35,820.00	\$75.00	\$74,625.00	\$72.00	\$71,640.00	\$69.00	\$68,655.00
4	27-Inch Diameter x 12 mm CIPP	2,625	L.F.	\$142.00	\$372,750.00	\$155.00	\$406,875.00	\$150.00	\$393,750.00	\$260.00	\$682,500.00	\$209.00	\$548,625.00
5	Reinstate Service Lines	29	EA	\$100.00	\$2,900.00	\$50.00	\$1,450.00	\$750.00	\$21,750.00	\$175.00	\$5,075.00	\$375.00	\$10,875.00
TOTAL BID					\$492,340.00		\$488,850.00		\$545,125.00		\$806,715.00		\$689,155.00
OUTSIDE OF ENVELOPE -													
NAME, ADDRESS, CONTRACTORS #, PROJECT NAME				X		X		X		X		X	
1 - BID/BID SCHEDULE FILLED OUT IN FULL (NO BLANK SPACES)				X		X		X		X		X	
2 - BID BOND/CERTIFIED CHECK FOR 5%				X		X		X		X		X	
3 - PERFORMANCE/PAYMENT BOND STATEMENT				X		X		X		X		X	
4 - BIDDER'S CERTIFICATION STATEMENT AS REQUIRED BY ORS				X		X		X		X		X	
5 - LIST OF SUB CONTRACTORS				X		X		X		X		X	

CITY of LA GRANDE

COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Emmitt Cornford, Fire Chief

COUNCIL ACTION: **CONSIDER AUTHORIZING THE CITY MANAGER TO FINALIZE AND SIGN THE TRANSPORT AGREEMENT BETWEEN LIFEFLIGHT AND LA GRANDE FIRE DEPARTMENT**

- 1. MAYOR: Request Staff Report
- 2. MAYOR: Invite Public Comments
- 3. MAYOR: Invite Council Discussion
- 4. MAYOR: Entertain Motion

Suggested Motion: I move that the City Manager be authorized to finalize and sign the Agreement between Life Flight and the City of La Grande Fire Department, as presented.

- 5. MAYOR: Invite Additional Council Discussion
- 6. MAYOR: Ask for the Vote

EXPLANATION: La Grande Fire Department provides transport services from Grande Ronde Hospital to Life Flight aircraft at the Union County Airport approximately 160-180 times / year. Currently the Fire Department staffs these transports at all times with two (2) Firefighter/EMT's. Crews are required to write a Patient Care Report (PCR) to allow for billing of the transport. The attached draft agreement would provide the opportunity for Life Flight to lease a City ambulance at a fixed rate for these transports. This allows for flexibility to staff the transports with one (1) or two (2) Firefighter/EMT's, or an EMT casual, depending on available staff and patient needs. In addition, City staff would not be responsible for the PCR, which is a considerable time saver. With the increasing number of emergency calls being answered by La Grande Fire, this flexibility will result in more City staff available to respond to emergencies. Life Flight staff is responsible for patient care during these transports. In addition to the response advantages, we will see a small decrease in overtime, less time spent billing for transports and a consistent revenue amount as compared to our current system. Staff is still working with Life Flight and CIS on some final language which will be resolved prior to the agreement being finalized.

The City Manager recommends approval as presented.

Reviewed By: (Initial)

City Manager _____
 City Recorder _____
 Aquatics Division _____
 Building Department _____
 ED Department _____
 Finance _____
 Fire Department _____

Human Resources Dept _____
 Library _____
 Parks Department _____
 Planning Department _____
 Police Department _____
 Public Works Department _____

COUNCIL ACTION (Office Use Only)

- Motion Passed
- Motion Failed; _____
- Action Tabled: _____
Vote: _____
- Resolution Passed
Effective Date: _____
- Ordinance Adopted
First Reading: _____
Second Reading: _____
Effective Date: _____

GROUND TRANSPORT SERVICES AND LEASE AGREEMENT

THIS GROUND TRANSPORT SERVICES AND LEASE AGREEMENT (this “**Agreement**”) is by and between Life Flight Network, LLC, an Oregon limited liability company (“**LFN**”), and the City of La Grande, (“**City**”). Each party may be referred to hereunder as a “**Party**” or collectively as the “**Parties.**”

BACKGROUND

LFN operates an air medical service (and related ground transport service) in Oregon, Washington, Idaho and Montana. LFN is the largest air medical transport program in the Pacific Northwest, with rotor-wing bases located in: Astoria, Aurora, Cottage Grove, La Grande, Newport, Ontario, Pendleton, Redmond and Salem, Oregon; Brewster, Coupeville, Dallesport, Kelso, Moses Lake, Port Angeles, Pullman, Richland, Spokane and Walla Walla, Washington; Burley, Boise, Coeur d'Alene, Lewiston, and Sandpoint, Idaho; and Bozeman, Butte and Missoula, Montana, and with fixed-wing bases located in: Aurora and La Grande, Oregon; Dallesport, Moses Lake, Port Angeles, Richland and Spokane, Washington; Boise and Lewiston, Idaho; and Butte, Montana.

City owns and operates a community ambulance service and provides ground ambulance services for the local transport of patients in need of such services. There may be times when LFN will lease City-owned and operated ambulances (“**Ground Ambulances**”) and, using LFN medical personnel, provide patient care. The purpose of this Agreement is to establish the understandings of the Parties with respect to such transports.

NOW THEREFORE, in consideration of the mutual covenants in this Agreement, the Parties agree as follows:

ARTICLE I. TERM

1.1 Term. The term of this Agreement shall commence on the date this Agreement is signed by the last party to sign it (the “**Effective Date**”) and shall remain in effect for one year, unless terminated earlier under Section 1.2. This Agreement will automatically be renewed for additional, consecutive one-year terms, unless either Party notifies the other Party at least thirty (30) days prior to the expiration of the then-current term that it does not agree to an extension of the term.

1.2 Termination. Either Party may terminate this Agreement upon the default of the other Party if the defaulting Party has not cured the default within thirty (30) days of its receipt of written notice of the existence and nature of the default. In addition, either Party may terminate this Agreement without cause upon thirty (30) days prior written notice.

ARTICLE II. LEASE

2.1 Lease. City hereby agrees to lease to LFN and LFN hereby agrees to lease from City, subject to the terms of this Agreement, the Ground Ambulances, each of which shall be duly licensed and equipped for patient transport in accordance with state EMS laws, rules and regulations. The Ground Ambulances shall be operated by qualified City drivers and shall at all times be and remain the sole and exclusive personal property of City. LFN shall have no right, title or interest in the Ground Ambulances except as to the possession and use thereof subject to the terms and conditions of this Agreement.

2.2 Scheduling. LFN shall lease the Ground Ambulances from City on an as needed basis, and as mutually agreed. The Parties shall track and document LFN's actual usage of the Ground Ambulances. Delivery of the Ground Ambulances shall be as agreed upon.

The Parties agree that LFN will request services from City first when seeking transports in Union County from GRH to LFN aircraft. Should the City not be able to provide services sought on the schedule required by LFN, the Parties agree LFN can seek services from other third parties.

2.3 Rental Rate. LFN shall pay City a rental rate ("**Rental Rate**") of \$525.00 per transport plus \$10.00 per mile for Ground Ambulance for actual miles traveled with a LFN patient on board. The Parties have negotiated this rate on an arm's-length basis.

2.4 Insurance. City shall obtain and maintain for the entire term of this Agreement, at its own expense, business auto insurance for the Ground Ambulances for third party liability and physical damage. Liability insurance shall be for minimum amounts of \$5,000,000 per occurrence (combined single limit); include LFN as additional insured with waiver of subrogation from the insurance company in favor of LFN and include a clause requiring the insurer to provide at least thirty (30) days prior written notice of cancellation. City shall furnish to LFN a certificate of insurance or other evidence satisfactory to LFN that such insurance is in effect, provided however that LFN shall be under no duty to ascertain the existence of or to examine such insurance policy or to inform City such insurance does not comply with the requirements hereof. City further agrees to give LFN prompt notice of any damage to, or loss of, the Ground Ambulances. Each Party shall obtain and maintain for the entire term of this Agreement, at its own expense, professional liability insurance while the Ground Ambulance is in their possession, control or use.

LFN shall obtain and maintain for the entire term of this Agreement, at its own expense, liability insurance. Liability insurance shall be for minimum amounts of \$5,000,000 per occurrence (combined single limit); include City as additional insured and include a clause requiring the insurer to provide at least thirty (30) days prior written notice of cancellation. LFN shall furnish to City a certificate of insurance or other evidence satisfactory to City that such insurance is in effect. LFN further agrees to give City prompt notice of any material damage to, or a loss of, the Ground Ambulances.

2.5 Reimbursement; Maintenance of Records. LFN shall have the sole right and discretion to bill and collect the fees for City transports of LFN patients, and City shall not bill any patient or payer, or claim any portion of LFN's collections. City's reimbursement shall be limited to the Rental Rate. LFN shall maintain patient care records and City shall maintain Ground Ambulance records, including but not limited to: vehicle licensing and registration records, maintenance records, medical equipment records, driver education records, and the make, model, year, vehicle identification number, and the date that each Ground Ambulance was first used pursuant to this Agreement. Each Party agrees to make such records available to the other Party for compliance or billing purposes within ten (10) business days of a request or earlier if required by court order, the government or law.

2.6 Affirmative Covenants of City. During the term of this Agreement, City shall:

- a) Pay all costs associated with the Ground Ambulances including their maintenance, repairs, fuel and insurance, and keep Ground Ambulances in good operating order and condition.
- b) Assume all risks of loss with respect to the Ground Ambulances, including without limitation theft, damage or destruction.
- c) Instruct drivers of the Ground Ambulances not to exceed a speed limit of 10 miles per hour more than the legal speed limit, regardless of whether a patient is on board or whether the transport is "Code 3."
- d) Comply with all federal, state and local laws, regulations, requirements and rules pertaining to the Ground Ambulances and City's obligations hereunder, all manufacturer's instructions and maintenance agreement or warranty requirements, and the conditions and requirements of all policies of insurance with respect to the Ground Ambulances and this Agreement which are obtained and maintained by City.
- e) Pay all lawful claims, whether for labor, materials, supplies, rents or services, which might or could if unpaid become a lien on the Ground Ambulances which are imposed due to City's failure to perform any obligations or pay any sums due to any party.
- f) Pay, when due, all license fees, assessments, personal property or other taxes (excluding sales or use taxes) now and hereafter imposed by any governmental body or City upon the Ground Ambulances or the use thereof, and taxes, if any.

ARTICLE III. OTHER TERMS

3.1 Indemnification. LFN agrees to hold harmless, indemnify, and defend the City, and its officers and employees from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from, arising out of, or related to the acts or omissions of LFN or its officers, employees, subcontractors, or agents

in performance of services pursuant to this Contract, specifically including any allegation regarding the provision of medical care by LFN.

To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), the City agrees to hold harmless, indemnify, and defend LFN and its officers and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from, arising out of, or related to the acts or omissions of the City or its officers, employees, subcontractors, or agents regarding its duty to supply ambulances and drivers to LFN pursuant to this Contract. This indemnification specifically excludes any and all claims regarding the provision of medical care by LFN.

3.2 Confidentiality, Privacy and Security. The confidentiality, privacy and security of “Protected Health Information” (as defined in the Health Insurance Portability and Accountability Act of 1996 and its implementing rules and regulations (“HIPAA”)) shall be maintained by the Parties in accordance with HIPAA and applicable state laws and regulations. Without limiting the generality of the foregoing, there shall be no filming, videotaping or recording of patients or personnel in the patient compartment of any Ground Ambulance leased pursuant to this Agreement. In addition, each Party shall safeguard and not disclose the other Party’s trade secrets and other matters of a business or financial nature which are not generally disclosed to the public (“Confidential Information”). Upon termination of this Agreement and upon request of the disclosing party, each Party will promptly deliver all Confidential Information, in whatever form, in its possession and control to the other Party, or will certify to the destruction of such Confidential Information, subject to each Party’s respective records retention obligations under applicable law.

3.3 Entire Agreement. This Agreement contains the entire agreement among the Parties relating to the subject matter described in this Agreement, and supersedes any prior contracts or agreements between the Parties.

3.4 Waiver. Compliance with this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by the written agreement of LFN and City.

3.5 Notices. Whenever this Agreement requires that a notice be given by one Party to another Party, each such notice shall be given in writing. All notices shall be addressed to such Party at the address of such Party as the Party has provided to the other Party.

All notices, requests, demands, approvals and other communications which are required to be given, or may be given, from one Party to the other Party under this Agreement shall be deemed to have been duly given, received and effective: (i) if personally delivered, on the date of delivery; (ii) in the case of a notice sent by mail, when actually received by the addressee; and (iii) the business day immediately following the day it is sent, if sent for next day delivery to a domestic address by a nationally-recognized overnight courier or delivery service.

3.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to its conflicts of law principles.

3.7 Successors and Assigns. This Agreement shall be binding upon the Parties and their respective successors and permitted assigns, and shall inure to the benefit of the Parties and, except as otherwise provided in this Agreement, their respective successors and permitted assigns. Any assignment by City is void.

3.8 Severability. In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement and other application thereof shall not in any way be affected or impaired thereby.

3.9 Counterparts. This Agreement may be executed in counterparts and as so executed shall constitute one agreement binding on all the Parties. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

3.10 No Referral Requirement. Nothing herein is intended to require or suggest any utilization of LFN other than as needed for fast, high-quality patient care. In most instances, unless City judgment or patient request dictates otherwise, the air ambulance provider should be the closest appropriate and available air ambulance. Further, nothing herein shall be construed as a requirement, express or implied, that City shall refer, directly or indirectly, any patient to LFN, or its member organizations, for medical transport services, hospital services, or other services.

3.11 Compliance. In the event either Party reasonably determines that this Agreement is not in strict compliance with applicable law, statutes, rules and regulations including, but not limited to, the laws and rules related to Medicare fraud and abuse, or antitrust, or if any authority commences regulatory and enforcement action, then the Parties shall negotiate any terms of this Agreement to correct the term to secure such strict compliance. If it is not possible to negotiate such alternative terms, either Party may terminate this agreement on written notice.

3.12 Records Retention. Until the expiration of four (4) years after the furnishing of services provided pursuant to this Agreement, both Parties shall make available to the Secretary of the United States Department of Health and Human Services and the United States Comptroller General, and their duly authorized representatives, this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of such services, provided that access is required by law and regulations, and further provided that a request for such access complies with the procedural requirements of applicable law and regulations.

IN WITNESS WHEREOF, the Parties to this Agreement have duly executed this Agreement as of the dates set forth below.

LIFE FLIGHT NETWORK, LLC,
an Oregon limited liability company

By: _____

Name: Ben Clayton
Title: Chief Executive Officer

Date: _____

CITY OF LA GRANDE,

By: _____

Name: Robert A. Strobe
Title: La Grande City Manager

Date: _____

DRAFT

CITY of LA GRANDE
COUNCIL ACTION FORM

Council Meeting Date: **November 2, 2022**

PRESENTER: Kyle Carpenter, Public Works Director

COUNCIL ACTION: CONSIDER ESTABLISHING A PRIORITIZED ARPA ROADWAY PROJECT LIST

1. MAYOR: Request Staff Report
2. MAYOR: Invite Public Comments
3. MAYOR: Invite Council Discussion
4. MAYOR: Entertain Motion

Suggested Motion: I move that the proposed prioritized list of roadway projects be approved for funding with the City’s American Rescue Plan Act (ARPA) allocation.

5. MAYOR: Invite Additional Council Discussion
6. MAYOR: Ask for the Vote

EXPLANATION: The City of La Grande received \$3,023,872 from the American Rescue Plan Act (ARPA) and elected the “standard allowance,” which allows the City to consider the full amount as “Revenue Loss” and funds can be used for any governmental purpose. All ARPA funds must be obligated not later than December 31, 2024, and expended by December 31, 2026.

On June 13, 2022, the City Council held a Work Session to review project proposals identified by City staff and tentatively prioritized the projects. The City Council directed City staff to schedule a Virtual Town Hall/Work Session to be held on September 14, 2022, to receive additional public input from the community regarding the proposed projects.

At the September 14, 2022, Virtual Town Hall/Work Session, the Department Directors, again, presented the proposed projects and responded to questions from the City Council. During the Work Session, City Council reviewed public comments received prior to the Work Session, comments submitted online during the Work Session, and heard public comments from those in attendance to assist in reaching consensus on the final priority ranking. The City Council added projects submitted by the public to those presented by City staff prior to their discussions regarding funding allocations.

During the October 5, 2022, Regular Session of the City Council, the final allocation of the ARPA funds was established as follows: \$2,773,872 to be used toward various Street Projects, with 16th and 12th Streets identified as top priorities, and up to \$250,000 of gap funding for water and sewer improvements at the Union County Fairgrounds, contingent upon the outcome of funding requests submitted by the Union County Fair Board to outside sources. This allocation was adopted via Resolution, necessitating a Council action item to establish the priority order for funding and completion of the proposed street projects.

The attached prioritized project list utilizes input from City Council and the public, as well as workload projections to propose a project completion order. As the funding level and project budgets are comparable in amount, it is anticipated that all projects will be completed over the course of three (3) budget years. The proposed projects have been placed in a sequence that will allow for staff to take advantage of completing like work at the same time

while also allowing for the work to be completed simultaneously with regularly scheduled roadway construction and maintenance work. By design, the project list exceeds the funding amount currently designated for street projects. If actual project costs result in insufficient funds to complete all of the projects, the projects at the end of the list may not be completed. As part of the annual budget process, updated estimated projects costs will be provided to assure all the ARPA funds are budgeted, obligated, and expended prior to the deadline with any required final adjustments occurring to the FY 2024-2025 projects. If any funds are projected to remain after completion of the attached prioritized list, new project(s) will be presented to the City Council for consideration.

The City Manager recommends establishing the prioritized list as presented by Staff.

Reviewed By: (Initial)

City Manager _____
 City Recorder _____
 Aquatics Division _____
 Building Department _____
 ED Department _____
 Finance _____
 Fire Department _____

Human Resources Dept _____
 Library _____
 Parks Department _____
 Planning Department _____
 Police Department _____
 Public Works Department _____

COUNCIL ACTION (Office Use Only)

- Motion Passed
- Motion Failed; _____
- Action Tabled: _____
Vote: _____
- Resolution Passed # _____
Effective Date: _____
- Ordinance Adopted # _____
First Reading: _____
Second Reading: _____
Effective Date: _____

Public Works Roadway Priortization - ARPA

Rank	Project Roadway	Project Beginning	Project End	Type of Project	Project Area	Estimated Cost
Scheduled for Completion During Budget Year 2022-2023						
1	16th Street	Gekeler Lane	Washington Ave	Overlay	99,000	\$ 222,750.00
2	12th Street	Washington Ave	Gekeler Lane	Grind and Inlay	115,300	\$ 392,000.00
3	Spring Avenue	4th Street	Washington Ave	Overlay	32,500	\$ 73,125.00
4	N Ave	4th Street	Washington Ave	Grind and Inlay	95,500	\$ 324,700.00
5	Walnut Street	N Ave	Adams Ave	Grind and Inlay	85,000	\$ 289,000.00
6	Alder Street	K Ave	N Ave	Grind and Inlay	41,000	\$ 139,400.00
Scheduled for Completion During Budget Year 2023-2024						
7	Willow Street	Cove Ave	East L Ave	Overlay	75,000	\$ 168,750.00
8	6th Street	K Ave	C Ave	Overlay	125,000	\$ 281,250.00
9	Monroe Ave	Fir Street	RR Tracks	Overlay	78,000	\$ 175,500.00
Scheduled for Completion During Budget Year 2024-2025						
10	East L Avenue	Willow Street	25th Street	Overlay	110,000	\$ 247,500.00
11	Harrison Avenue	Columbia Street	N Cedar St	Overlay	100,000	\$ 225,000.00
12	Division Avenue	Union Street	North 4th St	Overlay	135,000	\$ 303,000.00
						\$ 2,841,975.00

Method Unit Costs (sq ft)

Grind and Inlay	\$ 3.40
Reconstruction	\$ 8.10
Overlay	\$ 2.25