



Hood River County Community Development

Planning, Building Codes, Code Compliance & GIS

601 State Street, Hood River OR 97031

ERIC WALKER, DIRECTOR
(541) 387-6840 • plan.dept@hoodrivercounty.gov

February 21, 2024

To: Hood River County Planning Commission

From: Nick Kraemer, Principal Planner

CC: Andreas von Flotow on behalf of Dee Lands, LLC, Applicant (US Mail)
Andy von Flotow, Party of Record (via email)
Brian Beebe, County Dept. of Records and Assessment (via email)
Margaret Maldonado, County Dept. of Records and Assessment (via email)
Mike Matthews, County Environmental Health (via email)
Chris Harrell, County Public Works Department (via email)
Bob Wood, Oregon Water Resources Department (via email)
Adam Schmid, City of Hood River Public Works – Water (via email)
ODOT, Region 1, Development Review (via email)
Kristin Dodd, Oregon Department of Forestry (via email)
Jason Seals, Oregon Department of Fish and Wildlife (via email)
DSL Staff, Oregon Department of State Lands (via WLUN system)
Heather Hendrixson, Hood River Soil and Water Conservation District (via email)
Mike McCafferty, Parkdale Rural Fire Protection District (via email)
Scott Franke, Thrive (via email, subscription holder)

Attachments: Attachment “A” – Submitted Appeal
Attachment “B” – Written Comments in Response to the Appeal Notice
Attachment “C” – Director’s Decision Letter and Staff Report w/Attachments
(File #415-23-0156)

RE: **Appeal #23-0267 of Commercial Land Use Permit #415-23-0156, 1N 10E 7 Tax Lot 502**

I. Request:

An appeal filed by Andreas von Flotow on behalf of Dee Lands, LLC of the County Planning Department’s decision to deny an application for a Commercial Land Use Permit to install a campground on the subject property.

II. General Property Information:

- A. Location: The subject property, which is ~ 60 acres in size, is located south of the intersection of Punch Bowl Road and Lost Lake Road. The property is bordered by the Hood River on the eastern property boundary. The site address is 4667 Lost Lake Road and further described as 1N 10E 07 Tax Lot 502.

- B. Zoning: The parcel is zoned Industrial (M-1) as part of the Dee Hardboard Industrial Exception Area Map #36. Portions of the property along the Hood River are also zoned Floodplain (FP) and Stream Protection Overlay (SPO).
- C. Onsite Land Use: The subject parcel is currently vacant.
- D. Previous Planning Actions and Requests (not a fully exhaustive list but includes those relevant to the appeal):
- **Comprehensive Plan Amendment/Exception Request #415-23-0195** proposing to change the limitations of the Dee Hardboard Industrial Exception Area was found to be incomplete.
 - **Industrial Land Use Permit #415-21-0107** to construct a ~8,000 square foot industrial building for processing, storage, and wholesale of agricultural products was tentatively approved October 25, 2022. No action has been taken on the tentative approval, the decision is still valid, and the subject property remains vacant.
 - **Code Enforcement Investigation #415-21-0079** regarding unpermitted residential use of a recreational vehicle was opened in response to a complaint and closed 2/10/23 when it was confirmed that the recreational vehicle had been removed.
 - **Commercial Land Use Permit #13-0216** and subsequent actions for DeeTour Proposal, including LUBA Case Final Opinion and Order issued by LUBA under Case No. 2017-014. The subject property was proposed for parking and ultimately removed from the proposal.
 - **Pre-Application #04-280** to outline specific steps to obtain Unincorporated Community status, remove the Dee site from industrial lands inventory, and to rezone Dee site to allow for mixed-use development. No action taken.
 - **Minor Partition Application #02-066** to divide the Dee Mill property into three parcels including the subject parcel. Completed as Partition Plat 2002-08.
 - **Dee Mill Exception and Hood River County Comprehensive Land Use Plan (HRCP)**
In 1984, the county adopted an exception to Goal 4 for the subject property and additional property adjacent to it, totaling approximately 93 acres (Dee Mill Exception). The HRCP designated the subject property Industrial in the HRCP and zoned it Industrial (M-1). The relevant portion of the HRCP, including the Dee Mill Exception, and the county's zoning ordinance were acknowledged in 1988.

III. Background:

Andreas von Flotow on behalf of Dee Lands, LLC submitted an application on July 24, 2023 requesting approval of a Commercial Land Use Permit (CLUP) to install a campground on the subject property.

The County Planning Department's decision, issued on November 14, 2023 (included as Attachment "C"), denied the request based on the findings presented in the letter.

Then, Andreas von Flotow on behalf of Dee Lands, LLC submitted an appeal of the decision for denial within the appeal period for the November 14, 2023 Decision, which is included in Attachment “A” and is the subject of this appeal hearing.

The criteria used in this decision are addressed in the November 14, 2023 staff report, which is included as part of Attachment “C.”

IV. Summary of the Main Issues on Appeal:

Primarily, the CLUP was denied because the proposed campground is considered a commercial use and the Dee Mill Exception did not specifically include any exceptions for commercial, residential, or urban uses.

As stated in the November 14, 2023 Decision:

Although Article 31 indicates that commercial activities may be allowed in the *M-1 Zone*, the *Final Opinion and Order issued by LUBA under Case No. 2017-014* details that the County must apply the provisions of *OAR 660-004-0018 Planning and Zoning for Exception Areas* directly to any uses proposed in the Dee Mill Exception Area. The LUBA Decision states that the County must interpret and apply the uses allowed in the *M-1 Zone* consistently with the stated purposes of the *Dee Mill Exception and Central Valley Plan* and not just rely on the permitted uses stated in the *Article 31 Industrial (M-1) Zoning Designation*.

Given these limitations on the Dee Mill Exception area laid out in the LUBA decision, Staff finds that the Dee Mill Exception allows three types of uses: (1) continued use of the Dee Mill, (2) expansion of the Dee Mill onto adjacent property within the exception area, and (3) other industrial uses. There is no mention of commercial, residential, or urban uses being allowed by the *Dee Mill Exception and Central Valley Plan* in the acknowledged Hood River Comprehensive Plan materials. More detail is provided in the November 14, 2023 staff report.

Summary of Appellant’s argument

In the appeal submitted by Andreas von Flotow on behalf of Dee Lands LLC, which is included in Attachment “A,” the following main arguments for allowing the proposed campground are made (summarized by Staff for purposes of the appeal hearing):

- Camping and residential uses on the subject property are ongoing historical uses that were occurring at the time the Dee Mill Exception was granted.
- The campground would serve "local people" as a "historical rural industrial land use" tied directly to the Dee Mill. The existing campground and residences are incidental to the existing industrial use.
- A land use permit is not required for a campground and residential uses on the subject property, as they are ongoing historical uses.

Staff response to appeal on these issues:

There is no evidence of an ongoing campground on the subject property. There are no improvements, such as camping spaces, water or utility hookups, bathrooms, or any other amenities typically associated with a campground evident at the site and no information was provided with the application showing an ongoing campground use on the property.

Similarly, there is no evidence of residential uses on the property such as permanent dwellings or utilities to serve dwellings. The County Tax Assessor Records do not show any assessments for residential or commercial uses on the subject property.

A Code Enforcement Investigation (#415-21-0079) regarding unpermitted residential use of a recreational vehicle was opened in 2021 and closed February 10, 2023 when it was confirmed that the recreational vehicle had been removed and the property had come into compliance with the HRCZO. The temporary unpermitted use of a recreational vehicle, which was found to be a code violation, does not establish a permitted use of the property for campground or residential uses.

As stated in the November 14, 2023 Decision:

Although there may have historically been “camping” and makeshift residences on the Dee Mill Site during the early use of the Dee Mill, Staff finds that proposed campground to serve visitors and tourists is not a typically mill-related use and substantially differs from the historical “camping” and “residential” uses of the site. In addition, when the exception was granted and acknowledged there was no “camping” or “residential” use of the site in progress, nor was it mentioned in the County’s Exception or Background documents. Therefore, Staff finds that the proposed campground is not a type of use that is *“the same as existing land uses on the exception site”* as required by OAR 660-004-0018 and is therefore not an allowed use under the existing Dee Mill Exception. No further evidence was provided in the application or appeal materials that would show otherwise and Staff stands by this assessment in the original decision.

Staff finds that any historical “camping” or makeshift residential uses that may have previously took place in the past on the Dee Mill Site have been discontinued for more than a period of one year, therefore any potential rights to reinstating a non-conforming use as provided in Article 65 (Non-Conforming Uses) of the HRCZO do not apply to this application.

In conclusion, Staff finds that any new uses or expansion of existing uses requires land use approval and the appellants argument that there are “ongoing historical uses” including “existing campground and residential uses” is not supported by the evidence in the record. Further, Staff finds that the proposed types of uses were not addressed or allowed in the Dee Mill Exception documentation, therefore compliance with the *Hood River County Comprehensive Plan* and *OAR 660-004-0018 Planning and Zoning for Exception Areas* has not been shown to be met by the evidence in the record for this application, therefore, Staff recommends denial of the appeal.

Additional Comments Received:

On January 8, 2024 the Planning Department mailed notice of the appeal to all property owners within 200 feet of the subject parcel, affected public agencies, and others as provided by law. Notice of this appeal was also published in the Columbia Gorge News on January 17, 2024. As of writing this report, one written comment was received from Andy von Flotow in support of the appeal. (*See Attachment “B”*).

Summary of comment in support of Appellant's argument

In the comment submitted by Andy von Flotow, the following arguments are made in support of the appeal for allowing the proposed campground (summarized by Staff for purposes of the appeal hearing):

- The HRCZO is invalid, because not all of the uses listed in the M-1 zone are permitted in the Dee Mill Exception Area.
- There is a lack of clarity around what land use regulations apply to the Dee Mill Exception Area.

Staff response to appeal on these issues:

As shown in the record of previous Planning Actions, Planning Staff has responded to previous applications with tentative approval, such as Industrial Land Use Permit #415-21-0107 to construct a ~8,000 square foot industrial building for processing, storage, and wholesale of agricultural products, when the application clearly meets the provisions of *OAR 660-004-0018 Planning and Zoning for Exception Areas* stated purposes of the *Dee Mill Exception and Central Valley Plan*. The subject application for a campground does not include evidence to show that these standards are met and was therefore denied.

Staff was very clear throughout the application process that the proposed campground did not appear to meet the applicable standards and was considered a commercial use that could not be allowed in the Dee Mill Exception area. The application was ultimately submitted and contains no evidence showing “ongoing residential and campground uses” on the subject property to justify the proposed campground. Again, Planning Staff has a duty to respond to the evidence presented in the application and the onus is on the applicant to provide substantial evidence to show compliance with applicable standards of the HRCZO, Hood River County Comprehensive Plan, Oregon State Law, and applicable LUBA case law.

There are several routes available to expand and clarify the uses allowed at the Dee Mill Exception site through requests such as Comprehensive Plan/Zoning Ordinance Amendments and new Exception Requests to allow for commercial and/or urban uses. These types of actions can be initiated by landowners by making a complete application or by the County Board of Commissioners in directing Staff to take on this work as a legislative work task. As noted in the Previous Planning Actions section above, the applicant along with other property owners in the Dee Mill area, submitted an application for a Comprehensive Plan/Zoning Ordinance Amendments and Exception Request that was found to be incomplete. The incompleteness letter included a detailed description of the information needed and no additional information was provided in response to the incompleteness letter. A Comprehensive Plan/Zoning Ordinance Amendment and Exception Request is a very time consuming and exhaustive process that requires a substantial amount of evidence to show compliance with Statewide Land Use Planning Goals and will also involve a robust public hearing process.

In conclusion, the subject application has failed to meet the standards for approval as detailed in the November 14, 2023 Decision, no evidence was provided that shows an ongoing residential or campground use, and the commercial/industrial land use permit process is not the appropriate process for expanding and/or changing the types of uses allowed in the adopted Dee Mill Exception Area.

Recommendation:

Based on the findings of fact and conclusions of law provided as part of the initial staff report, dated November 14, 2023, as well as the additional information above and attachments included with this summary, staff recommends that the Planning Commission deny Appeal #23-0267 and uphold the Planning Director's decision to deny Commercial Land Use Permit #415-23-0156.

Dated this 21st Day of February 2024:

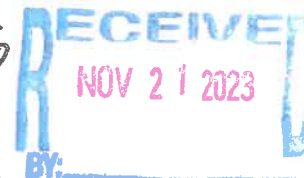
Hood River County Planning Department


Nick Kraemer, Principal Planner

Attachment “A”

* Blank Page *

415-23-0267-PLNG



Appeal Fee: \$250

COUNTY OF HOOD RIVER
601 STATE STREET

STATE OF OREGON

PETITION FOR APPEAL OF THE)
PLANNING DIRECTOR'S DECISION)

CLUP #415-23-0156

Application Name and File Number

Pursuant to Article 72, Planning Directors Review Procedures, Section 72.40 - Appeal from Decision of the Director and Section 72.45 - Standing, of the Hood River County Zoning Ordinance, an action or ruling of the Planning Director authorized by this ordinance may be appealed to the Planning Commission within 15 days after the Director has rendered a decision, if those making an appeal have "standing". If no appeal is taken within the 15 day period, the decision of the Director shall be final. Contact the Planning Department for the filing fee.

Notice of the Planning Commission's public hearing shall be by one publication in a newspaper of general circulation in the County, not less than ten (10) days prior to the date of the hearing.

Pursuant to Article 72, those making an appeal must have "standing" as prescribed in Section 72.45; see Appendix "A". Based upon consideration of provisions in Section 72.45, it is felt that I (we) have standing based upon the following justification:

I filed the permit application.

Consequently, I (we), the undersigned, hereby appeal the decision of the Hood River County Planning Director in the application of: (file number and type of application)
Commercial Land Use Permit #415-23-0156

for: a historical rural industrial campground in conjunction with the Dee Mill.

considered before the Planning Director on (date): Nov. 14, 2023
for the following reasons: The denial does not acknowledge the continued and existing use of the property as a historical industrial campground related to the Dee Mill.

I (we) therefore petition the Planning Commission to hold a public hearing to consider this appeal of the Planning Director action on the above matter.

Dated this 17 day of November 20 23.

Signature Andreas von Flotow
Name (Please print) Andreas von Flotow
Address: 1225 Multnomah Rd,
Hood River, Oregon 97031
Phone Number: 541.399.2464

VON FLOTOW 415-23-0267-PLNG
1N10E07, 502 APPEAL

Nick Kraemer

From: Andreas von Flotow <vonflotow@gmail.com>
Sent: Friday, November 17, 2023 5:27 PM
To: Nick Kraemer
Subject: Re: FW: NOTICE OF DECISION - DENIAL: Dee Lands LLC - Commercial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502
Attachments: Dee Mill Campground Appeal_Form_-_Planning_Director.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Nick,

Thank you for the response.

I understand your interpretation of the LUBA decision to deny commercial use within the Dee Mill Exception.

However, you are incorrect about the camping and "makeshift" residences being a discontinued use. Such overnight uses never ceased and continue to this day within the Dee Mill Exception area. For example, you may recall that recently a resident of Dee Flat filed a complaint against a camper on tax lot 502. Camping and residential use was occurring at the time the Dee Mill Exception was granted and acknowledged.

The application made no reference to hosting "visitors" or "tourists" - quite the contrary. The application stated that the campground would serve "local people" as a "historical rural industrial land use" tied directly to the Dee Mill. The existing campground and residences are incidental to the existing industrial use.

It is my opinion that no land use permit is required for a campground and residential use within the Dee Mill exception since these uses are ongoing historical uses. This land use permit application was submitted to respect the sensitivities of County Planning with regards to certain vocal opposition groups.

Please find attached my appeal of your denial.

On Tue, Nov 14, 2023 at 9:13 AM Nick Kraemer <nick.kraemer@hoodrivercounty.gov> wrote:

A hard copy will be mailed to you at 1750 Country Club as well. Let me know if you have any questions.

-Nick

From: Nick Kraemer
Sent: Tuesday, November 14, 2023 9:09 AM
To: Brian Beebe <brian.beebe@hoodrivercounty.gov>; Margaret Maldonado <margaret.maldonado@hoodrivercounty.gov>; Mike Matthews <mike.matthews@hoodrivercounty.gov>; LUPermits <LUPermits@hoodrivercounty.gov>; Chris Harrell <chris.harrell@hoodrivercounty.gov>; 'ODOT_R1_DevRev'

Attachment “B”

* Blank Page *

Andy von Flotow
1750 Country Club Road
Hood River, OR, 97031
ph 541-387-2288
fax 541-387-2266

11 February 2024

Comments about Appeal 415-23-0267

Land use Application 415-23-0156 states:

- The Dee Mill lands have long been used for mill-related housing and camping, this activity certainly predating the appearance of Oregon's and Hood River county's land use regulations.
- These activities continue today.
- Hood River county's zoning ordinance explicitly allows camping activities on these lands.

The application seeks explicit affirmation from county planning staff that camping activities are indeed consistent with today's applicable land use regulations.

The staff report written in response to application 415-23-0156 states that Hood River county's zoning ordinance is invalid. The staff report, explicitly contradicts the text of the zoning ordinance: "Staff finds that not all of the uses listed in the M-1 zone are permitted in the Dee Mill Exception Area....."

Having asserted that the Hood River county zoning ordinance is invalid, the staff report applies various other criteria to conclude that the application 415-23-0156 must be denied.

An "expert" remains confused:

The paragraph copied below is taken from a letter written in October 2022, by Nico Salter, then "Executive Director" of Thrive Hood River. This group has demonstrated decades of private-party intervention into land use regulation within Hood River county.

Nico's statement reveals his confusion about applicable land use regulations at the Dee Mill site and requests clarity from county staff.

Secondly, Thrive supports the full breadth of projects allowed under the standards in Article 31 (*Industrial Zone*) of HRCZO. However, this project seems to be in the Dee Mill exception area, and the standards for the exception area are not listed in the applicable criteria of the application notice. It is not clear to me if exception area standards are ever listed in application notices, but it would be helpful to have clarity from the County on what is or is not allowed there if you have a guiding document. I have been told that you have circulated a memo in the past specifying the standards for the Dee Exception Area, and it would be of great help to me so I can better understand this.

Comments about Agency, Duty of Clarity and Competence:

Neither clear¹ nor brief², Hood River County's assemblage of land use regulations was further garbled³ seven years ago by LUBA's document 2017-14. LUBA's document 2017-14 explicitly challenged/invalidated Hood River county's zoning ordinance.

Hood River county planning staff and Hood River county planning commission have been assigned the agency of maintaining and administering land use regulations within Hood River county. But for 7 years, neither group has taken any action to address the contradictions between LUBA's document 2017-14 and Hood River county's zoning ordinance. Instead, both groups have allowed the challenged/invalidated Hood River county zoning ordinance to continue to be published/displayed as "law of the land."

¹ In 2009, the author of this letter was stated to lack the competence to read and understand Hood River County's zoning ordinance. This assertion was made by Mike Benedict, then director of Hood River County's planning staff.

² The Hood River County zoning ordinance now occupies over 800 pages.

³ LUBA's document 2017-014 asserts that portions of the Hood River County zoning ordinance are invalid.

The effects of this abandonment of duty is unclarity, destructive both to the “respect for law,” and to “community development” within Hood River county. This unclarity suppresses “community development,” not an effect of which staff of the county’s “Department of Community Development” can be proud.

A Specific Example of Destroyed Ambition and Value:

Specific to the Dee Mill site, errors assigned since 2017 to the Hood River county zoning ordinance have cost at least one ambitious entrepreneur dearly. Trusting the validity of the published/displayed zoning ordinance document, this (naïve?) individual squandered a year (circa 2019/2020) and more than \$800,000 on earnest-money deposits, due-diligence activities and preliminary design studies. After discovering the garble associated with Hood River county planning, this entrepreneur departed, vowing “never again in this county.”

Suggested Actions:

Suggestions for county staff and for the planning commission:

1. Clarify the regulatory mess at Dee Mill and publish your clarification
2. Clarify other similar regulatory messes in Hood River county and publish your clarifications.
3. Update the county’s “Comprehensive Plan” and associated zoning ordinance. According to Oregon state regulations, such an update is apparently many years delinquent.
4. Attempt to behave as “planners.” Such behavior requires “planning,” not just writing essays in response to permit applications.

Suggestions for ambitious entrepreneurs:

1. For the foreseeable future, avoid projects on lands within Hood River county

Attachment “C”

Blank Page



Hood River County Community Development

Planning, Building Codes, Code Compliance, & GIS

601 State Street, Hood River OR 97031

ERIC WALKER, DIRECTOR

(541) 387-6840 • plan.dept@hoodrivercounty.gov

November 14, 2023

Andreas von Flotow on behalf of Dee Lands, LLC.
1750 Country Club Road
Hood River, OR 97031

RE: Commercial Land Use Permit #415-23-0156; 1N 10E 7, Tax Lot #502

Dear Mr. von Flotow;

This letter is in response to your request for a Commercial Land Use Permit (CLUP) to install a campground on the above-described subject property, which is zoned *Industrial (M-1)*.

Your request has been administratively reviewed subject to applicable ordinance requirements of Article 31 (*Industrial Zone*), Article 51 (*Off-Street Parking and Loading*), Article 64 (*Land Use Permits*), Article 72 (*Administrative Actions*) of the Hood River County Zoning Ordinance (HRCZO); the *Dee Hardboard Industrial Exception Area – Map #36 Background Document*; and *OAR 660-004-0018 Planning and Zoning for Exception Areas*. As an administrative application, appropriate notice of your request was published in the Columbia Gorge News and sent to affected public agencies and adjacent property owners within 250 feet of the perimeter of your property as prescribed in Article 72 of the HRCZO.

These public notices resulted in written comments from four public agencies and a local interest group, but none from adjacent property owners. All comments received can be viewed as Attachment “A” of this decision and are addressed below.

As indicated in the County’s Exception Document, which is part of the County Comprehensive Plan, the subject parcel is included in the *Dee Hardboard Industrial Exception Area – Map #36*. According to Background Data and Attachment “A” for the Dee Hardboard Industrial Exception Area, the area of the proposed campground development is identified as “vacant land.” The Exception Document indicates that the “vacant land” portion of this Exception Area is available for expansion of the mill that existed at the time of the exception or “other industrial uses.”

Staff finds that the proposed campground is not an industrial use, but considered a commercial use, as the proposed campground use would provide a service (overnight stay and accommodation) in exchange for a fee and does not include manufacturing or processing, which would fit the definition of an industrial use. Therefore, Staff is reviewing the proposed use as a commercial use.

Permitted Uses in the Dee Hardboard Industrial Exception Area and Article 31 Industrial (M-1):

As noted above, the property is zoned *M-1*. The *M-1* Zone is governed under Article 31 of the HRCZO, which contains the following language:

Section 31.10 - Uses Permitted in an M-1 Zone - the following uses and their accessory uses are permitted outright:

A. Any use permitted in the C-1 zone, other than a psilocybin service center, or dwelling or mobile home except when exclusively connected with the business involved.

Although Article 31 indicates that commercial activities may be allowed in the *M-1 Zone*, the *Final Opinion and Order issued by LUBA under Case No. 2017-014* details that the County must apply the provisions of *OAR 660-004-0018 Planning and Zoning for Exception Areas* directly to any uses proposed in the Dee Mill Exception Area. The LUBA Decision states that the County must interpret and apply the uses allowed in the *M-1 Zone* consistently with the stated purposes of the *Dee Mill Exception and Central Valley Plan* and not just rely on the permitted uses stated in the *Article 31 Industrial (M-1) Zoning Designation*.

As detailed in the County Background Document, the Dee Mill Exception is based on the area being physically developed and irrevocably committed to non-resource uses. The exception allows three types of uses: (1) continued use of the Dee Mill, (2) expansion of the Dee Mill onto adjacent property within the exception area, and (3) other industrial uses. There is no mention of commercial uses being allowed by the exception in these materials.

In OAR 660-004-0018, the purpose is stated as:

Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

The Dee Mill Exception did not specifically include any exceptions for commercial or urban uses. Pursuant to the requirements of OAR 660-004-0018 for physically developed or irrevocably committed exceptions, Staff finds that not all of the uses listed in the M-1 zone are permitted in the Dee Mill Exception Area, including commercial uses given the limitations of the Dee Mill Exception which was specific to mill and mill related activities, and other industrial uses.

Requirements of OAR 660-004-0018 are addressed below:

Section (2) of OAR 660-004-0018 states:

(2) For "physically developed" and "irrevocably committed" exceptions to goals...all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

(a) That are the same as the existing land uses on the exception site;

Staff finds that the proposed campground is not an industrial use, but is a commercial use. Although there may have historically been "camping" and makeshift residences on the Dee Mill Site during the early use of the Dee Mill, Staff finds that proposed campground to serve visitors and tourists is not a typically mill-related use and substantially differs from the historical "camping" and "residential" uses of the site. In addition, when the exception was granted and acknowledged there was no "camping" or "residential" use of the site in progress, nor was it mentioned in the County's Exception or Background documents. Therefore, Staff finds that the proposed campground is not a type of use that is *"the same as existing land uses on the exception site"* as required by OAR 660-004-0018 and is therefore not an allowed use under the existing Dee Mill Exception.

Section (2) of OAR 660-004-0018 further states:

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

As described in the previous section, Staff finds that the proposed campground is considered a commercial use, and commercial uses were not explicitly allowed by the Dee Mill Exception. So, even if the campground can be found to meet the requirements of a "rural use," it is not allowed based on the specifics of the Dee Mill Exception.

Staff notes that any potential future exceptions taken to allow commercial uses in the Dee Mill Exception Area would also need to comply with this standard to ensure they are either maintained as rural uses and are compatible with adjacent resource uses or an additional exception to Goal 14 is taken.

Further, Staff finds that the application did not contain specific enough information to determine if the level of intensity of the proposed campground would meet the definition of a "rural use" as the exact number of spaces, intensity of use, traffic impacts, and basic utility infrastructure to accommodate those uses was not specific enough to make a determination.

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

Not applicable. The Dee Mill Exception Area is not part of an unincorporated community.

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

Not applicable. The proposed campground is considered a commercial use and not an industrial use.

Non-Conforming Use Status

Article 65 (*Non-conforming Use*) states the following requirements for non-conforming uses:

Section 65.20 - Nonconforming Use of Land or Use of Structure

A. The lawful use of land or use of a structure existing at the effective date of this ordinance or its amendments may be continued, although such use does not conform to the provision thereof, however, if such a use is discontinued for a period of one year, any such future use of such land or structure shall comply with the provisions of this ordinance.

Staff finds that any historical "camping" or makeshift residential uses that may have previously took place in the past on the Dee Mill Site have been discontinued for more than a period of one year, therefore any potential rights to reinstating a non-conforming use do not apply to this application.

Conclusion

Based upon the above Findings of Fact and Conclusions of Law, your CLUP application for a campground on the above-referenced property is **denied**.

The decision date for this land use review is **Tuesday, November 14, 2023**. The decision will not become final until the appeal period for this decision expires, which is fifteen (15) days from the date this decision letter was mailed, **Wednesday, November 29, 2023 at 5:00 pm**. Persons who have been mailed a copy of this notice cannot appeal directly to the Oregon Land Use Board of Appeals under Oregon Revised Statute 197.830. Appeal forms are available at the Hood River County Planning Department on the second floor of the County Business Administration Building located at 601 State Street, Hood River, OR 97031. The filing fee for an appeal of the Planning Director's decision is \$250.00.

For a copy of the staff report, referenced attachments, application or other information related to the application, go to either buildingpermits.oregon.gov or <https://aca.oregon.accela.com/oregon/> on the State of Oregon's ePermitting site. To access records: 1) click on "Search" and then "Planning Permits"; 2) in the General Search type in the applicant's last name or business name under "Project Name" (note: Record # and address can be used too, but these search criteria are more erratic); 3) under "Record Info/Schedule Inspections" click on "Attachments"; and 4) click on the name of the document/attachment you would like to view.

If you have any questions regarding this decision, please contact me at (541) 387-6875 or nick.kraemer@hoodrivercounty.gov

Sincerely,



Eric Walker, Community Development Director

Enclosures: Submitted Application, Site Plan, and Narrative, submitted July 24, 2023
Attachment "A": Written Comments Received for this application (*Applicant Only*)

cc: Adjacent Property Owners (*US Mail*)

Brian Beebe, County Records and Assessments (*via email*)
Margaret Maldonado, County Records and Assessments (*via email*)
Mark VanVoast, County Building Official (*via email*)
Chris Harrell, County Public Works (*via email*)
Mike Matthews, County Environmental Health (*via email*)
Kristin Dodd, Oregon Department of Forestry (*via email*)
Melissa Gonzalez-Gabriel, Oregon Department of Transportation (*via email*)
Adam Schmid, City of Hood River Public Works (*via email*)
Mike McCafferty, Parkdale Rural Fire District (*via email*)
Scott Franke, Thrive (*via email, subscription holder*)

ADMINISTRATIVE LAND USE APPLICATION



HOOD RIVER COUNTY COMMUNITY DEVELOPMENT

601 State Street
Hood River, OR 97031
PHONE 541-387-6840
FAX 541-387-6873
plan.dept@co.hood-river.or.us

PLANNING

File No.: 415-23-000156-PLNG

Date received: 7/24/23

Date issued:

Application Review Fee \$ 1,100.00

TYPE OF LAND USE PERMIT:

Dwellings:

- ☐ Farm Operator Dwelling
Income Acreage
- ☐ Relative Farm Dwelling
- ☐ Accessory Farm Dwelling
- ☐ Farm Lot of Record
- ☐ Forest Template Dwelling
- ☐ Forest Large Tract Dwelling
- ☐ Forest Lot of Record

Conditional Use:

- ☐ Non-Farm Dwelling
- ☐ Dependent Relative Dwelling
- ☐ Home Occupation
- ☐ Bed and Breakfast

Other:

- ☐ Variance
- ☐ Subdivision

- ☐ Plan and Zone Change
- ☐ Planned Unit Development
- ☐ Zone Boundary Adjustment
- ☐ Comprehensive Plan Amendment

☒ Commercial Land Use Permit

SITE INFORMATION:

Township: N Range: 10E Section: 07 Tax Lot: 502 Parcel size: _____ ac. Zoning: M-1

Site Address: 4667 Lost Lake Rd.

City:

Description of Proposed Development or Use: See attach narrative.

APPLICATION CHECKLIST:

Unless otherwise noted, the following information is required as part of a complete application:

- | | |
|---|--|
| Completed application form | Project description |
| Applicant's & ALL property owners' signatures | Applicable criteria form / questionnaire |
| Site Plan - per attached example | Supporting documents (farm income, etc.) |
| Filing fee | |

Only applications with the required information can be processed. Obtain a copy of the criteria and the questionnaire for your application type. The pertinent Hood River County Zoning Ordinance sections may be obtained from Hood River County Community Development or on-line through the county website at www.co.hood-river.or.us

Pursuant to Oregon Revised Statutes Chapter 215, Section 427, this department has 30 days to review the application for completeness and notify the applicant of any deficiencies.

SIGNATURES: All Owners must sign (Corporate or LLC owned parcels require authorized signatures)

Owner Name: Andreas von Floow
Signature req'd: [Signature]
Mailing Address: 1225 Multnomah Rd.
City: Hood River State: OR Zip: 97031
Phone: 541 399 2468 E-mail: vonFloow@gmail.com

Owner Name: _____
Signature req'd: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ E-mail: _____

Applicant if other than owner: _____

Signature req'd: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ E-mail: _____

By signing, I acknowledge that the information provided in this application is accurate to the best of my knowledge. Signature of the property owner(s) indicates that the property owner(s) is/are aware that an application is being made on the subject property. Signature of the property owner(s) also authorizes the County planning staff reasonable access to the site in order to evaluate the application.

Historical Campground at Dee Mill

July 6, 2023

Andreas von Flotow

Proposal

Install a campground at the historic campground location in the old timber town (tax lot 502) up at Dee Mill. Primary motivation would be to resuscitate a beautiful piece of property. Secondary motivation would be to generate local economic activity by building a small retail business. Tertiary motivation would be to have a nice place to enjoy with our families.

Neighborhood campgrounds are already booked full during the tourist season and local residents are unable to enjoy them. Additional campgrounds are needed to alleviate the congestion and make the outdoors accessible to local people.

The Dee Mill Exception allows for mill-related and "other industrial uses" and LUBA has decided that "rural industrial" uses are acceptable on the property. Historically, a mill-related campground has existed on this property; photographic and written records available at the History Museum of Hood River demonstrate this historical fact. By definition, a campground is a rural land use. This campground will be a Retail Trade Establishment as permitted outright by the County Zoning Ordinance.

Zoning Overview

- A campground is a Historical Rural Industrial Use.
- Tax lot 502 is zoned M-1 and County Zoning Ordinance, per Section 31.10.A and Section 21.10.B, allows a Retail Trade Establishment as permitted outright. A campground is a Retail Trade Establishment.
- The Dee Mill Exception allows mill-related and other industrial uses on this property. LUBA has decided that rural industrial uses are an acceptable land use of this property. A campground is a historical rural industrial land use.

Utilities

- Fire suppression water from an existing pipeline (200 psi at 2.5 CFS).
- Drinking water is possibly available from Ice Fountain, but unnecessary.
- Septic would be sent to drain fields, if toilets are installed.
- Power from Pacific Power or an "off grid" system.

Construction / Buildings (None Proposed)

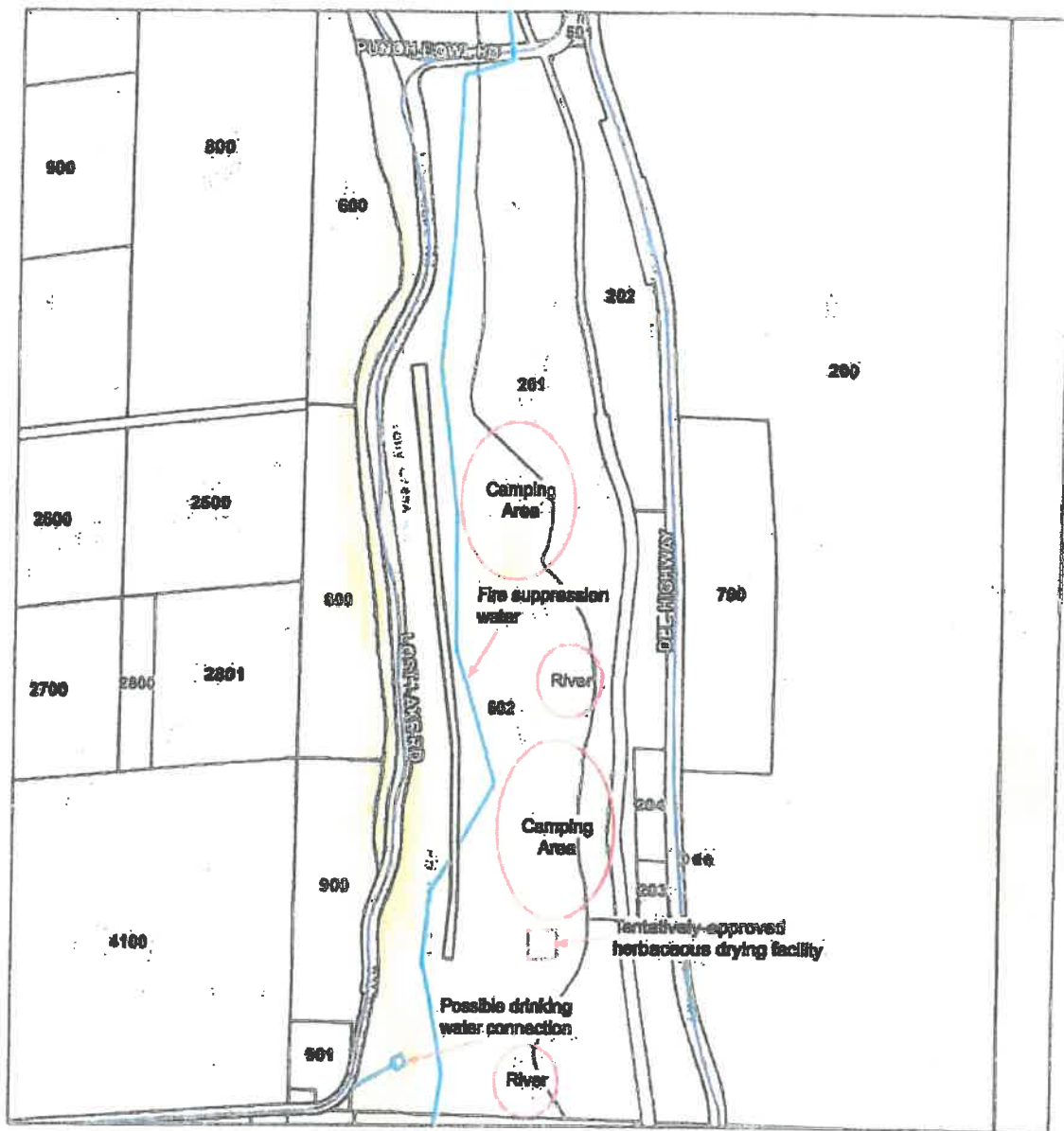
No structures are currently proposed but future structures pending building permits may include:

- One or two toilets with septic fields.
- One or two covered spaces for picnics during inclement weather.
- One garbage collection kiosk.
- One utility / tractor storage shed
- One pavilion

Site Plan

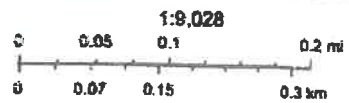
01N10E0700502

4677 LOST LAKE RD, HOOD RIVER



7/28/2021, 3:04:39 PM

 Taxlots



* Blank Page *

Attachment “A”

- **Comments Received**

Nick Kraemer

From: GONZALEZ-GABRIEL Melissa <Melissa.GONZALEZ-GABRIEL2@odot.oregon.gov>
Sent: Friday, October 6, 2023 1:21 PM
To: Nick Kraemer
Subject: RE: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

Hello Nick,

The zoning did catch my attention when I first reviewed this notice.

ODOT would support the requirement of a traffic letter but otherwise didn't have other comments on the project since it didn't detail the number of campsites being proposed and the site doesn't have access to the hwy. I don't think they'll be a need to submit formal comments, but we can keep an eye out for any follow-up notices for this site.

Thank you,

Melissa Gonzalez-Gabriel (she/her)

Associate Transportation Planner, ODOT Region 1

Cell: (971) 337-6681

Please note: This email, related attachments and any response may be subject to public disclosure under state law.

From: Nick Kraemer <nick.kraemer@hoodrivercounty.gov>

Sent: Friday, October 6, 2023 11:56 AM

To: GONZALEZ-GABRIEL Melissa <Melissa.GONZALEZ-GABRIEL2@odot.oregon.gov>

Subject: RE: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

Heillo Melissa

My apologies for not responding sooner.

Yes – we will likely require a traffic impact letter. However we are likely to deny the use base on it not being allowed in the zone.

Let me know if you'd like to add any formal comments.

Thanks

Nick Kraemer, Principal Planner

Hood River County Community Development

601 State Street - Hood River, OR 97031

541-387-6875

nick.kraemer@hoodrivercounty.gov

Nick Kraemer

From: Mike Matthews
Sent: Thursday, September 21, 2023 10:18 AM
To: Nick Kraemer
Subject: RE: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

Hello Nick,

If approved there are several areas that may require regulatory oversight, and or formal approval from Environmental Health:

- Public Recreation Facility Licensing (ORS: 446)
- Public Drinking Water (ORS: 448)
- Onsite Wastewater Disposal (ORS: 454)

If you could include these as a condition in any approval it would be greatly appreciated. Even if it is initially a dry campground with no restrooms or other buildings a Recreation Facility License would be required.

Regards,

Mike Matthews, REHS, Supervisor
Hood River County Environmental Health
1109 June Street
Hood River, OR 97031
541-387-7129

From: Nick Kraemer <nick.kraemer@hoodrivercounty.gov>
Sent: Tuesday, September 12, 2023 1:17 PM
To: Brian Beebe <brian.beebe@hoodrivercounty.gov>; Margaret Maldonado <margaret.maldonado@hoodrivercounty.gov>; Mike Matthews <mike.matthews@hoodrivercounty.gov>; LUPermits <LUPermits@hoodrivercounty.gov>; Chris Harrell <chris.harrell@hoodrivercounty.gov>; 'Robert.L.Wood@oregon.gov' <Robert.L.Wood@oregon.gov>; 'ODOT_R1_DevRev' <ODOT_R1_DevRev@odot.state.or.us>; 'kristin.dodd@oregon.gov' <kristin.dodd@oregon.gov>; 'SEALS Jason T * ODFW' <Jason.T.SEALS@odfw.oregon.gov>; 'heather@hoodriverswcd.org' <heather@hoodriverswcd.org>; 'mike@parkdalefire.com' <mike@parkdalefire.com>; 'Scott Franke' <frankelaw@gorge.net>; a.schmid@cityofhoodriver.gov; DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Subject: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

See attached.

Response: If you have comments regarding this application, respond by 5:00 p.m., Tuesday, October 3, 2023.

Let me know if you have any questions.

Thanks

Nick Kraemer, Principal Planner
Hood River County Community Development
601 State Street - Hood River, OR 97031
541-387-6875

Nick Kraemer

From: Chris Harrell
Sent: Thursday, October 5, 2023 11:34 AM
To: Nick Kraemer
Cc: LUPermits
Subject: RE: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

Hi Nick,
Public Works would like to offer the following comment for Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502;

"Applicant shall obtain a ROW Road Approach permit from Hood River County Public Works and complete any improvements deemed necessary to establish a legal point of access onto Tony Creek Road. No direct access will be granted from the subject property onto Lost Lake Road."

Please let me know if you have any questions or concerns.

Thanks,

Chris Harrell
Engineering Manager
(541) 387-7101
chris.harrell@co.hood-river.or.us

Hood River County Public Works
918 18th Street
Hood River, OR 97031



From: Nick Kraemer <nick.kraemer@hoodrivercounty.gov>
Sent: Tuesday, September 12, 2023 1:17 PM
To: Brian Beebe <brian.beebe@hoodrivercounty.gov>; Margaret Maldonado <margaret.maldonado@hoodrivercounty.gov>; Mike Matthews <mike.matthews@hoodrivercounty.gov>; LUPermits <LUPermits@hoodrivercounty.gov>; Chris Harrell <chris.harrell@hoodrivercounty.gov>; 'Robert.L.Wood@oregon.gov' <Robert.L.Wood@oregon.gov>; 'ODOT_R1_DevRev' <ODOT_R1_DevRev@odot.state.or.us>; 'kristin.dodd@oregon.gov' <kristin.dodd@oregon.gov>; 'SEALS Jason T * ODFW' <Jason.T.SEALS@odfw.oregon.gov>; 'heather@hoodriverswcd.org' <heather@hoodriverswcd.org>; 'mike@parkdalefire.com' <mike@parkdalefire.com>; 'Scott Franke' <frankelaw@gorge.net>; a.schmid@cityofhoodriver.gov; DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Subject: NOTICE OF APPLICATION: Dee Lands LLC - Industrial Land Use Permit (#415-23-0156); 1N 10E 07 Tax Lot 502

See attached.

Eric Walker

From: frankelaw@gorge.net
Sent: Friday, August 18, 2023 9:36 AM
To: Eric Walker
Subject: former Dee Mill site

Follow Up Flag: Follow up
Flag Status: Completed

Good morning, Eric,

I am touching base with you on behalf of Thrive Hood River regarding a permit application that one of our board members, who monitors the state site for applications which I might not get as part of our subscription, recently saw having been submitted, one numbered 415 23 00056 from Andreas von Flotow. I am a bit surprised this application even made it to this stage, not that I have yet received it as having been noticed to the public and subscribers, since it appears not to be a qualifying use under the Dee Mill Exception in that M1 zone, in spite of the applicants trying to bootstrap camping as part of the rural industrial use historically. This proposed use as a campground is clearly not a rural industrial use, much as a hotel was rejected as part of the exception in that LUBA decision we prevailed on back in 2017. Perhaps the county is considering making additional findings that some might think may allow this proposed use, but Thrive will definitely want to be noticed if this matter might not otherwise be publicized so that we can weigh in with more specific references to the code and the prior LUBA ruling(s). Let me know if there is any issue you see with providing us with that notice.

Thank you,

Scott Franke

* Blank Page *



Oregon

Kate Brown, Governor

Department of Forestry

Central Oregon District

The Dalles Unit

3701 West 13th

The Dalles, OR 97058

PHONE: 541-296-4626

FAX: 541-298-4993

www.ODFcentraloregon.com

October 9, 2023

Hood River County Planning Department
601 State Street
Hood River, OR 97031



"STEWARDSHIP IN FORESTRY"

Attn: Nick Kraemer

Re: von Flotow (Dee Lands LLC), Commercial Land Use Permit (#415-23-0139); 1N 10E 07 Taxlot #502

Catastrophic wildfires threaten and destroy many homes in Oregon and in other states each year. The Oregon Department of Forestry (ODF) has a responsibility to its landowners to protect their forest lands from wildfire. The presence of human activity in the forest zone significantly increases that risk.

This proposed campground development is located within the Oregon Department of Forestry Fire Protection District, hence, this property receives wildland fire protection services from ODF, as does surrounding properties. Specifically, this property is surrounded to the north, east and south by forestland that is protected by ODF. This property also lies within the Parkdale Fire District, which provides structural fire services.

Please note that land zoning designation is unrelated to 'Forestland Classification' that determines which properties receive wildland fire protection services from the Oregon Department of Forestry. Although this property has a Hood River County zoning of M-1 (Industrial), ODF's comments are specific to the wildfire concerns related to jurisdictional responsibilities for wildfire risk and suppression management.

Given that this proposed development is intended for the purpose of establishing a campground, ODF would like the County to take these comments into consideration when reviewing the application. Activities to prepare and maintain the site often bring with them the need for brush mitigation which commonly occurs through equipment use and debris burning. In addition, development of campsites often comes with the establishment of campfire pits or rings. In all these circumstances, approval from the County does not outright approve or allow any equipment use, debris burning or campfire use. These activities require annual permits. Specifically burning activities are banned during fire season, either through a Burn Ban (debris burning) or Regulated Use Closure (campfires). Landowners are required to reach out to their respective agencies to ensure compliance with these regulations (additional details below for equipment use).

I'd like to emphasize that human activity in the wildland urban interface creates additional fire start risk as well as additional complexity in fire suppression activities and evacuations. As such, ODF

continues to be concerned about the impact of additional development within the forest zone. ODF wants to reiterate the importance of fire prevention and risk mitigation.

If approved, ODF would expect the planning department to consistently apply the wildfire standards adopted by the county as they currently exist.

I would also like to make you aware that the defensible space requirements that were tied to SB 360 (Oregon Forestland Urban Interface Fire Protection Act) are now obsolete. With the passing of SB 762, the Oregon Department of State Fire Marshal (OSFM) is now responsible for developing and administering new Defensible Space Codes. For additional information on these codes and how they will be applied, please go to their website at: <https://www.oregon.gov/osp/programs/sfm/pages/oregon-defensible-space-code.aspx>.

It is ODF's hope that through proper wildfire siting standards and continued maintenance of defensible space, landowners will be able to provide a safe and risk-free environment for themselves, their neighbors and the firefighters who protect their property.

Finally, if applicant intends to use power driven equipment during the months of May through October, they will need to file an eNotification for a 'Permit to Operate Power Driven Machinery' (PDM) with the Oregon Department of Forestry. Information for this free electronic permit can be found at: <https://www.oregon.gov/odf/working/pages/ENotification.aspx>. This PDM may also include a full Notification of Operation if there are trees that will be sold. Activities may include clearing of trees, stumps, brush or other vegetation (or building roadway site access).

Regards,

/s/Kristin Dodd

Unit Forester

Central Oregon District – The Dalles Unit