



## STAFF REPORT

**FILE NUMBER:** 247-22-000517-MC, 22-518-SP, 22-961-MA

**SUBJECT PROPERTIES & OWNERS:**

Mailing Name: REDMOND ROD & GUN CLUB  
Map and Taxlot: 1612130000101  
Account: 130511  
Situs Address: 9020 S HWY 97, REDMOND, OR 97756

Mailing Name: REDMOND ROD & GUN CLUB  
Map and Taxlot: 1613000000700  
Account: 130708  
Situs Address: 65600 HWY 97, BEND, OR 97701

**APPLICANT:** Redmond Rod & Gun Club

**ATTORNEY:** Edward P. Fitch, Fitch & Neary, P.C.

**REQUEST:** A Modification of Conditions and Site Plan Review associated with prior Conditional Use and Site Plan Review approvals for the Redmond Rod and Gun Club, herein referred to as the "Club". The proposal also includes a Modification of Application to the Modification of Conditions and Site Plan Review recently submitted. Previous approvals are identified as:

- CU-09-17/ SP-09-11
- 247-15-000263-CU, 247-15-000264-SP

The applicant proposes to operate the Club exclusively from Tax Lot 700. The subject property for prior approvals consisted of both Tax Lot 101 and Tax Lot 700. The request includes relocation of shooting disciplines, and identifies the location and alterations of previously approved uses on Tax Lot 700. The proposal also contains the siting of new supporting infrastructure on the site. A new Site Plan Review is also requested as a part of the application to account for the proposed changes and specify discipline and infrastructure locations.

**STAFF CONTACT:** Nathaniel Miller, AICP, Associate Planner  
Phone: 541-317-3164  
Email: [Nathaniel.Miller@deschutes.org](mailto:Nathaniel.Miller@deschutes.org)

**PUBLIC HEARING DATE:** April 18, 2023

**HEARINGS BODY:** Hearings Officer

## **I. APPLICABLE CRITERIA**

### **Deschutes County Code (DCC)**

#### **Title 15, Deschutes County Buildings & Construction Ordinance**

Chapter 15.08, Signs

#### **Title 18, Deschutes County Zoning Ordinance**

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.16, Exclusive Farm Use Zones (EFU)

Chapter 18.80, Airport Safety Combining Zone (AS)

Chapter 18.116, Supplementary Provisions

Chapter 18.124, Site Plan Review

#### **Title 22, Deschutes County Development Procedures Ordinance**

Chapter 22.20 Review of Land Use Action Applications

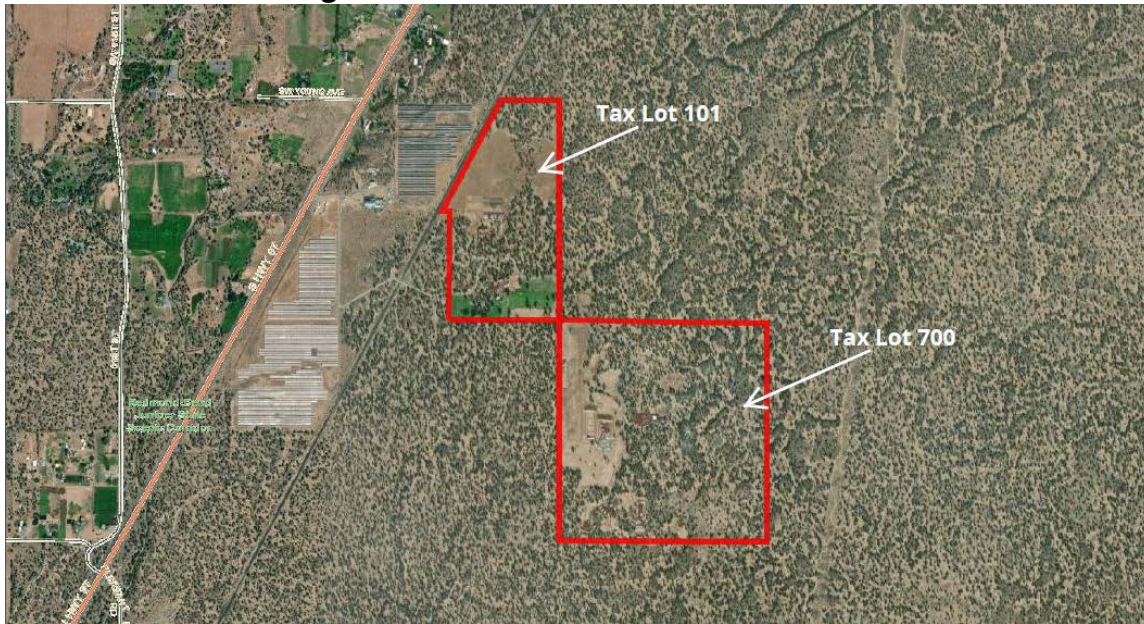
Chapter 22.36, Limitation on Approvals

## **II. BASIC FINDINGS**

**LOT OF RECORD:** The subject properties are legal lots of record pursuant to 247-15-000263-CU, 264-SP.

**SITE DESCRIPTION:** The subject properties include Tax Lot 101 and Tax Lot 700 for a total of approximately 225 acres and contains varied topography. There are two existing dwellings and several accessory buildings on Tax Lot 101. Tax lot 700 has several accessory structures and is currently developed with multiple ranges. The properties are accessed from an existing private driveway that extends east from Highway 97 across adjacent property to the west, as well as across a right of way grant from the Bureau of Land Management. The subject properties are depicted in **Figure One** below. Staff notes for the purposes of this review that the applicant proposes to moves the Club to Tax Lot 700.

**Figure One – Tax Lot 101 and Tax Lot 700**



**REVIEW PERIOD:** The subject application(s) were submitted on June 27, 2022, and deemed incomplete by the Planning Division on July 27, 2022. The applicant submitted the requested information to the Planning Division on December 19, 2022. The applications were deemed complete on December 19, 2022. Pursuant to DCC 22.20.055(B), the 150-day was restarted on December 19, 2022. The applicant tolled the applications for a 60-day period from March 2, 2023 to May 1, 2023. The 150th day on which the County must take final action on this application is July 17, 2023. The submitted application materials are incorporated herein by reference.

**PROPOSAL:** A Modification of Conditions and Site Plan Review associated with prior Conditional Use and Site Plan Review approvals for the Club. The proposal also includes a Modification of Application as the proposal changed since the submittal of these applications. Previous approvals which established the Club and an expansion are CU-09-17/ SP-09-11 and 247-15-000263-CU, 247-15-000264-SP.

The purpose of the applications submitted June 27, 2022 (file nos. 247-22-000517-MC, 518-SP), were to identify previously acknowledged disciplines on Tax Lot 700 and to capture the growth of the Club on both Tax Lot 101 and 700. Staff notes these approvals applied to both Tax Lot 101 and 700. The applicant then modified the earlier applications with the Modification of Application (file no. 247-22-000961-MA) to alter the scope of the request to operate the Club exclusively from Tax Lot 700. This request includes the relocation of all shooting disciplines, and identifies the location and alterations of previously approved uses on Tax Lot 700. The proposal also contains the siting of new supporting infrastructure on the site. A new Site Plan Review is also requested as a part of the application to account for the proposed changes, and specify discipline and infrastructure locations. The applicant submitted a ballistics report to confirm compliance with safety standards associated with the movement of disciplines. The proposed site plan is attached as **Attachment A**.

**SURROUNDING LAND USES:** Immediately surrounding properties to the north, west, south, and east are all EFU-zoned lots under public ownership. These surrounding properties are

predominately undeveloped and in a natural state. There do not appear to be any farm uses in the surrounding area.

**LAND USE HISTORY:**

Tax Lot 101

- 247-21-000227-MC, 247-21-000228-SP: A Modification of Conditions for previous approvals CU-09-17/ SP-09-11 and 247-15-000263-CU, 247-15-000264-SP.
- 247-15-000263-CU, 247-15-000264-SP: A Conditional Use Permit and Site Plan Review for the expansion of Redmond Rod & Gun Club.
- 247-15-000045-MC: A Modification of Conditions for CU-09-17/ SP-09-11.
- CU-09-17/ SP-09-11: A Conditional Use Permit and Site Plan Review for a Private Park and hunting preserve (Redmond Rod & Gun Club).
- CU-00-87: A Conditional Use Permit to establish a wireless telecommunications facility.
- CU-89-35: A Conditional Use Permit for a Farm Dwelling.
- PA-78-9, Z-78-63: A Plan Amendment and Zone Change to change plan designation and rezone the property from Exclusive Agriculture (A-1) to Suburban Residential (SR-1).

Tax Lot 700

- 247-15-000263-CU, 247-15-000264-SP: A Conditional Use Permit and Site Plan Review for the expansion of Redmond Rod & Gun Club.
- 247-15-000045-MC: A Modification of Conditions for CU-09-17/ SP-09-11.
- CU-09-17/ SP-09-11: A Conditional Use Permit and Site Plan Review for a Private Park and hunting preserve (Redmond Rod & Gun Club).
- PA-78-9, Z-78-63: A Plan Amendment and Zone Change to change plan designation and rezone the property from Exclusive Agriculture (A-1) to Suburban Residential (SR-1).

**PUBLIC AGENCY COMMENTS No. 1:** The Planning Division mailed notice for 247-22-000517-MC, 22-518-SP on July 7, 2022, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Oregon Department of Transportation, Don Morehouse

Hi Brooke,



Do you happen to have a site plan that goes along with the Site Plan Review application? I'm curious if there are any proposed changes to the current site access of US 97. Thanks,

...

Brooke,

We will also need a trip generation estimate for this proposal if you have one available.

Thanks again

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for 247-22-000517-MC/518-SP to modify the conditions of approval for the Redmond Rod and Gun Club set forth in CU-09-17/SP-09-11 and 247-15-000263-CU/264-SP; the modification would relocate certain uses and identify the location of previously approved uses and establish building envelopes for future uses. The Redmond Rod and Gun Clubs sits on two tax lots totaling approximately 225 acres in the Exclusive Farm Use (EFU) and Airport Safety (AS) zones at 9020 S. Hwy 97 and 65600 Hwy 97, aka 16-12-13, Tax Lot 101 and 16-13-00, Tax Lot 700, respectively.

Deschutes County Code (DCC) at 17.16.115(C)(4)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed use will have the same number of trips as the previous use approved under 247-15-000263-CU/264-SP. Therefore, no further traffic analysis is needed.

The Redmond Rod and Gun Club is approximately 3.75 miles SW of the Redmond Airport; the combination of the height limits of the zone and the distance from the airfield will ensure no imaginary surfaces related to the Redmond Airport will be penetrated.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. The use will not consume any additional roadside capacity as that term is commonly understood and thus no SDC is required.

Please let me know if you have any questions. Thanks.

Central Oregon Irrigation District

July 19, 2022

Sent Via Email Only

9020 S Hwy 97, Redmond, OR 97756 & 65600 Hwy 97, Bend, OR 97701

TL: 1612130000101 & TL: 1613000000700

247-22-000517-MC, 247-22-000518-SP

Please be advised that Central Oregon Irrigation District (COID) has reviewed the application received on July 7, 2022 for the above referenced project located 9020 S Hwy 97, Redmond, OR 97756 & 65600 Hwy 97, Bend, OR 97701/tax lot: 1612130000101 & 1613000000700. The applicant proposes a relocation of shooting disciplines and identifies the location of previously approved uses. The proposal also includes establishing building envelopes for future structures in support of club operations. A new site plan review is also requested as part of the application to account for the proposed changes and specify discipline locations.

Tax Map 1612130000101 has 10.8 acres of appurtenant COID irrigation water mapped to a specific place of use. Tax Map 1613000000700 has 26.76 acres of appurtenant COID irrigation water mapped to a specific place of use.

Listed below are COID's initial comments to the provided pre-application site plan. All development affecting irrigation facilities shall be in accordance with COID's Development Handbook and/or as otherwise approved by the District.

- Tax Map 1612130000101 has 10.8 acres of appurtenant COID irrigation water mapped to a specific place of use. Proposed Trap Range appears to be located on the mapped water right. If applicant proposes to modify this irrigated area, they should contact COID to discuss a water transfer. A map of the location of the proposed structure was not provided to COID. Construction of a structure, driveway, or other impermeable surface on top of a mapped water right is not allowed. COID requests applicant contact COID to determine if a water transfer will be required.
- Tax Map 1613000000700 has 26.76 acres of appurtenant COID irrigation water mapped to a specific place of use. A map of the location of the proposed structure was not provided to COID. Proposed Shooting Range appears to be located on the mapped water right. If applicant proposes to modify this irrigated area, they should contact COID to discuss a water transfer. Construction of a structure, driveway, or other impermeable surface on top of a mapped water right is not allowed. COID requests applicant contact COID to determine if a water transfer will be required.
- Irrigation infrastructure and rights-of-way are required to be identified on all maps and plans
- Any irrigation conveyance, District or private, which passes through the subject property shall not be encroached upon without written permission from this office.
- No structures of any kind, including fence, are permitted within COID property/easement/right of way without written permission from this office.
- Policies, standards and requirements set forth in the COID Developer Handbook must be complied with.

Our comments are based on the information provided, which we understand to be preliminary nature at this time. Our comments are subject to change and additional requirements may be made as site planning progresses and additional information becomes available. Please provide updated documents to COID for review as they become available.

Central Oregon Irrigation District

**PUBLIC AGENCY COMMENTS No. 2:** The Planning Division mailed notice for File No. 247-22-000961-MA, the modification of the original applications, on December 30, 2022, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for 247-22-000517-MC/518-SP/961-MA to modify the previously approved application (247-15-000263-CU/264-SP) for gun range (shotgun, skeet, sporting clays, rifle, and pistol) in the Exclusive Farm Use (EFU) zone at 65600 Hwy 97, aka 16-13, Tax Lot 700, and 16-12-13, Tax Lot 101. The gun range would be relocated solely to Tax Lot 700.

Deschutes County Code (DCC) at 17.16.115(C)(4)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The applicant had previously submitted a traffic study by Clemow Associates dated May 11, 2015, demonstrating the proposed use would generate less than 50 trips a day based on seven years of observed data at the existing Redmond Rod and Gun Club. The applicant needs to provide updated information about the use of site since that traffic work is now seven years old. Additionally, the site may be used by the Redmond Police Department for training, which was not an assumption in the previous work.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. The updated traffic study should include analysis of whether there are peak hour trips.

Redmond Fire & Rescue, Tom Mooney

Hi Nathaniel,

Attached are our comments for Redmond Rod & Gun Club.

Thank you,

**Tom Mooney | Fire Marshal CFI-MIAAI**  
[Redmond Fire & Rescue](#)

Direct: 541-504-5010  
Cell: 541-362-6311  
Burn Line: 541-504-5035

The letter is included as **Attachment B** to this Staff Report.

Deschutes County Environmental Health, Jeff Freund, RS

Below is the definition of a public water system. Basically if they provide water to 10 or more people a day for more than 60 days per year, they meet the criteria for a PWS and would need to go through plan review with the Oregon Drinking Water Program and start some minimal routine sampling.

If they do not meet this threshold, but still occasionally offer water to the public such as events, temporary food service, etc. they may still need to do some sampling for us to ensure safe water.

Link to water system plan review packet:

[https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/DRINKINGWATER/PLANREVIEW/Documents/PR\\_Requirements.pdf](https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/DRINKINGWATER/PLANREVIEW/Documents/PR_Requirements.pdf)

"Public Water System" means a system for the provision to the public of piped water for human consumption, if such system has more than three service connections, or supplies water to a public or commercial establishment that operates a total of at least 60 days per year, and that is used by 10 or more individuals per day.

Oregon Department of Transportation, Don Morehouse & Quinn Shubert

An email was sent to ODOT on February 21, 2023, by Planning Division staff to see if ODOT had additional comments to the original emails sent from the first NOA. The following is the summarized response. The full email can be accessed in the record on the project webpage.

Hi Don,

I was curious if I could get an update on any work, or coordination, that is happening between ODOT and the Redmond Rod and Gun Club. Have you had the opportunity to review the last NOA and changes to the proposal? They are relocating the entire facility to Tax Lot 700.

Regards,

Nathaniel

....

Quinn Shubert

Hello Nathaniel,

The issue here is that this section of highway is access controlled and the Rod and Gun Club does not have a legal right to use the approach they are currently using to access the property. They have legal right to use the reservation to the south where their original approach was before the solar farm blocked this approach off. They will need to indenture their reservation of access from the southern location to the new location where they are currently taking highway access from. We have started this indenture process several times in the past but they have never followed through with submitting a complete application.

The following agencies did not respond to the notice: Deschutes County Assessor, Deschutes County Environmental Soils Division, Oregon Department of Environmental Quality, Deschutes County Road Department, Oregon Department of Fish and Wildlife, Redmond Municipal Airport, Bureau of Land Management, US Fish and Wildlife, and Pacific Power and Light.

**PUBLIC COMMENTS:** The Planning Division mailed notice of the modification and site plan applications to all property owners within 750 feet of the subject property on July 7, 2022, for file nos. 247-22-000517-MC, 518-SP, and December 30, 2022, for file no. 247-22-000961-MA. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on July 8, 2022, for file nos. 247-22-000517-MC, 518-SP, and December 30, 2022 for file no. 247-22-000961-MA. No public comments were received.

Since the mailing of the Notice of Public Hearing on March 14, 2023. Staff has received approximately 31 comments in support of the proposal.

**PREVIOUS LAND USE APPROVALS, CURRENT PROPOSAL, AND PUBLIC HEARING:** As noted above, the Redmond Rod and Gun Club received previous approvals in 2019 through file nos. CU-09-17/ SP-09-11, and in 2015 through files nos. 247-15-000263-CU, 247-15-000264-SP. These approvals and the corresponding site plans are attached as **Attachments C & D**, an **Attachments E & F** respectively.

Staff and the applicant agree that a key issue in the present application is the relationship between the prior site plan approval and subsequent on-site development that is also subject to site plan review. While the County has regularly approved sequential site plans on a single legal lot, those decisions have seldom expressly discussed the relationship between the sequential site plans. Staff finds that these decisions have incorporated approaches that appear to rely on some combination of DCC 22.23.040 Modification of Approval (as limited by “substantially new proposals”), sub-area site plan reviews, “law of the case”, and non-conforming uses. Staff elaborates these approaches below and looks to the Hearings Officer to evaluate how these theories/approaches interact in the present matter.

- DCC 22.23.040, Modification of Approval, makes clear that an applicant can modify a prior approval. This approach has the effect of preserving and protecting decisions made in a prior approval, limited to the specifications outlined in DCC 22.23.040. The modification is directed to “the criteria applicable to that particular aspect of the proposal” to be modified. However,



the modification application is precluded when the new development would result in significant additional impacts on surrounding properties; the development is essentially a new proposal when compared to the prior approvals; or the development is a substitute for an appeal.

- When a single legal lot is developed through sequential site plan reviews and approvals, sometimes the sequential sub-areas are geographically discreet. In these cases, the County has often allowed each sub-area on a single legal lot to have a separate site plan review and approval without the need to formally apply for a modification. Staff notes, however, these sequential approvals have struggled to address circumstances where the sequential approvals could result in the site cumulatively not complying with applicable criteria.
- County sequential site plan approvals on a single legal lot have sometimes taken an approach akin to the “law of the case” approach described by LUBA in *Widgi Creek* (LUBA No. 2014-109), where interpretive matters in prior on-site approvals are not revisited in subsequent applications and assumed to have precedential-like effect. It is unclear if the applicant argues that something akin to “law of the case” applies in this application.
- Although not relevant in the present matter, finally staff notes that sequential site plan approvals that straddle legislative changes in site plan criteria have recognized protections afforded to non-conforming uses, sometimes without expressly reviewing the non-conforming aspects of the proposal.

As noted above, the applicant submitted a Modification of Conditions and Site Plan Review (file nos. 247-22-000517-MC, 518-SP) on June 27, 2022. The Planning Division deemed the applications incomplete and requested more information, responses to applicable criteria, and a site plan depicting the proposal in an incomplete letter on July 27, 2022. The applicant provided the Planning Division additional information on September 22, 2022, in the form of a Supplemental Burden of Proof. At that time, staff became aware that the proposal had changed from the original proposal represented in files nos. 247-22-000517-MC, 518-SP, to move the entire facility to Tax Lot 700. The new site plan also included what appeared to be new uses and structures. At that time staff requested a Modification of Application to fully articulate the changes in the request. The applicant submitted the Modification of Application (file no. 247-22-000961-MA) to the Planning Division on December 19, 2022. The three (3) principle submissions from the applicant are labelled in this Staff Report as follows:

<b>Submission</b>	<b>Labelled in the Staff Report</b>
247-22-000517-MC, 518-SP Applications	Burden of Proof
Response to Incomplete Letter for 247-22-000517-MC, 518-SP	Supplemental Burden of Proof
247-22-000961-MA Application	Burden of Proof for 22-961-MA

### **III. FINDINGS & CONCLUSIONS**

#### **Title 22, Deschutes County Development Procedures Ordinance**

## Chapter 22.20 Review of Land Use Action Applications

### Section 22.20.015, Code Enforcement and Land Use.

- A. Except as described in (D) below, if any property is in violation of applicable land use regulations and/or conditions of approval of any previous land use decisions or building permits previously issued by the County, the County shall not:**
- 1. Approve any application for land use development;**
  - 2. Make any other land use decision, including land divisions and/or property line adjustments;**
  - 3. Issue a building permit.**
- B. As part of the application process, the applicant shall certify:**
- 1. That to the best of the applicant's knowledge, the property in question, including any prior development phases of the property, is currently in compliance with both the Deschutes County Code and any prior land use approvals for the development of the property; or**
  - 2. That the application is for the purposes of bringing the property into compliance with the Deschutes County land use regulations and/or prior land use approvals.**
- C. A violation means the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, or through the review process of the current application, or through an acknowledgement by the alleged violator in a signed voluntary compliance agreement ("VCA").**
- D. A permit or other approval, including building permit applications, may be authorized if:**
- 1. It results in the property coming into full compliance with all applicable provisions of the federal, state, or local laws, and Deschutes County Code, including sequencing of permits or other approvals as part of a voluntary compliance agreement;**
  - 2. It is necessary to protect the public health or safety;**
  - 3. It is for work related to and within a valid easement over, on, or under the affected property; or**
  - 4. It is for emergency repairs to make a structure habitable or a road or bridge to bear traffic.**
- E. Public Health and Safety.**
- 1. For the purposes of this section, public health and safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger life, health, personal property, or safety of the residents of the property or the public.**
  - 2. Examples of that situation include, but are not limited to issuance of permits to replace faulty electrical wiring, repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel or power; and actions necessary to stop earth slope failure.**

**FINDING:** Staff notes that the Board provided interpretive guidance to all Deschutes County Hearings Bodies related to DCC 22.20.015 in *Tumalo Irrigation District* (247-17-000775-ZC, 247-17-000776-PA). Staff finds the following Board comments to be relevant to this case and decision:

“As DCC 22.20.015 is a relatively new provision first adopted in 2015 and frequently arises in contested land use hearings, the Board takes this opportunity to provide interpretation and guidance on the implementation of this provision.

As discussed more fully below, the Board interprets DCC 22.20.015 to require a sequential three-step analysis.

1. Is there a previously “adjudicated violation” on the property?
2. Does the subject land use application present the best forum for adjudicating a new allegation, i.e. is there time to investigate something more than a vague allegation?
3. When there is an “adjudicated violation” or the property is found to be in violation as part of the land use application process, can the land use permit nevertheless be issued pursuant to DCC 22.20.015(D) and (E)?

First, the Board starts by noting that the primary purpose (and benefit) of DCC 22.20.015 is to address “adjudicated violations,” i.e. violations that were already conclusively determined through the normal applicable code enforcement process prior to an applicant submitting a land use application. This interpretation is supported by the use of the past tense in the codified definition of “violation” in DCC 22.20.015(C): “[a] violation means the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, ... or through an acknowledgment by the alleged violator in a signed voluntary compliance agreement (‘VCA’)” (emphasis added).

Second, differing from the “adjudicated violations” scenario described above, there are cases where the Board anticipates that a County hearings body will need to determine if a property is in violation during the land use application process. DCC 22.20.015(C) addresses this possibility by including in the definition of “violation” the phrase “or through the review process of the current application.” However, the Board cautions that County hearings bodies should take up this inquiry in rare cases because of the obvious practical difficulties born from comingling the County’s land use application process with the separate and distinct code enforcement process. For example, when a vague allegation is alleged by an opponent late in the land use application process, there rarely will be time to comprehensively investigate and appropriately adjudicate that violation due to the 150-day time limit for issuing final decisions per ORS 215.427. Nothing within DCC 22.20.015 requires a County hearings body to process a code complaint pursuant to the County’s adopted Code Enforcement Policy and Procedures Manual and conclusively determine the status of a previously un-adjudicated violation solely on the basis that an opponent submits a vague and unsubstantiated allegation during the land use application process.

As such, the Board interprets DCC 22.20.015 to require something more than a vague allegation (i.e., clear evidence of a violation) to compel the County hearings body to

determine if a property is in violation and the pending land use application process is the appropriate forum in which to determine whether a violation exists. As discussed below, this case does not provide a sufficient basis for determining what more is needed and the Board thereby will wait for a subsequent case to establish a bright-line rule. Further, prior to electing to adjudicate an allegation as part of the land use application process, the Board interprets DCC 22.20.015 as necessitating the County hearings body to likewise consider procedural, equitable, and legal issues, including but not limited to the time it will take to conduct an investigation pursuant to the Code Enforcement Policy and Procedures Manual, the severity of the alleged violation (i.e., clear cutting vegetation in a wetland is severe while minimal solid waste that is not creating a public health hazard is not), and the 150-day land use decision making clock.

Third, the Board takes this opportunity to reiterate what is self-evident in DCC 22.20.015. A County hearings body's inquiry is not completed by simply noting a past "adjudicated violation" or finding that a property is in violation. DCC 22.20.015(D) and (E) compel a subsequent analysis to determine, for example, if the permit "protect[s] the public health and safety" or "results in the property coming into full compliance." Further, the final phrase of DCC 22.20.015(D)(1) notes that "coming into full compliance" also "include[s] sequencing of permits or other approvals as part of a voluntary compliance agreement." The Board thereby interprets that aforementioned language to specifically allow a County hearings body to approve a land use permit conditioned on the applicant subsequently executing and complying with a voluntary compliance agreement even for an unrelated violation on the same property."

With consideration to the above-mentioned interpretive guidance from the BOCC, and as outlined in the Incomplete Letter that was mailed on July 27, 2022, staff notes that the Redmond Rod and Gun Club, and its categorization as a private park, was established through land use files nos. CU-09-17/ SP-09-11 and 247-15-000263-CU/ 247-15-000264-SP. These decisions included a number of conditions of approval that required action by the applicant. In the previous application (File No. 247-21-000227-MC, 21-228-SP), the applicant provided additional documentation to satisfy some of the outstanding conditions of approval. Staff notes that, according to County records, some of these conditions of approval are still unsatisfied, or require verification from the applicant. These conditions are identified as:

CU-09-17/ SP-09-11

...

5. *The bicycle parking for the site shall meet all standards under DCC 18.116.031 Five bicycle parking spaces shall be provided.*

...

16. *The applicant shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future, complain about the allowed airport activities at the adjacent airport.*

...

14. *Prior to initiation of the new uses, sign and record a Declaration of Anticipated Noise as provided in Section 18.80.044 A.*
15. *Prior to initiation of the new uses, the applicant shall sign and record a County Conditions of Approval Agreement to ensure compliance with all conditions of approval.*

In the response to the Incomplete Letter on September 22, 2022, the applicant provided the following statements:

Specific to DCC 22.20.015(A) and (B) above, the Supplemental Burden of Proof states:

The purpose of this application is to provide evidence of compliance with the 2015 approval with some minor modifications. This includes an exception to the bicycle parking as described below. We should also note that the trap shooting operation is being moved from Tax Lot 101 to Tax Lot 700, as well as some other slight adjustments in the location of the various disciplines. These adjustments are for safety purposes, as further outlined in the AKS ENGINEERING report previously submitted.

Specific to subsection DCC 22.20.015(A) and (B) above, the Burden of Proof for 22-961-MA States:

The purpose of this application is to provide evidence of compliance with the prior 2009 and 2015 approvals with some modifications. This includes an exception to the landscaping and bicycle parking requirements as described above. We should also note that the trap shooting operation is going to be moved from Tax Lot 101 to Tax Lot 700. There are also some other slight adjustments in the location of the various disciplines. These adjustments are for safety purposes, as further outlined in the AKS ENGINEERING report submitted herewith.

Specific to the remaining criteria above, the Supplemental Burden of Proof states:

Applicant has relayed that they are ready, willing, and able to sign a Declaration of Anticipated Noise once that form is provided by Deschutes County. Similarly, the Applicant has already indicated that the Applicant is ready, willing, and able to execute record of County conditions of approval agreement to ensure compliance with all conditions of approval, save for the bicycle provisions as further noted above. The five (5) bicycle parking spaces are not being provided due to there being no bicycle access to the subject property. An exception has been previously required. Therefore, this condition should be removed from the approval. Regarding tax lot 101, we are not sure what the staff notes for this development not previously approved. Furthermore, it is the intent of the Applicant to sell tax lot 101 and to remove any related activities that were approved in 2015. A conditional approval can be to remove all activities associated with these disciplines from Tax Lot 101.



Specific to the remaining criteria above, the Burden of Proof for 22-961-MA States:

This site plan shall bring the use into full compliance with the previously approved Conditional Use and Site Plan Permits.

As part of the current proposal, the applicant requests an exception to the bicycle parking standards. Staff notes that the previous land use decision in 2015 does include an exemption to the bicycle parking standards with a condition that bicycle storage be available inside a building.

Staff requests the Hearings Officer make specific findings on whether the statements above demonstrates compliance with these criteria.

Staff recommends the following condition of approval be included in any decision which approves the application:

Conditions of Approval for Previous Land Use Decisions

**Prior to the issuance of Building Permits**, the property owner shall satisfy the outstanding conditions of approval listed above and as outlined in land use decisions CU-09-17/ SP-09-11 and 247-15-000263-CU/ 247-15-000264-SP. This includes the following:

- Completing and recording a Declaration of Anticipated Noise
- Completing and recording a Conditions of Approval Agreement

The Declaration of Anticipated Noise is included as **Attachment G**. The Conditions of Approval Agreement is included as **Attachment H**.

Section 22.20.055, Modification of Application.

- A. *An applicant may modify an application at any time during the approval process up until the close of the record, subject to the provisions of DCC 22.20.052 and DCC 22.20.055.***

**FINDING:** Staff notes that the applicant applied for a modification of application numbers 247-22-000517-MC, 518-SP prior to the close of record. The modification is being processed as file no. 247-22-000961-MA.

- B. *The Planning Director or Hearings Body shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in DCC 22.04) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 150-day time clock as of the date the modification is submitted. The 150-day time clock for an application, as modified, may be restarted as many times as there are modifications.***

**FINDING:** Staff notes the Applicant has provided a formal modification request accompanied by an application form signed by the property owner, and paid the required modification fees.

- C. *The Planning Director or Hearings Body may require that the application be re-noticed and additional hearings be held.***

**FINDING:** The modification has been re-noticed to all eligible parties. The applications were referred to the subject public hearing.

- D. *Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Planning Director or Hearings Body's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.***

**FINDING:** Staff notes the Planning Director has determined that the applicant's supplemental submittal constitutes a modification. As discussed above, the applicant has provided a formal modification application and paid the required modification fees.

## **Chapter 22.36, Limitations on Approvals**

### Section 22.36.040, Modification of Approval.

- A. *An applicant may apply to modify an approval at any time after a period of six months has elapsed from the time a land use action approval has become final.***

**FINDING:** A period of six months has elapsed from the time the subject land use action approval became final.

- B. *Unless otherwise specified in a particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.***

**FINDING:** The Supplemental Burden of Proof States:

There have been changes to circumstances for this matter, as some components of the development (for safety reasons) were adjusted, particularly, on tax lot 700. The various locations are depicted on the site plan being submitted. It does not substantiate a new proposal, as almost all of the disciplines were approved in 2015. Regarding impact, the Applicant has submitted the report from AKS ENGINEERING which notes that there will not be any substantial impacts by these adjustments, and, with various safety measures, all of the disciplines will continue to operate in a safe manner. Adjustments are not scoped and would be allowable as a modification. Finally, this is not an appeal of any previous decision

and is only a modification of the approval that was done in 2015. It is not a substantial new proposal, but merely a minor adjustment to some of the locations of the disciplines for safety purposes.

- Change in Circumstances
- Not an Appeal
- Substantially New Proposal
- Significant Additional Impacts

The Burden of Proof for 22-961-MA States:

There have been changes to circumstances for this matter, as some components (disciplines) of the development (for safety reasons) were adjusted subsequent to 2015. The various locations of the disciplines are depicted on the site plan being submitted. It does not substantiate a new proposal, as the disciplines were approved in 2015. Regarding impact, the Applicant has submitted the report from AKS ENGINEERING which notes that there will not be any substantial impacts by these adjustments, and, with various safety measures, all of the disciplines will continue to operate in a safe manner. This is not an appeal of any previous decision and is only a modification of the approval that was done in 2015. It is not a substantial new proposal, but merely an adjustment to some of the locations of the disciplines for safety purposes.

Staff requests the Hearings Officer make specific findings on whether the statement above demonstrates compliance with this criterion.

- C. An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in DCC 22.36.040, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.***

**FINDING:** The Supplemental Burden of Proof States:

As noted above, the site plan identifies the location of each discipline that are located on tax lot 700. The shot fall zone and trap ranges on tax lot 101 are being discontinued and that property is being sold without any continuing operation for the Applicant. It is not a substantial new proposal, but merely an adjustment to some of the locations of the disciplines for safety purposes. The Applicant does object to any direction from the staff to relitigate the 2015 approval. That has been well settled for over seven (7) years and there is no need to reopen it. The site adjustment as noted on the site plan is included in the AKS ENGINEERING study and the site plan. The recommendation from AKS ENGINEERING, for safety purposes, have been implemented by the Applicant. There are no impacts on surrounding properties by reason of the modification and these uses have been in place for

a number of years and there is no evidence of any impact, nor has the AKS ENGINEERING study reflected any substantial impacts as well.

- What discreet aspects of the approval are proposed for modification?
- Is this a substantially new proposal?
- Are there significant impacts on surrounding properties?
- Is the proposal a modification, as defined in DCC 22.36.040?
- What criteria applicable to that particular aspect of the proposal?
- Is the proposal greater in scope than allowable as a modification?

RESPONSE: The Redmond Rod and Gun Club obtained approval for a number of activities through land use files numbers: CU-09-17/ SP-09-11 and 247-15-000263-CU/ 247-15-000264-SP. These are described as the following shooting disciplines (a detached site plan showing the locations of each is being submitted herewith):

1. The Existing Sporting Clay and Hunting Preserve
2. A Trap Range
3. An Archery Range
4. A Rifle Range
5. A Pistol Range
6. A Sporting Clay Area
7. A Cowboy Action Range

The Burden of Proof for 22-961-MA States:

As noted above, the site plan identifies the location of each discipline that is located on tax lot 700 as well as any improvements associated with each discipline such as buildings, parking areas etc. All of the improvements are depicted on the site plan map, and all conform with applicable setback requirements. The shot fall zone and trap ranges on tax lot 101 will be discontinued as that property is being sold. This is not a substantial new proposal, but an adjustment to some of the locations of the disciplines for safety purposes. The CUP permit has been well settled for over six (6) years and there is no need to reopen it. The site adjustment as noted on the site plan is included in the AKS ENGINEERING study and the site plan. The recommendations from AKS ENGINEERING, for safety purposes, have been implemented by the Applicant. There are no impacts on surrounding properties by reason of the modification and these uses have been in place for a number of years. There is no evidence of any impact, nor does the AKS ENGINEERING study reflect any substantial impacts as well.

The Redmond Rod and Gun Club obtained approval for a number of activities through land use files numbers: CU-09-17/ SP-09-11 and 247 -15-000263-CU/ 247-15-000264-SP. These are described as the following shooting disciplines (a detached site plan showing the locations of each is being submitted herewith):

1. The Existing Sporting Clay and Hunting Preserve

2. A Trap Range
3. An Archery Range
4. A Rifle Range
5. A Pistol Range
6. A Sporting Clay Area
7. A Cowboy Action Range

As noted above, the site plan included with the Supplemental Burden of Proof depicted, what appears to staff as, new uses and structures. For example the site plan depicts an outdoor "Training Site" and "Training Center". It is unclear to staff if these are permitted through the previous approvals or the current proposal.

Staff requests the Hearings Officer make specific findings on whether the statement above demonstrates compliance with this criterion.

***D. An application for a modification shall be handled as a land use action.***

**FINDING:** This application has been processed as a land use action in accordance with the applicable provisions of DCC Title 22.

## **Title 15 of the Deschutes County Code, Title 15 - Buildings & Construction**

### **Chapter 15.08, Signs**

#### Section 15.08.040, Specific Definitions..

***For the purposes of DCC 15.08, unless otherwise apparent from the context, certain words and phrases used in DCC 15.08 are defined as set forth in DCC 15.08.040.***

***"Sign" means any identification, display, description or illustration which is affixed to or otherwise represented directly or indirectly upon a building or outdoor surface or piece of land and which is used or intended to direct attention to an object, product, place, activity, person, institution or business and includes, where applicable, the sign structures, display surface and all other components of the sign.***

**FINDING:** The applicant does not propose a business sign with the proposal. However, as noted below under DCC 18.124.060(D), smaller informational or directional signs may be required on the site. As such, staff recommends the following condition of approval be included in any decision which approves the application:

#### Signs for the Club

All signs on the property for the Redmond Rod and Gun Club shall comply with Deschutes County Sign Code, Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.



## Title 18 of the Deschutes County Code, County Zoning

### Chapter 18.16, Exclusive Farm Use Zones (EFU)

#### Section 18.16.031 Conditional Uses On Non-High Value Farmland Only.

***The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute non-high value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.***

***D. Private parks, playgrounds, hunting and fishing preserves and campgrounds.***

**FINDING:** The Burden of Proof states:

The applicant is proposing a modification to the conditions of approval of the 2015 decision and approval of a site plan which better articulates the uses and the locations on the property, together with building envelopes for future building sites. Subject property is comprised of soil units 142-8B and 138-A which are not designated high value soils, establishing the entire property as value farmland. The decision is CU-09-17/SP-09-11 together with the Hearings Officer's decision in 247-15-000263-CU/264-SP from July 2015 and prior approvals for the subject property concerning the activities of the Redmond Rod and Gun Club. Those approvals do allow the uses that are the subject matter of this application but needed clarification on the location of those uses, together with the ancillary uses to those, to-wit: buildings and parking areas.

Staff requests the Hearings Officer make specific findings on whether the statement above demonstrates compliance with this criterion.

Staff recommends the following condition of approval be included in any decision which approves the application:

#### Previous Approvals

At all times, the property owner shall continue to meet the conditions of approval for the use as outlined in the previous decisions. The conditions of approval for CU-09-17/SP-09-11 and 247-15-000263-CU/264-SP remain in effect.

#### Section 18.16.040 Limitations On Conditional Uses

- A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body that the proposed use:***
- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and***
  - 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and***

**FINDING:** The Burden of Proof states:

Prior decisions for the subject property and these uses included extensive discussion related to these sections, including impacts upon forest or farm practices. The Hearings Officer and those decisions ultimately agreed that the noise impact from gunshot and vehicular noise would be virtually undetectable from the surrounding ambient noise including noise from Highway 97.

Regarding traffic, traffic studies have been submitted to the county in previous applications. The applicant does not expect to exceed the average 45 trip per day number and in fact, expects traffic will be much less than that on most days and that has been the case from 2015 to 2020. (See Chris Clemow's Traffic Studies submitted in 2015).

A request for more information was made in the Incomplete Letter mailed July 27, 2022.  
The Supplemental Burden of Proof States:

The site plan is being submitted herewith. The AKS ENGINEERING study and the history of use of this property over the past seven (7) years clearly indicate that there has not been any substantial, or even moderate, impact on surrounding properties. This will not force a change in any accepted farm or force practices on surrounding lands, nor will it significantly increase the costs of any farm or force practices on surrounding areas.

Staff requests the Hearings Officer make specific findings on whether the statements above demonstrates compliance with this criterion.

**3. *That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.***

**FINDING:** The Burden of Proof states:

There is no portion of the property that is currently used to produce farm crops or livestock, and the proposed modification will maintain this existing condition. As previously addressed above, the site consists of soils that classified as nonhigh value. The proposal will comply with this standard.

All of Tax Lot 700 and most of Tax Lot 101 (approx. 85%) are comprised of Soil Unit 142 B, Stukel-Rock outcrop-Deschutes complex, dry, 0 to 8 percent slopes. The soil composition of this soil type is:

- Stukel soil and similar inclusions – 35%; rock outcrop - 30%
- Deschutes soil and similar inclusions - 20% and contrasting inclusions - 15%

Soil Unit 142B is well drained with moderately rapid permeability with an available water capacity of about 4 inches. These attributes lead to a use of livestock grazing for this soil type that is limited due to the presence of Rock outcrop, surface texture, soil depth, permeability,

and climate. Because the soils are influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated. The areas of Rock outcrop limit the areas suitable for grazing and restrict accessibility by livestock.

As mentioned above, only a small part of Tax Lot 101 contains Soil Unit 138A and the 5-unit trap ranges will occupy most of the soil type on Tax Lot 101. This consists of a level area of clearing that requires no removal of vegetation, thus is ideal for the use. Soil Unit 138A,

Stukel sandy loam, 0 to 3% slopes have a soil composition of:

- Stukel soil and similar inclusions - 85%
- Contrasting inclusions - 15%

Similar to Soil Unit 142B, Unit 138A is well drained with moderately rapid permeability with an available water capacity of about 2 inches. These attributes lead to a major use of livestock grazing for this soil type that is limited due to the presence of Rock outcrop, surface texture, soil depth, permeability, and climate. Because the soil is influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated. The NRCS Soil Survey indicates that because the soil is influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated and that the included areas of Rock outcrop limit the areas suitable for grazing and restrict accessibility by livestock.

As evident from the information above, neither of the soil types on the property is classified as high value farmland, nor are they considered to be ideal for farm crops. In fact, livestock grazing is limited. The majority of the applicant's uses would occur on Unit 142B, which is the least suitable of the two soil types on the property, thus, complying with this criterion.

Staff requests the Hearings Officer make specific findings on whether the statements above demonstrates compliance with this criterion.

#### Section 18.16.060. Dimensional Standards.

***E. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.***

**FINDING:** The Burden of Proof states:

Stick built structures will go through the building permit process and none of those structures will be in excess of 30-foot height. All structures will be located within building envelope for each range shown on the modified site plan. (Exhibit A). Does not include all structures small or large like our shoot stations and archery stands.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof States:

No building elevations are being submitted due to the fact that no buildings and/or structures are being planned at this time. There are solar energy improvements which are less than thirty feet (30') in height. The Applicant does agree to any condition of approval that, if there are to be buildings and/or structures to be built on the site in the future, that they will submit a site plan review or apply for a building permit.

Staff requests the Hearings Officer make specific findings on whether this criterion is met. Based on staff's review of the site plan, it appears both permanent and temporary structures are proposed.

Staff recommends the following condition of approval be included in any decision which approves the application:

#### Building Height

No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.

#### Section 18.16.070. Yards.

- A. *The front yard shall be a minimum of: 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.***
- B. *Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.***
- C. *Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.***
- D. *The setback from the north lot line shall meet the solar setback requirements in Section 18.116.180.***
- E. *In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.***

**FINDING:** The Burden of Proof states:

All stick-built structures will go through the building permit process and meet all the setback requirements. All structures will be located within building envelope for each range shown on the modified site plan. (Exhibit A). Parking areas for each range are shown on the modified site plan and detailed parking plans and discussed in the findings below.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof States:

See the site plan being submitted herewith. The uses in place now, and as articulated in the site plan, have been used for a number of years. They have not produced any glare or adverse effects on any airport usage, so the Applicant is in compliance with the aircraft safety zone.

Staff requests the Hearings Officer make specific findings on whether these criteria are met.

Staff recommends the following condition of approval be included in any decision which approves the application:

General Setbacks

All buildings or structures shall meet the setback standards as outlined in DCC 18.16.070 (A – C).

Solar Setbacks

All buildings or structures shall meet the solar setback requirements in DCC 18.116.180.

Building and Structural Code Setbacks

All buildings or structures shall comply with any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

Section 18.16.080. Stream Setbacks.

***To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:***

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.***
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.***

**FINDING:** There are no streams or lakes in the project vicinity.

Section 18.16.090. Rimrock Setback.

***Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.***

**FINDING:** There is no rimrock in the project vicinity.



## Chapter 18.80, Airport Safety Combining Zone (AS)

### Section 18.80.020. Application of Provisions.

***The provisions of DCC 18.80.020 shall only apply to unincorporated areas located under airport imaginary surfaces and zones, including approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and runway protection zones. While DCC 18.80 identifies dimensions for the entire imaginary surface and zone, parts of the surfaces and/or zones do not apply within the Redmond, Bend or Sisters Urban Growth Boundaries. The Redmond Airport is owned and operated by the City of Redmond, and located wholly within the Redmond City Limits.***

***Imaginary surface dimensions vary for each airport covered by DCC 18.80.020. Based on the classification of each individual airport, only those portions (of the AS Zone) that overlay existing County zones are relevant.***

***Public use airports covered by DCC 18.80.020 include Redmond Municipal, Bend Municipal, Sunriver and Sisters Eagle Air. Although it is a public-use airport, due to its size and other factors, the County treats land uses surrounding the Sisters Eagle Air Airport based on the ORS 836.608 requirements for private-use airports. The Oregon Department of Aviation is still studying what land use requirements will ultimately be applied to Sisters. However, contrary to the requirements of ORS 836.608, as will all public-use airports, federal law requires that the FAA Part 77 surfaces must be applied. The private-use airports covered by DCC 18.80.020 include Cline Falls Airpark and Juniper Airpark.***

**FINDING:** The proposed development is located beneath the approach surface for the Redmond Municipal Airport. Therefore, the provisions of this chapter apply.

### Section 18.80.028. Height Limitations.

***All uses permitted by the underlying zone shall comply with the height limitations in DCC 18.80.028. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control. [ORS 836.619; OAR 660-013-0070]***

- A. Except as provided in DCC 18.80.028(B) and (C), no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface. [ORS 836.619; OAR 660-013-0070(1)]***
- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.***
- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject***

**to such conditions and terms as recommended by the Department of Aviation and the FAA (for Redmond, Bend and Sunriver.)**

**FINDING:** The Burden of Proof states:

The EFU Zone is the underlying zone and has a 30-foot height limit, which can only be exceeded by an owner applying for a height exception up to 36-feet in height. The subject property is not within the Visual approach Surface but is located within the Transitional Surface. The applicant is proposing to move light poles from the existing location (located within the same Transitional surface of the Airport Overlay Zone) but otherwise is not proposing any structures that would exceed 30-feet in height, therefore these criteria are met.

Staff requests the Hearings Officer make specific findings on whether these criteria are met.

Section 18.80.044. Land Use Compatibility.

***Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body. [ORS 836.619; ORS 836.623(1); OAR 660-013-0080]***

***A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. [NOTE: FAA Order 5100.38D provides that interior noise levels should not exceed 45 decibels in all habitable zones.]***

**FINDING:** The Burden of Proof states:

The applicant understand that the property may be within the noise impact boundary of the Redmond Airport. All required language is referenced on the title report for this property; furthermore, the applicant would be willing to sign a declaration of anticipated noise if needed.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**B. *Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.***

**FINDING:** The Burden of Proof states:

The applicant has moved lighting from the existing site to the new site for night shoots at the trap range. The lighting is currently used in the Transitional Surface of the Airport Overlay Zone and at the new location will be located within the Transitional surface of the Airport Overlay Zone. The lights will be directed to the trap range and will not project lighting directly onto a runway, a taxiway, or an airport approach surface. The applicant will comply with the referenced restrictions of DCC 15.10 when installing lighting for night shooting.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Lighting in the Airport Safety Combining Zone

No Club development shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

**C. *Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.***

**FINDING:** The Burden of Proof states:

The proposal includes the relocation and placement of temporary and mobile structures on the property. Pictures of each of the machines and structures that will be placed on the property have been included in the submittal. As detailed on the submitted photos none of the materials are glare producing, thus the proposal conforms to this standard.

According to the submitted site plan, it appears to staff that both temporary and permanent structures are being proposed. Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Glare Producing Materials in the Airport Safety Combining Zone

No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

- D. *Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.***

**FINDING:** The proposed use is not an industrial, mining or similar use, or expansion of an existing industrial, mining or similar use. This criterion does not apply.

- E. *Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.***

**FINDING:** The Burden of Proof states:

The uses and mechanical components of the machines will not interfere with airplane signals or radio communications therefore the proposal complies with this standard.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- F. *Limitations and Restrictions on Allowed Uses in the RPZ, Transitional Surface, Approach Surface, and Airport Direct and Secondary Impact Areas. For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in***

***DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.***

**FINDING:** The Burden of Proof states:

Tax Lot 100 and the Northwest portion of Tax Lot 700 are located within the AS zone, in the Transitional Surface. Table 1 allows parks/open space use in this surface. Adding different shoot disciplines to the park use will not alter conformance with this criterion.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

18.80.054 Conditional Uses.

***Uses permitted conditionally shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.***

**FINDING:** The Burden of Proof states:

The proposed use is subject to conditional use review under Chapters 18.16 and 18.128. Compliance with these Sections is established through evidence and findings submitted herewith.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof States:

These were previously approved in 2015 and have continued to be part of the 2015 approval with only slight modifications to locations on the subject property.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

### **Chapter 18.116, Supplementary Provisions**

Section 18.116.020, Clear Vision Areas.

- A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees***

*exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.*

**B.** *A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B)(1) and (2). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the County:*

- 1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet or at intersections including an alley, 10 feet.*
- 2. In all other zones, the minimum distance shall be in relationship to street and road right of way widths as follows:*

<i>Right of way Width</i>	<i>Clear vision</i>
<i>80 feet or more</i>	<i>20 feet</i>
<i>60 feet</i>	<i>30 feet</i>
<i>50 feet and less</i>	<i>40 feet</i>

**FINDING:** Staff notes that the property does not border a street, therefore this criterion does not apply.

Section 18.116.030, Off street Parking and Loading.

**A.** *Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.*

**B.** *Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:*

- 1. Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths subject to the following table:*

**FINDING:** The Burden of Proof States:

Since the proposed use would be consider recreations, the proposed use would not require a loading berth. This is consistent with the Hearings Officer's decision in CU-09-17/SP-09-11.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- C. *Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.***

**FINDING:** The Supplemental Burden of Proof States:

The off-street parking is identified in the site plan submitted herewith.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Club Parking Construction

Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.

- D. *Number of Spaces Required. Off-street parking shall be provided as follows:***

...

- 9. *Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.***

**FINDING:** The Burden of Proof States:

This section has no specific standard for a use such as the proposed expansion of the hunting presser/sporting clays facility. Based on prior use at the existing facility, the applicant has proposed ample parking at each shooting discipline. Presently, there are a total of 100 parking spaces provided at the various ranges, exceeding what was proposed in the original CUP, which was planned with 8 at the Trap Range, 6 at the Sporting Clays areas, 6 at the Cowboy Action Range and 10 at the Rifle and Pistol Range. Handicap parking has been constructed at all the ranges listed.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- E. *General Provisions. Off-Street Parking.***

- 1. *More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.***
- 2. *Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or***

**loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidence by a deed, lease, contract or other appropriate written document to establish the joint use.**

3. **Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.**
4. **Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.**

**FINDING:** The Burden of Proof States:

The proposed uses include the continued hunting preserve and sporting clays facility as a private park, but also to expand the recreational firearms to include archery, trap rifle and pistol disciplines. Hunting preserve uses will continue on the unoccupied portions of Tax Lot 700. All uses will be tied together, as many of the patrons will participate in a variety of the uses. The proposed uses will have sufficient parking as shown on the Site Plan. Parking areas will be used for members and volunteers, and not used for the storage of vehicles or materials, or for the parking of trucks used in the business. These criteria are met.

Staff requests the Hearings Officer make specific findings on whether these criteria are met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Club Parking Availability

Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.

5. **Parking, Front Yard. Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the Sunriver UUC Business Park (BP) District, Airport Development (AD) Zone, and properties fronting Spring River Road in the**



***Spring River Rural Commercial Zone, but such space may be located within a required side or rear yard.***

**FINDING:** The proposed use is not for multi-family dwelling, commercial, or industrial.

- 6. *On-Street Parking Credit. Notwithstanding DCC 18.116.030(G)(2), within commercial zones in the La Pine Planning Area and the Terrebonne and Tumalo unincorporated communities, the amount of required off-street parking can be reduced by one off-street parking space for every allowed on-street parking space adjacent to a property up to 30% of the required off-street parking. On-street parking shall follow the established configurations in the parking design standards under DCC 18.116.030 Table 1. To be considered for the parking credit, the proposed parking surface, along the street frontage under review, must have a defined curb line and improved as required under DCC 17.48, with existing pavement, or an engineered gravel surface. For purposes of establishing credit, the following constitutes an on-street parking space:***
  - a. Parallel parking (0 degree), each 20 feet of uninterrupted curb;***
  - b. Diagonal parking (60 degree), each with 11 feet of curb;***
  - c. Perpendicular parking (90 degree), each with 10 feet of curb;***
  - d. Curb space must be connected to the lot that contains the use;***
  - e. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and***
  - f. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces are permitted.***

**FINDING:** No on-street parking is proposed.

- F. *Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:***
  - 1. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.***

**FINDING:** The Burden of Proof States:

The proposed parking areas will not require a fence be constructed as they will not be visible from adjoining properties. Existing vegetative cover will provide the screen envisioned under this section.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

2. ***Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.***

**FINDING:** The Burden of Proof States:

Any proposed lighting for the parking will be shielded and meet the requirements of the county lighting code.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof States:

The off-street parking is identified in the site plan submitted herewith. There is no lighting on Tax Lot 700.

Staff notes the applicant's prior statement regarding moving lighting to the subject property. Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Lighting for Club off-street parking

Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.

3. ***Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.***

**FINDING:** The Burden of Proof States:

The parking areas will not require any vehicles to back out into a street or right of way.

Staff notes that the property does not border a street, therefore this criterion does not apply.

4. ***Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:***
  - a. ***A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or***
  - b. ***The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or***

- c. The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.**

**FINDING:** The Burden of Proof States:

Applicant intends to have graveled parking areas. The subject property is located outside of an unincorporated community and with the gravel driving surfaces and parking areas, dust control will be sufficient.

In the decision for File CU-09-17/SP-09-11 in response to opponents, the Hearings Officer noted the following in response to these criteria:

*DCC 18.166.030(f)(4)(b) provides an alternate exception. The record shows that the applicant's use of the gravel parking area will not create dust problems for neighboring properties. These criteria are met.*

Based on this, applicant believes paving is not required for the proposed use.

Staff requests the Hearings Officer make specific findings on whether this criterion is met. Staff notes that the proposed use is located outside of an unincorporated community and is eligible for an exemption to the paved surface requirement pursuant to this criterion.

Staff recommends the following condition of approval be included in any decision which approves the application and grants the exception for paving:

Graveled Surface for Standing and Maneuvering of Vehicles

**Prior to the initiation of use**, the property owner shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the various shooting disciplines and facilities. At all times, the graveled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.

- 5. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.**

**FINDING:** The Burden of Proof States:

The existing driveway and the parking areas, including access aisles, will be of sufficient for all vehicular turning and maneuvering on the site.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The off-street parking is identified in the site plan submitted herewith.

The Burden of Proof for 22-961-MA states:

The off-street parking location and size are identified in the site plan submitted herewith.

Staff notes that the minimum width of two-way access aisles is 24 feet, pursuant to Table 1 of DCC 18.116.030. It is unclear to staff if all access aisles will comply with this standard. Staff requests the Hearings Officer make specific findings on whether this criterion is met.

6. ***Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.***
7. ***Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.***
8. ***Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.***

**FINDING:** The Burden of Proof states:

No "service drives" are proposed or required. There are also no parking areas adjacent to a street right of way. Therefore, the above criteria are not applicable to the proposed Site Plan.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The service drive to the off-street parking areas on tax lot 700 has been in place for many years. It has been designed and constructed to facilitate the very low flow of traffic in and out of the area. There may be a change, once tax lot 101 sells, to relocate the service drive to the most southern part of that tax lot to lessen any interference with the use of tax lot 101.

For the purposes of this report, staff notes a "service drive" includes any vehicle maneuvering surface that connects to a road or street, but is not immediately adjacent to a parking space. As presented on the site plan, staff identifies the driveways within Tax lot 700 as service drives. Staff

notes that Redmond Fire and Rescue has submitted general comment to the record pertaining to their needs to access the property with emergency vehicles. The fire district has made no comments specific to submitted site plan. Staff also notes that in land use file 247-18-000545-CU/546-SP/811-MA/247-19-000141-A, the Board of County Commissioners found that *an improved 24-foot wide service drive is necessary to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site*. While some service drives are clearly marked on the site plan and demonstrate compliance, other service drives are not dimensioned.

Staff further notes that the service drives on the submitted site plan do not appear to “be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers.”

Staff notes “vision clearance area” became “clear vision area” in 1991 (Ord 91-038) but that this reference was not updated. For the purposes of this staff report, “vision clearance area” and “clear vision area” as the equivalent. Based upon staff’s assessment, the subject property has numerous required service drive clear vision areas. However, staff requests the Hearings Officer make specific findings on whether these criteria are met.

Specific to clear vision areas, staff recommends the following condition of approval be included in any decision which approves the application:

#### Clear Vision Areas

***Prior to the initiation of use or the issuance of building permits***, the property owner shall submit a revised site plan depicting the clear vision areas at each intersection of service drives. Clear vision areas, shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height. As a condition of approval, the service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).

Staff notes a curb or bumper rail are only needed under this criterion where needed to prevent a motor vehicle from extending over an adjacent property line or a street right of way. Based upon the submitted site plan, no parking area is immediately adjacent to a property line or a street right of way.

**G. *Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table:***

***(SEE TABLE 1 AT END OF CHAPTER 18.116)***

- 1. For one row of stalls use "C" + "D" as minimum bay width.***
- 2. Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right of way.***
- 3. For estimating available parking area, use 300-325 square feet per vehicle for stall, aisle and access areas.***
- 4. For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls do not exceed 30 percent of***

***the total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.***

**FINDING:** The Burden of Proof states:

This criterion has been met.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Section 18.116.031, Bicycle Parking.

***New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.***

**A. Number and Type of Bicycle Parking Spaces Required.**

**1. General Minimum Standard.**

- a. All uses that require off-street motor vehicle parking shall, except as specifically noted, provide one bicycle parking space for every five required motor vehicle parking spaces.**
- b. Except as specifically set forth herein, all such parking facilities shall include at least two sheltered parking spaces or, where more than 10 bicycle spaces are required, at least 50 percent of the bicycle parking spaces shall be sheltered.**
- c. When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:**
  - i. The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.**
  - ii. The proposed use generates less than 50 vehicle trips per day.**
  - iii. No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.**
  - iv. The size, weight, or dimensions of the goods sold at the site makes transporting them by bicycle impractical or unlikely.**
  - v. The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.**

**2. Special Minimum Standards.**

- a. Multi-Family Residences. Every residential use of four or more dwelling units shall provide at least one bicycle parking space for each**

- unit. In those instances in which the residential complex has no garage, required spaces shall be sheltered.*
- b. Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.*
  - c. Schools. Schools, both public and private, shall provide one bicycle parking space for every 25 students, half of which shall be sheltered.*
  - d. Colleges. One-half of the bicycle parking spaces at colleges, universities and trade schools shall be sheltered facilities.*
- 3. Trade Off with Motor Vehicle Parking Spaces.**
- a. One motor vehicle parking space may be deleted from the required number of spaces in exchange for providing required bicycle parking.
 
    - i. Any deleted motor vehicle space beyond the one allowed above shall be replaced with at least one bicycle spaces.*
    - ii. If such additional parking is to be located in the area of the deleted automobile parking space, it must meet all other bicycle parking standards.**
  - b. The Hearings Body or Planning Director may authorize additional bicycle parking in exchange for required motor vehicle parking in areas of demonstrated, anticipated, or desired high bicycle use.*
- 4. Calculating number of bicycle spaces.**
- a. Fractional spaces shall be rounded up to the next whole space.*
  - b. For facilities with multiple uses (such as a commercial center) bicycle-parking requirements shall be calculated by using the total number of motor vehicle spaces required for the entire development.*

**FINDING:** The Burden of Proof for 22-961-MA requests an exception to the bicycle parking standards. On page 4, the Burden of Proof states:

2. Bicycles

If necessary, the Applicant proposes an exception or variance for any requirement for bicycle paths or parking. This was requested in the 2015 site plan approval and the Applicant is not seeking any modification of that. This property is remote from any urban area. It is virtually impossible to access this property by bicycle as one would have to traverse Highway 97 which is very dangerous for bicycle traffic. The circulation area will remain unpaved for access from Highway 97 to Tax Lot 700.

Staff notes that the Club was granted an exception to the bicycle parking standards in land use file nos. 247-15-000263-CU, 247-15-000264-SP. The proposal would be eligible for an exception as the property is outside of an unincorporated community.

Staff requests the Hearings Officer make specific findings on whether the Club qualifies for this exception.

**B. Bicycle Parking Design.**

**1. General Description.**

- a. Sheltered Parking.** *Sheltered parking may be provided within a bicycle storage room, bicycle locker, or racks inside a building; in bicycle lockers or racks in an accessory parking structure; underneath an awning, eave, or other overhang; or by other facility as determined by the Hearings Body or Planning Director that protects the bicycle from direct exposure to the elements.*
- b. Unsheltered parking may be provided by bicycle racks.**

**2. Location.**

- a. Required bicycle parking that is located outdoors shall be located on-site within 50 feet of main entrances and not farther from the entrance than the closest motor vehicle parking space.**
  - i. Bicycle parking shall be located in areas of greatest use and convenience to bicyclist.**
  - ii. Such bicycle parking shall have direct access to both the public right of way and to the main entrance of the principal use.**
  - iii. Bicycle parking shall not impede or create a hazard to pedestrians.**
  - iv. Parking areas shall be located so as not to conflict with clear vision areas as prescribed in DCC 18.116.020.**
- b. Bicycle parking facilities shall be separated from motor vehicle parking and drive areas by a barrier or sufficient distance to prevent damage to the parked bicycle.**
- c. Where bicycle parking facilities are not directly visible and obvious from the public right(s) of way, entry and directional signs shall be provided to direct bicyclists for the public right of way to the bicycle parking facility. Directions to sheltered facilities inside a structure may be signed, or supplied by the employer, as appropriate.**

**3. Dimensional Standards.**

- a. Each bicycle parking space shall be at least two by six feet with a vertical clearance of seven feet.**
- b. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking.**
- c. Each required bicycle parking space shall be accessible without moving another bicycle.**

**4. Surface.** *The surface of an outdoor parking facility shall be surfaced in the same manner as the motor vehicle parking area or with a minimum of one-inch thickness of aggregate material. This surface will be maintained in a smooth, durable, and well-drained condition.*

**5. Security.**

- a. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e., a "rack") upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and**



***U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). All bicycle racks, lockers, or other facilities shall be permanently anchored to the surface of the ground or to a structure.***

- b. Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from adjacent sidewalks or motor vehicle parking.***
- 6. Other means that provide the above level of bicycle parking may be approved by the Hearings Body or the Planning Director.***

**FINDING:** As noted above, the applicant requests an exception to the bicycle parking standards. Staff requests the Hearings Officer make specific findings on whether the Club qualifies for this exception.

Section 18.116.035, Bicycle Commuter Facilities.

- A. Each commercial or public building having a work force of at least 25 people shall have bicycle commuter facilities consisting of shower(s) and changing rooms(s). For facilities with more than one building (such as a college), bicycle commuter facilities may be located in a central location.***
- B. This provision shall apply to (1) new development requiring off-street parking and (2) any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005.***

**FINDING:** The Club is not a commercial or public use. For this reason, these criteria do not apply.

## **Chapter 18.124, Site Plan Review**

Section 18.124.030. Approval Required.

- A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.***
- B. The provisions of DCC 18.124.030 shall apply to the following:***
  - 1. All conditional use permits where a site plan is a condition of approval;***
  - 2. Multiple family dwellings with more than three units;***
  - 3. All commercial uses that require parking facilities;***
  - 4. All industrial uses;***
  - 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and***

- 6. ***As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).***
- 7. ***Non-commercial wind energy system generating greater than 15 to 100 kW of electricity.***
- C. ***The provisions of DCC 18.124.030 shall not apply to uses involving the stabling and training of equine in the EFU zone, noncommercial stables and horse events not requiring a conditional use permit.***
- D. ***Noncompliance with a final approved site plan shall be a zoning ordinance violation.***
- E. ***As a condition of approval of any action not included in DCC 18.124.030(B), the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits.***

**FINDING:** The proposed use requires actions described in section (A), above, and falls within a use category described in section (B). Site plan review is required.

Section 18.124.060. Approval Criteria.

***Approval of a site plan shall be based on the following criteria:***

- A. ***The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.***

**FINDING:** The Burden of Proof states:

In the decision for CU-09-17/SP-09-11, the Hearings Officer found that private park and hunting preserve use fits both the conditions use code provisions in the County code and under the State Statutes governing EFU lands. Similarly, the proposed uses associated with the expansion continue to meet the code and state statute. The existing buildings and driveways are to remain as constructed. On Tax Lot 700, a sporting clays a 5-stand range, rifle/pistol ranges, cowboy action ranges, a 3D archery course and two parking areas have been constructed. The natural environment of trees, scrub brush and grasses will be preserved. No views or topographical features will be impacted. This criterion is met.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The site plan is being submitted herewith. Since 2015, there have not been any adverse comments made from any adjoining properties to tax lot 700.

Burden of Proof for 22-961-MA states:

In *Father's House*, files 247-18-000061-CU, 247-18-000062-SP, 247-18-000624-A and 247-18-000643-A, the Board of County Commissioners (Board) made the following finding regarding this standard.

*The Board agrees that DCC 18.124.060(A) is subjective and, at times, difficult to apply as the Hearings Officer observed. However, as the Board interprets the provision, DCC 18.124.060(A) does not require a particularly onerous exercise. It requires an applicant to show that its proposed site plan relates "harmoniously" to the natural environment and existing development. Unlike the conditional use standards of DCC 18.128.015(B), this standard does not indicate harmony achieved with "surrounding properties." However, the Board understands that the standard implies that the proposed development shall relate harmoniously on and off the subject property and generally speaking, in the vicinity, by "minimizing visual impacts and preserving natural features including views and topographical features."*

*The code does not define what it means to "relate harmoniously." The Hearings Officer reported that the online Oxford Living Dictionary defines "harmoniously" to mean arranging something "in a way that forms a pleasing or consistent whole." Both parties in this case, provided various interpretations of the term "harmonious." The Board is not adopting one interpretation of the term over another as each contributes equally to this evaluation, The Board concurs with the Hearings Officer that there is no "particularly useful case law defining or applying this term." In addition, the Board agrees, that the Hearings Officer is correct that a site plan should be approved in light of this meaning of "harmonious," so long as the proposed site plan does not create "more disharmony than other uses allowed by right or conditionally in the MUA-10 zone." In this regard, the Board finds that this standard presumes the use is approved and evaluates only whether the site plan for the use "relates harmoniously." The Board finds that the proposed church site plan meets the standard set forth in DCC 18.124.060(A).*

*Specifically, the Board interprets DCC 18.124.060(A) to mean that an applicant must demonstrate that the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features.*

*The Board agrees, in part, with the Hearings Officer that this standard is considered differently when compared to the term "compatibility" and its associated standard of DCC 18.128.015(8). The chief differences between the two standards is that the DCC 18.128.015(8) compatibility standard evaluates the compatibility of the proposed use on existing and projected uses of surrounding properties and does so in light of specific factors that are not reproduced in DCC 18.124.060(A). The DCC 18.124.060(4) "harmonious" standard evaluates whether a proposed site plan "relates harmoniously to existing development and the natural environment" considering whether the site plan shows that the applicant has reasonably mitigated its impacts and reasonably preserved views.*

Recent County decisions have referred to the "Father's House" Decision to interpret the meaning of this criterion. In the "Father's House" Decision, the BOCC notes that this criterion "...does not require a particularly onerous exercise", that the review is different than a Conditional Use Permit, and that the design does not need to be harmonious with

"surrounding properties", instead it needs to relate harmoniously to the natural environment and existing development. The criterion is achieved by relating harmoniously on and off the subject property and, in the vicinity, by "minimizing visual impacts and preserving natural features including views and topographical features."

#### Evaluation of natural environment and development in the area

As noted above, approximately 90% of the Tax Lot 700 will remain in natural vegetation. Most of Tax Lot 101 is also not used for this conditional use. Any improvements will have minimal impact or alteration to that natural landscape. Further, adjoining lands are under the jurisdiction of the Bureau of Land Management and the State of Oregon and are not used for agriculture.

The above use has been in place for approximately 7 years. It has related harmoniously not only to the natural environment on the subject property itself, to-wit Tax Lot 700, but also to the surrounding lands which are also in the state of natural habitat.

Staff notes that in *Father's House*, files 247-18-000061-CU, 247-18-000062-SP, 247-18-000624-A, and 247-18-000643-A, the Board of County Commissioners (Board) made the following finding regarding this standard.

The Board agrees that DCC 18.124.060(A) is subjective and, at times, difficult to apply as the Hearings Officer observed. However, as the Board interprets the provision, DCC 18.124.060(A) does not require a particularly onerous exercise. It requires an applicant to show that its proposed site plan relates "harmoniously" to the natural environment and existing development. Unlike the conditional use standards of DCC 18.128.015(B), this standard does not indicate harmony achieved with "surrounding properties." However, the Board understands that the standard implies that the proposed development shall relate harmoniously on and off the subject property and generally speaking, in the vicinity, by "minimizing visual impacts and preserving natural features including views and topographical features."

The code does not define what it means to "relate harmoniously." The Hearings Officer reported that the online Oxford Living Dictionary defines "harmoniously" to mean arranging something "in a way that forms a pleasing or consistent whole." Both parties in this case, provided various interpretations of the term "harmonious." The Board is not adopting one interpretation of the term over another as each contributes equally to this evaluation. The Board concurs with the Hearings Officer that there is no "particularly useful case law defining or applying this term." In addition, the Board agrees, that the Hearings Officer is correct that a site plan should be approved in light of this meaning of "harmonious," so long as the proposed site plan does not create "more disharmony than other uses allowed by right or conditionally in the MUA-10 zone." In this regard, the Board finds that this standard presumes the use is approved and evaluates only whether the site plan for the use "relates harmoniously." The Board finds that the proposed church site plan meets the standard set forth in DCC 18.124.060(A).

Specifically, the Board interprets DCC 18.124.060(A) to mean that an applicant must demonstrate that the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features. Minimizing visual impact, as with this case, may include introduced landscaping, design layout, and specific design elements such as siding and roofing color and material. In doing so, this enables the County decision maker to find that the site plan's impacts create no more disharmony than other uses allowed by right or conditionally in the MUA Zone.

The Board agrees, in part, with the Hearings Officer that this standard is considered differently when compared to the term "compatibility" and its associated standard of DCC 18.128.015(B). The chief differences between the two standards is that the DCC 18.128.015(B) compatibility standard evaluates the compatibility of the proposed use on existing and projected uses of surrounding properties and does so in light of specific factors that are not reproduced in DCC 18.124.060(A). The DCC 18.124.060(A) "harmonious" standard evaluates whether a proposed site plan "relates harmoniously to existing development and the natural environment" considering whether the site plan shows that the applicant has reasonably mitigated its impacts and reasonably preserved views. The Board observes that not every use that requires site plan approval also requires a conditional use permit. However, the Board finds that it is possible that a permitted or approved use is arranged so poorly on a site, that a proposed site plan must be denied under this standard. That is not the case here.

Staff understands the Board's findings, cited above, to make clear the use itself is not the subject of review under this criterion. Rather, this criterion only evaluates whether the site plan for the use "relates harmoniously." Staff reads *Father's House* to require a demonstration, "...the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features."

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

***B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.***

**FINDING:** The Burden of Proof States:

Much of the proposed use will occur in existing areas of clearing. Additionally, due to the nature of the use, most of the vegetation on site will be left intact and undisturbed. The relatively level topography on the property and the nature of the proposed use will not require much in the way of topographic changes. The applicant is proposing to preserve the natural vegetation.

Burden of Proof for 22-961-MA states:

The site plan drawn up by the Applicant is consistent with this requirement in that almost all of the land will retain its natural habitat on Tax Lot 700. The homes on Tax Lot 101 will remain as that property is being marketed for sale. Interference with that natural habitat would be fairly minimal and has already occurred on most of the disciplines cited above.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**C. *The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.***

**FINDING:** The Burden of Proof States:

The proposed Site Plan provides a safe environment by the utilization of the existing access driveway from Highway 97. Hunting is to occur on other areas of the site (on Tax Lot 700) away from the existing dwellings on Tax Lot 101, as well as other dwelling west of the railroad tracks. The proposed Site Plan should provide a safe environment for the patrons of the hunting preserve/shooting ranges, as well as the general public on adjacent BLM land. This criterion is met.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The AKS ENGINEERING study analyzed the safety of the environment around the shooting and archery ranges. This study suggests that a number of slight modifications, which have been implemented by the Applicant, would increase the safety and usage of any private or public spaces off site from the subject property. There is such a great distance between all properties that there is adequate transition to ensure further safety for any activities being done on surrounding properties.

Burden of Proof for 22-961-MA states:

There has been an extensive ballistic study of the subject property and all of the disciplines have been designed to enhance safety at each discipline and as well as between adjacent disciplines on the subject property. That ballistic study is submitted again.

Staff notes this criterion requires demonstration that the site is designed to address common safety hazards, including fire safety, and to address any site-specific natural hazards. Pedestrian, bicycle, and vehicle safety is addressed under sub-sections (E) and (K) of this section.

The applicant has submitted a ballistics study from AKS in support of the application and the reconfiguration of the shooting disciplines. In terms of safety on the site, staff relies upon the report and recommendation of AKS as the subject matter experts.

As addressed below, under DCC 18.124.060(K)(1-3), Redmond Fire & Rescue was notified of the proposal and provided comments to the record. These comments are included as **Attachment B**. Access for emergency vehicle access are discussed under this criterion. Staff acknowledges aspects of fire safety under the above criterion. As discussed, although comments were submitted, it is unclear to staff how the new site plan incorporates fire safety standards into the proposal.

Deschutes County Environmental Health also submitted comments related to the distribution of drinking water. The Club submitted comments stating that there is no potable water on site.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Specific to site operations and safety for the use, fire safety, and other permitting, staff recommends the following conditions of approval be included in any decision which approves the application:

#### Club Site Operations, Safety, and Environmental Stewardship

The property owner shall employ and, at all times, follow the ongoing recommendations and *Best Management Practices* as outlined in the entirety of the submitted AKS Reports related to any site design, safety protocols, environmental stewardship, and maintenance. These include:

- AKS Ballistics Study, dated May 31, 2022
- AKS Revised Environmental Stewardship Plan, dated June 5, 2022

Staff notes that both of the AKS Reports included in the application materials pre-date the applicant's request to consolidate the Club facilities exclusively on Tax Lot 700 and include language and mapping which indicates an assessment of both Tax Lot 101 and Tax Lot 700. It is unclear to staff how the analysis in these reports might have changed with the new proposal consolidating operations and shooting disciplines on Tax Lot 700. As such staff recommends the following condition of approval:

#### Confirmation of AKS Reports for Club Operations on Tax Lot 700

**Prior to the initiation of use or issuance of building permits**, the property owner shall provide the Planning Division with either:

- A letter from AKS confirming the continued applicability and accuracy of Ballistics Study and the Revised Environmental Stewardship Plan with the movement of the Club to Tax Lot 700. This letter from AKS shall include the most recent version of the site plan. Or,
- A revised Ballistics Report and Environmental Stewardship Plan that acknowledges the consolidation of Club facilities to Tax Lot 700 with updated analysis specific to the changes requested. These revised reports from AKS shall include the most recent version of the site plan.

Club Fire Safety

**Prior to the initiation of use or issuance of building permits**, the property owner shall submit written documentation to the Planning Division from the Redmond Fire Department confirming that the applicant has met all water supply and fire suppression standards.

Club Operations and Permitting

The property owner shall obtain any necessary permits from the Deschutes County Building Division, Deschutes County Environmental Health, and Environmental Soils Division.

- D. When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.**

**FINDING:** The Burden of Proof States:

New structures for the site contracted will be constructed to provide access and signage for handicapped persons. This criterion meets ADA compatibility.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

A ramp for wheelchair access will be provided where necessary. Braille signs, however, do not make any sense for this proposal as it does not make sense for a blind individual to be engaging in shooting and/or archery practice.

Burden of Proof for 22-961-MA states:

As noted above, given the nature of the use of the property to-wit, shooting, blind persons would not logically access the property without the assistance with someone who is sighted. The installation of Braille signs, therefore, would be nonsensical. From the disabled parking areas there will be access for wheelchairs from those parking spaces at each discipline.

In the Burden of Proof for 247-22-000961-MA, the applicant requests an exception from establishing Braille signs for the use. The Burden of Proof for 22-961-MA on page 4 states:

3. Braille Signage.

There may be on occasion a blind person who will be shooting at one of the various disciplines. The only way that that can occur however, is that they have a sighted person assisting them. The braille signage would not make any sense under these circumstances as no one who is blind would access or use the property on their own.

Staff notes that the Deschutes County Building Division was sent a request for comment on this application. In the State of Oregon, ORS 455.720 and 447.210 through 447.992 are administered by the Deschutes County Building Safety Division. Deschutes County Building Safety Division is required to determine if a structure is an Affected Building and if so, apply the appropriate sections



of Chapter 11 and the American National Standards Institute code A117.1-2009. Consequently, the structures will comply with state and federal ADA requirements. If an Affected Building is approved, inspected and finalized by the Deschutes County Building Safety Division, it meets all code requirements as an accessible structure. Staff finds that such a review is required prior to the issuance of building permits.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Specific to ADA requirements for the use, staff recommends the following condition of approval be included in any decision which approves the application:

ADA Requirements for the Club

The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.

- E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.***

**FINDING:** The Burden of Proof States:

Access to the site will not be altered by the proposed Site Plan. Also, the number of trips will not increase from the estimated 45 per day with the modified disciplines and new use areas. Additionally, the applicant has been informed by County Staff that the previously identified 19<sup>th</sup> Street extension from Redmond is no longer planned, thus that prior condition of approval is no longer warranted.

The proposed interior circulation pattern can easily accommodate the use on the property. The main driveway into the property is improved to the point (minimum 12 feet wide, cinder surface) that it will not produce a significant amount of dust. The proposed parking areas for the shooting disciplines are accessed by existing driveways on site and are adjacent to each discipline, allowing easy access to and from the ranges. There will be no pedestrians on the site, except for shooters going to and from their positions. Members and guests will be able to walk on the property, and there should be no conflict between them and vehicles on the site.

Based on the above, the proposed uses will be harmonious with the existing uses on the site and will not have any impact on neighboring buildings. This criterion is met.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

There is one (1) point of access off of Highway 97 which has been in place for many years.

The Applicant is working with ODOT to have a formal change of access from the prior access point to the current point. This change was previously approved by ODOT. There is also an easement across the solar farm property, BLM land, as well as the Burlington Northern Track which has been submitted to the county. As noted in our discussions with ODOT, and the preapplication meetings, there is no increase in the traffic to this site then there was in 2015. The traffic is similar to that in 2015, which was approved by ODOT. The Applicant understands that ODOT previously asserted in our pre-application meeting that it stands by that approval and analysis at this time, and that there is no need for a formal traffic impact study.

Burden of Proof for 22-961-MA states:

The access point will be from Highway 97 through the existing solar farm and across the Burlington Northern railroad tracks. The access road shall be on the southern part of Tax Lot 100 and will be connected to Tax Lot 700 through an agreement with the Bureau of Land Management. The access permits from the State of Oregon and Bureau of Land Management and Burlington Northern have been submitted to the Planning Department in conjunction with this application.

The interior circulation and areas for parking have been identified on the site plan for each discipline.

Staff notes this criterion is met where the described facilities provide for a safe and efficient flow of vehicular, bicycle, and pedestrian traffic. In addition, such facilities must be “harmonious with proposed and neighboring buildings and structures” such that facilities must not significantly adversely impact on-site and/or neighboring proposed and existing buildings and structures. As discussed under DCC 18.116.031(F)(6) above, the Board of County Commissioners found that *an improved 24-foot wide service drive is necessary to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site.*

As noted above, the Oregon Department of Transportation requests a trip generation estimate and notes that the current access does not have a permit for lawful access.

The Deschutes County Transportation Planner requested an updated traffic study for the proposal.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

***F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.***

**FINDING:** The Burden of Proof states:

Surface water will drain to soil and natural landscape areas surrounding the site. This was found to be acceptable by the Hearings Officer in the decision for CU-09- 17/SP-09-11 with the level topography on the site, runoff into the ground will easily occur. There will be no

drainage to neighboring properties. This drainage into soil and natural landscaped areas should have no impact on surface or subsurface water quality.

Burden of Proof for 22-961-MA states:

The access road and circulation driveways are not going to be paved, so there will not be any significant runoff from those surfaces. The only paved parts will be the handicapped parking spaces. Given the location of the driveways, parking areas, vis-à-vis other properties there will not be any surface drainage from the property onto neighboring properties or streets. Nor will there be any substantial impact on subsurface water quality.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff notes that in other land use decisions, the county has accepted engineered design and review to demonstrate compliance with this criterion. As such, staff recommends the following condition of approval be included in any decision which approves the application and where confirmation of compliance is needed:

#### Storm Water and Surface Drainage Systems

- 1) The property owner shall, **prior to initiation of use and/or issuance of building permits**, provide a statement from a licensed professional engineer that the “surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality” and
- 2) The property owner shall maintain any such systems in good working condition.

**G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.**

**FINDING:** The Burden of Proof states:

With the limited number of improvements proposed and the size of the property, as well as the lack of development adjacent to the property, there is adequate careening. The proposed development will not require machinery and equipment except for the sporting clays equipment and the shooting gear used by patrons.

The only neighboring properties to the subject property are vacant lands owned by the State of Oregon, BLM, and BNSF. The subject property is already screened from view to the west by the BNSF railway berm. The proposed development will not require machinery and equipment, except for the sporting clays equipment, and the gear currently used by patrons as approved under CU-09-17/SP-09-11. Solid waste (garbage) will be taken to the closest landfill. Any utilities needed for development at the site should have minimal, if any, impact on the subject property or the adjoining properties. This criterion is met.

Burden of Proof for 22-961-MA states:

There are only a few structures on Tax Lot 700. Those are identified on the site plan. Those structures are for training purposes as well as storage. They are located generally in the interior property and will not have any adverse impact on the site or neighboring properties. These are empty residences on Tax Lot 101.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

***H. All above ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.***

**FINDING:** The Burden of Proof States:

Any new overhead utilities will be installed to minimize adverse visual impact. This criterion is met.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

There are no above ground utilities on Tax Lot 700.

Burden of Proof for 22-961-MA states:

The applicant is not proposing any new above-ground utility installations.

Based on staff's review of the site plan, the applicant proposes a "solar farm" as part of the project scope which staff considers an "above ground utility installation".

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

***I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).***

**FINDING:** Specific criteria for each zone mapped on the subject property have been addressed above.

***J. All exterior lighting shall be shielded so that direct light does not project off site.***

**FINDING:** The Burden of Proof states:

Any new lighting on-site will be shielded and not project off-site in accordance with the lighting code requirements of Chapter 15.10 of the Deschutes County Code.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The Applicant agrees that any future exterior lighting will be shielded so that direct light does not project off site

Burden of Proof for 22-961-MA states:

There is no exterior lighting proposed in this application.

Staff notes that under the DCC 80.044 criterion above, the applicant proposes exterior lighting for the trap range. Further, the applicant's burden of proof states lighting will be moved onto the subject property. It is unclear to staff if lighting is proposed. Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Staff recommends the following condition of approval be included in any decision which approves the application:

Exterior Lighting

All exterior lighting shall be shielded so that direct light does not project off site.

- K. Transportation access to the site shall be adequate for the use.**
- 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.**
  - 2. Mitigation for transportation-related impacts shall be required.**
  - 3. Mitigation shall meet applicable County standards in DCC 18.116.310, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.**

**FINDING:** The Burden of Proof for 22-961-MA states:

The access to the property has been identified on the site plan. As noted above the access is from Highway 97. The access point has been approved by the Oregon Department of Transportation and is currently in use. There are easements through the property adjacent to Highway 97 to the Burlington Northern railroad tracks. There are also access agreements and easements for crossing the railroad tracks to Tax Lot 101. Tax Lot 101 is currently for sale and prior to any sale an easement in favor of Redmond Rod and Gun Club on the southern portion of the property will be recorded. There is also an access agreement with the Bureau of Land Management from Tax Lot 101 to Tax Lot 700.

The Oregon Department of Transportation has weighed in that given the low volume of traffic into the subject property from Highway 97, no mitigation on Highway 97 is going to be required. There was an analysis in 2016 which supported that, and traffic counts have not

changed materially since that time.

The Deschutes County Road Department, Deschutes County Transportation Planner, and the Oregon Department of Transportation were sent a request for comment on this application.

As noted above, the Oregon Department of Transportation requested a trip generation estimate and notes that current access does not have a permit for lawful access.

The Deschutes County Transportation Planner requested an updated traffic study for the proposal.

As noted above, Tom Mooney from Redmond Fire & Rescue submitted comments and standards for emergency vehicles to access the site. It is unclear to staff if the site plan was designed to account for emergency vehicle needs.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

Specific to emergency transportation access for the use, staff recommends the following condition of approval be included in any decision which approves the application:

Emergency Transportation Access

**Prior to the initiation of use or the issuance of building permits**, the property owner shall submit to the Planning Division correspondence from Redmond Fire & Rescue stating approval of the access to the property and service drives within the property to accommodate their emergency vehicles. This receipt of approval shall include a copy of the most current and accurate version of the site plan.

Section 18.124.070. Required Minimum Standards.

- A. Private or shared outdoor recreation areas in residential developments.**
- 1. Private Areas. Other than a development in the Sunriver UUC Town Center District, each ground level living unit in a residential development subject to site plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.**

**FINDING:** No residential development subject to site plan approval is proposed.

- 2. Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:**
  - a. Units with one or two bedrooms: 200 square feet per unit.**
  - b. Units with three or more bedrooms: 300 square feet per unit.**

**FINDING:** No apartment residential development is proposed.

3. **Usable outdoor recreation space shall be provided in the Sunriver UUC Town Center District on a district-wide basis as follows:**
  - a. **A minimum of one hundred square feet of outdoor recreation space per Multi-family Dwelling unit or Townhome that is accessible to residents or guests staying in Multi-family Dwelling or Townhome units.**
  - b. **Outdoor recreation spaces may include bicycle paths, plazas, play areas, water features, ice rinks, pools and similar amenities that are located outdoors.**
  - c. **Outdoor recreation space must include recreation for children who are district residents, such as a maintained playground area with approved equipment such as swings or slides.**

**FINDING:** The proposal is not located in the Sunriver UUC Town Center District.

4. **Storage. In residential developments, convenient areas shall be provided for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.**

**FINDING:** No residential development is proposed.

**B. Required Landscaped Areas.**

1. **The following landscape requirements are established for multi family, commercial and industrial developments, subject to site plan approval:**
  - a. **A minimum of 15 percent of the lot area shall be landscaped.**
  - b. **All areas subject to the final site plan and not otherwise improved shall be landscaped.**

**FINDING:** The Burden of Proof states:

In the original approval, the Hearings Officer found that the proposed use is not considered a commercial, multi-family or industrial use under this section. This is also consistent with the Hearings Officer's decision on files CU-07-63/SP-07-32 (trap club shooting range, and the staff decision on application no. SP-08-6 (private paint ballpark). Consequently, the proposed uses would not be subject to DCC 18.124.070(B)(1).

A request for more information was made in the Incomplete Letter mailed July 27, 2022. The Supplemental Burden of Proof states in response to DCC 18.124.070(B)(1)(2)(a-h):

Most of the area within the site is open space with trees, shrubs, rocks, and other natural landscaping. Where the trap shooting range is being moved onto Tax Lot 700, juniper trees will be removed. There is no current plan for planting any more foliage as it is already fully occupied by natural landscape.

Burden of Proof for 22-961-MA states:

The development is not a multi-family, commercial, or industrial development, therefore this section does not apply. Nonetheless, all areas outside of the development area (improvements for each discipline, parking and circulation) will be retained as open space. As shown on the Site Plan the amount of open space is approximately 90% of the site.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- 2. In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:**
  - a. A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**

**FINDING:** In response to DCC 18.124.070(B)(2)(a-h) the Burden of proof states:

In the original approval, the Hearings Officer provided the following finding in response to these criteria:

*The proposed parking area is to be located adjacent to the existing cinder driveway that provides access to the property. The parking area is all in one spot and will not require a defined landscape area. It is not adjacent to a lot line. The existing natural landscape on the property will be retained and serve as the vegetation for landscaping. No new landscaping is proposed, and the existing vegetative cover is to be preserved. Preserving existing vegetation, to the extent practicable, will be a condition of approval. No new overhead utility lines are proposed with this development at this time. These criteria are met.*

As was the case in the original approval, under this proposal, parking areas are adjacent to existing cinder driveways accessing the property, they do not abut lot lines, thus additional landscaping is not proposed nor required. Existing vegetation will be preserved where practicable and serve as sufficient landscaping. These criteria are met.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states in response to DCC 18.124.070(B)(1)(2)(a-h):

Most of the area within the site is open space with trees, shrubs, rocks, and other natural landscaping. Where the trap shooting range is being moved onto Tax Lot 700, juniper trees will be removed. There is no current plan for planting any more foliage as it is already fully occupied by natural landscape.

Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.



In the Burden of Proof for 247-22-000961-MA, the applicant requests an exception from the landscaping for the proposal. The Burden of Proof for 22-961-MA on page 4 states:

1. Landscaping.

If necessary, the Applicant requests an exception or variance (18.132) from any landscaping requirements. In the 2015 approval, landscaping was not required. The Applicant is not requesting any change to that site plan approval. The conditions and scope of this use was not changed materially to require landscaping. There are two reasons for this. Tax Lot 700 consists of 153.08 acres. Tax Lot 101 consists of 72.35 acres. Minimal structural improvements have been made on Tax Lot 700. On Tax Lot 700 there is no water for any irrigation purposes. Approximately 90% or more of the 153 acres will be left in open space, to-wit, natural habitat regarding Tax Lot 101 it is the plan to sell that parcel and move the sporting clay range to Tax Lot 700. It does not make any logical sense to tear out natural habitat to put in landscaping for the type of activities that will occur on this property. This is partially true in light of the drought conditions in Center Oregon. Further there is currently no ability to continue to maintain that landscaping.

Staff notes that, unlike section (B)(1), this criterion requires “defined landscaping”. Staff also notes that “defined landscaping” does not have a definition in the code. Merriam-Webster’s dictionary definition of “defined”<sup>1</sup> is “to show the shape, outline, or edge of (something) very clearly”. Thus this criterion cannot be met by un-differentiated natural landscaping. Staff notes that the landscaping standards could be required. In a similar situation in file 247-20-000790-SP, 791-SP, 792-MC for Bend Trap Club, the applicant was required to meet these standards regardless of the existing natural vegetation.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted or if introduced landscaping to meet this criterion is required. With respect to a Variance request, no application for a Variance was applied or paid for.

- b. In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least five feet in width.***

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted. As noted above, no application for a Variance was applied for paid for.

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<sup>1</sup> <https://www.merriam-webster.com/dictionary/defined>

- c. A landscaped strip separating a parking or loading area from a street shall contain:**
- 1) Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.**
  - 2) Low shrubs not to reach a height greater than three feet zero inches, spaced no more than eight feet apart on the average.**
  - 3) Vegetative ground cover.**

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted. No application for a Variance was applied or paid for.

- d. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**

**FINDING:** Staff notes that this criterion is not addressed in the application materials for file no 247-22-000961-MA.

Staff requests the Hearings Officer make specific findings for this criterion.

- e. The landscaping in a parking area shall have a width of not less than five feet.**

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted. No application for a Variance was applied or paid for.

- f. Provision shall be made for watering planting areas where such care is required.**

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted.

No application for a Variance was applied or paid for.

- g. Required landscaping shall be continuously maintained and kept alive and attractive.***

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping.

Staff requests the Hearings Officer make specific findings on whether an exception can be granted. No application for a Variance was applied or paid for.

- h. Maximum height of tree species shall be considered when planting under overhead utility lines.***

**FINDING:** Burden of Proof for 22-961-MA states:

For the reasons stated above the Applicant is requesting an exception or variance to any landscaping. Also, no overhead utility lines exist on tax lot 700.

Staff agrees that no overhead utility lines exist on-site. For this reason, this criterion does not apply.

***C. Non-motorized Access.***

- 1. Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.***

**FINDING:** The Burden of Proof states:

The Code does not contain parking requirements for this specific use. Based on prior use at the existing site, the applicant has proposed ample parking at each discipline. Bicycle parking can be accommodated with the existing buildings on site.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

Again, there is no need for bicycle parking as there is no bicycle access to the subject property given its remote location and its access from Highway 97.

Burden of Proof for 22-961-MA states:

As noted in that section (and as permitted in that section), the applicant has requested that

the Planning Director grant an exception or variance to the Bicycle Parking standards, given its remote location and the danger of bicycles on Highway 97. If the exception is granted, the bicycle parking standards referenced in this section would not apply.

As noted above under DCC 18.116.031, The Burden of Proof for 22-961-MA requests an exception to the bicycle parking standards. On page 4, the Burden of Proof states:

2. Bicycles

If necessary, the Applicant proposes an exception or variance for any requirement for bicycle paths or parking. This was requested in the 2015 site plan approval and the Applicant is not seeking any modification of that. This property is remote from any urban area. It is virtually impossible to access this property by bicycle as one would have to traverse Highway 97 which is very dangerous for bicycle traffic. The circulation area will remain unpaved for access from Highway 97 to Tax Lot 700.

Staff notes that the Club was granted an exception to the bicycle parking standards in land use file nos. 247-15-000263-CU, 247-15-000264-SP. The proposal could be eligible for an exception as the property is outside of an unincorporated community.

Staff requests the Hearings Officer make specific findings on whether this criterion is met, or if the Club qualifies for this exception.

**2. Pedestrian Access and Circulation:**

The applicant provides the following statement in the Burden of Proof:

The proposed development will only pedestrian (shooter) access from the parking area to the proposed uses on the site. No specific standards apply to the proposed use. The parking areas have been designed in accordance with County Code requirements and are located adjacent to each shooting discipline to provide safe and convenient access. On site circulation can be easily accommodated with the existing driveways on site.

A request for more information specific to DCC 18.124.070(C)(2)(a-e) was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

The circulation for walkways and pedestrian access is articulated in the site plan submitted herewith.

- a. Internal pedestrian circulation shall be provided in new commercial, office and multi family residential developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.**

**FINDING:** The proposal does not include new commercial, office and multi-family residential developments.

- b. Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.***

**FINDING:** The Burden of Proof for 22-961-MA states:

In Shepherd (file nos. 247-17-000573-AD and 574-SP, 247-18-000179-A and 182-A) the Board of County Commissioners found, "Subsections (b) through (e) apply to any use subject to site plan review." Specifically, this means that uses not listed in section (2)(A) are also subject to these criteria.

As shown on the site plan, the applicant proposes walkways from the parking area to each discipline. There are no walkways, sidewalks, bikeways or other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi-family, public or park use.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- c. Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.***

**FINDING:** The Burden of Proof for 22-961-MA states:

The applicant proposes five-foot-wide walkways from the parking area to each driveway.

It is unclear whether the walkways illustrated on the site plan are proposed to be paved. Additionally, although the applicant's response above indicates walkways will connect parking areas to driveways, staff notes subsection (b) requires walkways to connect building entrances to each other. Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- d. Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.***

**FINDING:** The Burden of Proof for 22-961-MA states:

No driveway crossings by walkways are proposed.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- e. To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.***

**FINDING:** The Burden of Proof for 22-961-MA states:

Handicapped parking areas will be paved. The walkways shall comply with the slope requirements set forth above.

Staff requests the Hearings Officer make specific findings on whether this criterion is met and notes that compliance with ADA standards for walkways will be addressed during building permit review by the Building Division.

Specific to ADA requirements for the use, staff recommends the following condition of approval be included in any decision which approves the application:

ADA Requirements for the Cub

The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.

**D. Commercial Development Standards:**

- 1. New commercial buildings shall be sited at the front yard setback line for lots with one frontage, and at both front yard setback lines for corner lots, and oriented to at least one of these streets, except in the Sunriver UUC Business Park (BP) District and Town Center (TC) District and properties fronting Spring River Road in the Spring River Rural Commercial Zone. The building(s) and any eaves, overhangs or awnings shall not interfere with the required clear vision area at corners or driveways.***

**FINDING:** No new commercial buildings are proposed.

- 2. To meet the standard in paragraph (1) of this subsection, buildings developed as part of a shopping complex, as defined by this title, and planned for the interior, rear or non-street side of the complex may be located and oriented toward private interior streets within the development if consistent with all other standards of paragraph (1) above and this paragraph. Interior streets***

*used to satisfy this standard may have on-street parking and shall have sidewalks along the street in front of the building. Such sidewalks shall connect to existing or future sidewalks on public streets accessing the site. The master plan for the shopping complex shall demonstrate that at least one half of the exterior perimeter of the site that abuts each public street, will be developed with buildings meeting the standards of paragraphs (D)(1) or (D)(3) of this subsection.*

**FINDING:** No shopping complex is proposed.

3. *An increase in the front yard setback may be allowed where the applicant can demonstrate that one or more of the following factors makes it desirable to site the new building beyond the minimum street setback:*
  - a. *Existing development on the site;*
  - b. *Lot configuration;*
  - c. *Topography of the lot;*
  - d. *Significant trees or other vegetative features that could be retained by allowing a greater setback;*
  - e. *Location of driveway access. Such an increase in the front yard shall be the minimum necessary to accommodate the reason for the increase.*
  - f. *Architectural features, driveways, landscaping areas equal to or greater than the depth of the structure, and outdoor commercial areas, when at least one half of the structure meets the minimum street setback.*

**FINDING:** No increase in the front yard setback has been requested.

4. *Off street motor vehicle parking for new commercial developments in excess of 10,000 square feet shall be located at the side or behind the building(s), except in the Sunriver UUC Business Park (BP) District and Town Center (TC) District. Off-street parking proposed with a shopping complex, as defined by this title, and intended to serve buildings located in the interior or rear of the complex may have parking in front of the building provided the overall master plan for the site satisfies paragraph (2) of this subsection.*

**FINDING:** No off street motor vehicle parking for new commercial developments in excess of 10,000 square feet is proposed.

Section 18.124.080, Other Conditions.

*The Planning Director or Hearings Body may require the following in addition to the minimum standards of DCC Title 18 as a condition for site plan approval.*

- A. *An increase in the required yards.*
- B. *Additional off street parking.*

- C. Screening of the proposed use by a fence or landscaping or combination thereof.**
- D. Limitations on the size, type, location, orientation and number of lights.**
- E. Limitations on the number and location of curb cuts.**
- F. Dedication of land for the creation or enlargement of streets where the existing street system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.**
- G. Improvement, including but not limited to paving, curbing, installation of traffic signals and constructing sidewalks or the street system that serves the proposed use where the existing street system will be burdened by the proposed use.**
- H. Improvement or enlargement of utilities serving the proposed use where the existing utilities system will be burdened by the proposed use. Improvements may include, but shall not be limited to, extension of utility facilities to serve the proposed use and installation of fire hydrants.**
- I. Landscaping of the site.**
- J. Traffic Impact Study as identified in Title 18.116.310.**
- K. Any other limitations or conditions that are considered necessary to achieve the purposes of DCC Title 18.**

**FINDING:** To the extent that any conditions of approval contained in this decision require improvement to the site beyond the minimum standards of DCC Title 18, staff finds such conditions are authorized by this section.

## **Chapter 18.128, Conditional Use**

### Section 18.128.010, Operation.

- A. A conditional use listed in DCC Title 18 shall be permitted, altered or denied in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan.**
- B. In the case of a use existing prior to the effective date of DCC Title 18 and classified in DCC Title 18 as a conditional use, any change in use or lot area or an alteration of structure shall conform with the requirements for a conditional use.**

**FINDING:** The proposed conditional use is reviewed in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan. No prior use now classified as a conditional use is being modified by this proposal.

### Section 18.128.015, General Standards Governing Conditional Uses.

**Except for those conditional uses permitting individual single family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:**



**FINDING:** The use subject to conditional use review is a private park.

**A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:***

**1. *Site, design and operating characteristics of the use;***

**FINDING:** The Burden of Proof states:

**Site.** The site is an existing ranch that consists of two tax lots totaling approximately 225 acres which has two existing dwellings, a shop building, equipment shed, barn, animal (llama) shelters, irrigated areas, and dry areas, as well as driveways. The site has a somewhat varied topography of most level areas, as well as some rock outcrops. The site is accessed from a private road extending east from Highway 97 through adjacent private property (Tax Lot 502) and public property (Tax Lot 602) to the west. It was approved as a private park for hunting and sporting clays in 2009 and has been operating since that time. The Decision in CU-09-17/SP-09-1 discusses in detail the suitability for the site for the intended use. The Hearings Officer's Decision in 2015, also discussed in detail suitable for the site for the uses described in this application. The proposed use is consistent with the existing use and the site is suitable for the expanded shooting disciplines for the same reasons it is suitable for the existing shooting and hunting facility.

**Design.** Submitted herewith is an updated Ballistic study and Environmental Stewardship Plan by AECOM, an environmental engineering firm specializing in firearms parks and facilities, studied the operating characteristics of the site and the various ranges. The AECOM study and Site Plan were prepared based on past experience and National Rifle Association information. The Range Source Book reflects the proposed range locations, discharge areas, and other site features. The Range Source Book provides design standards, methods, and technologies of shooting range facilities. The Study prepared by AECOM, shows all ranges are oriented so that the combination of shot and range location can contain all firearm discharges on site. Any Site modification required by the Study will be implemented. The range locations are situated away from neighboring properties, parking, and non-shooting uses and avoid firearms discharge onto neighboring properties, thus providing safety throughout the site ensuring a safe and functional site in conformance to this section.

With the construction of the various ranges, modifications were necessary due to the existing site conditions and changes in shooting disciplines. The modified site plan is based on these changed conditions and has been divided into the seven different shooting disciplines with building envelopes identified. Each shooting discipline has its individual needs with regard to range layout, support structures and parking. These support structures are needed to meet the mission of the RRG to educate the public in the safe handling of firearms. Additionally, there is infrastructure which supports all the shooting disciplines such as roads, restroom facilities (Port-O-Potty), electrical improvements and dry camping facilities.

Following is a list of the shooting disciplines with description of the existing development and anticipated future development.

**Rifle/Pistol.** The Rifle and Pistol disciplines have been combined in this narrative as they are close to each other and share many of the support structures needed to support their activities.

**Rifle** - The original concept plan provided for 3 ranges with each range being 100 yards, 300 yards and 600 yards. Presently there is one 100-yard range constructed with 10 covered firing positions. The club is looking to modify the original concept to provide 2 ranges side by side with the existing 100-yard range to be extended out to 200 yards. The second range adjacent to the existing range will be constructed at a later date to a distance up to 500 yards.

**Pistol** - The concept range plan proposes construction of a Steel Gallery range (20-yard x 50-yard); 5 shooting bays (20-yard x 50-yard). At the present time the Steel Gallery range is constructed and the exact location of the 5 shooting bays yet to be determined but will be in the area of the rifle/pistol range development area.

**Indoor Shooting Range** - Concept Range Plan proposes construction of 20 shooting position- 25 Yard Indoor Range. Due to the need for electrical service to operate an indoor range the facility needs to be located near the existing structures and electrical service. The exact size and location are yet to be determined.

**Support Structures** - At the present time there is a small structure used for shooters to sign in and a storage container for storing supplies for the range. The rifle/pistol discipline is looking to provide additional small structures for the Range Safety Officer for each range and additional storage. Additionally, the rifle/pistol discipline proposes to construct a facility which would be used for safety meetings, training classes and warming hut.

**Cowboy Action Shooting.** In the original concept range plan the Cowboy Action Range was to be located at the south east corner of the property. After consideration of the existing topography, future development of adjacent ranges and safety the range was relocated to the southwest corner of the property.

The range is under development at the revised location. At the present time there is a storage facility on site. The cowboy action discipline proposes to construct a facility which would be used for safety meetings, training classes and warming hut as well as storage structures.

**Sporting Clay/5 Stand.** The original concept plan had the sporting clays and 5 stand ranges at the north end of the property. It was determined that for better utilization of space and provide for safer operation that the sporting clays course should be setup in the southeast quarter of the property. This allowed for the course to be setup so that all shot fall was on the club property and none on the adjacent BLM property. This is what necessitated the relocation of the Cowboy Action range and 3D Archery course.

The ranges for the Sporting Clays and 5 Stand have been constructed and will continue to be developed. There is presently a structure used for registration and 3 storage containers used to store equipment. The development of the facilities includes a structure which would be used for safety meetings, training classes and warming hut as well as additional storage structures.

**Trap.** As shown on the original concept plan the Trap facilities are located on the north area of Tax Lot 101. Presently the Trap facility has 3 Ranges with 2 more proposed once improvements are made to the electrical service. There is one structure being used by the discipline for shooter registration.

The further development of the facilities includes a structure which would be used for safety meetings, training classes and warming hut as well as storage structures.

**Archery.** The concept plan had Archery located on two different sites on the property, adjacent to the trap ranges and in the southeast corner of Tax Lot 700. It was determined for safety and best utilization of space to relocate those ranges to the north east corner of Tax Lot 700.

**Operating Characteristics.** The operating characteristics of the use include sporting clay, trap, rifle and pistol shooting, and a cowboy action range. The existing bird hunting will continue to occur as allowed under CU-09-17. The range will be open year-round, 6 days per week (Monday, Tuesday, Wednesday, Friday, Saturday, and Sunday).

The operations of the various shooting disciplines are at scheduled times which allows for a controlled environment and minimal off-site impacts. Approximately 30% of shooters carpool when traveling to/from the range. Based on the historical operations, range officials have observed that days with an event such as holiday "turkey shoots" or youth activities there are a larger number of shooters. Various shooting disciplines will occasionally host scheduled events sanctioned by local and regional shooting organizations. The Shooting Discipline will provide advance notice for special events and estimates these occur less than 10 times per year. The range officials estimate average daily trip generation to be 45 trips or less. With the proposed land use action, Range operations and amenities will increase, however, there are a limited number of shooters in the Range service area and overall facility trip generation is not anticipated to significantly increase.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states in response to DCC 18.128.015(A)(1-3):

These conditions were addressed in 2015, and there continues to be adequate transportation access to the site. The natural and physical features of the area, except for those where specifically implemented, remains natural in terms of landscaping. Finally, the site and design as well as operation and care for the use of the site, have been in place for many years and continue to be conducted in a safe and responsible manner.

The Burden of Proof for 22-961-MA states in response to DCC 18.128.015(A)(1-3):

These conditions were addressed in 2015, and there continues to be adequate transportation access to the site. The natural and physical features of the area, except for those where specifically implemented, remain natural in terms of landscaping. Finally, the site and design as well as operation and care for the use of the site, have been in place for many years and continue to be conducted in a safe and responsible manner.

Staff notes that "Dry Camping", as mentioned at the top of Page 66, is not an approved aspect of the Club.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**2. Adequacy of transportation access to the site; and**

**FINDING:** The Burden of Proof states:

The proposal does not modify access to the site access to the subject property is from Highway 97 via an easement through the adjacent property to the west (16-12-13, 503). The applicant also has access through BLM property (16-12-13, 602). The existing access road varies in width of 18 to 24 feet with both cinder and  $\frac{3}{4}$ " gravel surfaces.

Through membership, events and scheduled activities, the applicant has indicated that the planned uses will not generate more trips than previously anticipated, 45 ADT and 16 pm peak hours trips; therefore, the proposal will not alter the site's conformance to this section as established in CU-09-17/ SP-09-11.

The submitted trip generation report from Clemow & Associates establishes conformance with this section.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states in response to DCC 18.128.015(A)(1-3):

These conditions were addressed in 2015, and there continues to be adequate transportation access to the site. The natural and physical features of the area, except for those where specifically implemented, remains natural in terms of landscaping. Finally, the site and design as well as operation and care for the use of the site, have been in place for many years and continue to be conducted in a safe and responsible manner.

As noted above, the Oregon Department of Transportation requested a trip generation estimate and notes that current access does not have a permit for lawful access.

The Deschutes County Transportation Planner requested an updated traffic study for the proposal.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**3. *The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.***

**FINDING:** The Burden of Proof states:

The site has been approved as a sporting clays park. The proposed uses will alter the shooting disciplines, but maintain the approved uses, thus the natural and physical features of the site will continue to be suited for the use.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states in response to DCC 18.128.015(A)(1-3):

These conditions were addressed in 2015, and there continues to be adequate transportation access to the site. The natural and physical features of the area, except for those where specifically implemented, remains natural in terms of landscaping. Finally, the site and design as well as operation and care for the use of the site, have been in place for many years and continue to be conducted in a safe and responsible manner.

Staff notes that the *Deschutes County Natural Hazards Mitigation Plan* (2015) identifies drought, earthquake, flood, landslide, volcanic, wildfire, windstorm, and winter storm hazards in the County. Of these, wildfire is of special concern regarding the suitability of the use.

Comments from agencies and the general public did not identify any site unsuitability due to general topography, natural hazards, or natural resource values.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**B. *The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).***

**FINDING:** The Burden of Proof states in response to DCC 18.128.015(B&C):

Under the prior decision the Hearings Officer found that the hunting preserve, and sporting clays facility was compatible with the surrounding area and would not have an impact upon farming activity in the area. Adding other shooting disciplines to the site, will not impact either of these elements. The applicant will manage the site in accordance with best practices and safety guidelines and will continue to follow the environmental stewardship plan, thus will remain consistent with these standards.

A request for more information was made in the Incomplete Letter mailed July 27, 2022.

The Supplemental Burden of Proof states:

Again, these disciplines have been in operation for many years and there has not been any complaints from surroundings properties, nor any evidence of any adverse impact. The AKS ENGINEERING ballistic study submitted also confirms that there is no adverse impact on surroundings properties.

The Burden of Proof for 22-961-MA states:

Again, these disciplines have been in operation for many years and there have not been any complaints from surroundings properties, nor any evidence of any adverse impact. The AKS ENGINEERING ballistic study submitted also confirms that there is no adverse impact on surroundings properties.

Pursuant to the factors listed in DCC 18.128.015(A), staff notes that the proposed use would be unsuitable if the siting, design and operating characteristics of the use significantly adversely impacted existing and projected uses on surrounding properties. Typically, potential adverse impacts could include visual, noise, dust, and odor impacts. Staff also notes the proposed use would be unsuitable if access to the site would significantly adversely impact existing and projected uses on surrounding properties. Lastly, staff notes the proposed use would be unsuitable if it significantly adversely impacted off-site topography, natural hazards, or natural resource values.

Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**C. *These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.***

**FINDING:** To the extent this decision is conditioned under DCC 18.128 criterion, Staff notes such conditions are authorized by this criterion.

Section 18.128.020, Conditions.

***In addition to the standards and conditions set forth in a specific zone or in DCC 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.***

- A. *Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.***
- B. *Require a special yard or other open space or a change in lot area or lot dimension.***
- C. *Require a limitation on the height, size or location of a structure.***
- D. *Specify the size, number, location and nature of vehicle access points.***
- E. *Increase the required street dedication, roadway width or require additional improvements within the street right of way.***
- F. *Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.***
- G. *Limit or specify the number, size, location, height and lighting of signs.***
- H. *Limit the location and intensity of outdoor lighting and require shielding.***

- I. Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.**
- J. Specify the size, height and location of any materials to be used for fencing.**
- K. Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.**
- L. Require that a site plan be prepared in conformance with DCC 18.124.**

**FINDING:** To the extent that any conditions of approval contained in this decision require improvement to the site beyond the minimum standards of DCC Title 18, staff finds such conditions are authorized by this section.

Section 18.128.040, Specific Use Standards.

***A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370.***

**FINDING:** As described herein, the proposed conditional use complies with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370, as applicable.

#### **SYSTEM DEVELOPMENT CHARGE**

As noted above the Senior Transportation Planner is requesting an updated traffic study for the project. An understanding of applicable System Development Charges are pending analysis from this study.

#### **IV. CONCLUSION AND RECOMMENDATION:**

As noted above on page 9, Staff raises questions to the Hearing Officer specific to the standards and precedent set for DCC 22.23.040 Modification of Approval. Staff requests the Hearing Officer to determine:

- Limits and effects of a Modification of Conditions to the previous land use approvals
- Applicable, and extent, of standards for the subject applications
- Whether the subject applications satisfies the applicable standards

Staff recommends the following conditions of any approval:

#### **V. CONDITIONS OF APPROVAL**

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.

- B.** Previous Approvals  
At all times, the property owner shall continue to meet the conditions of approval for the use as outlined in the previous decisions. The conditions of approval for CU-09-17/SP-09-11 and 247-15-000263-CU/264-SP remain in effect.
- C.** Club Operations and Permitting  
The property owner shall obtain any necessary permits from the Deschutes County Building Division, Deschutes County Environmental Health, and Environmental Soils Division.
- D.** Conditions of Approval for Previous Land Use Decisions  
***Prior to the issuance of Building Permits,*** the property owner shall satisfy the outstanding conditions of approval listed above and as outlined in land use decisions CU-09-17/ SP-09-11 and 247-15-000263-CU/ 247-15-000264-SP. This includes the following:
- Completing and recording a Declaration of Anticipated Noise
  - Completing and recording a Conditions of Approval Agreement
- E.** Signs for the Club  
All signs on the property for the Redmond Rod and Gun Club shall comply with Deschutes County Sign Code, Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.
- F.** Building Height  
No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.
- G.** General Setbacks  
All buildings or structures shall meet the setback standards as outlined in DCC 18.16.070 (A – C).
- H.** Solar Setbacks  
All buildings or structures shall meet the solar setback requirements in DCC 18.116.180.
- I.** Building and Structural Code Setbacks  
All buildings or structures shall comply with any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- J.** Lighting in the Airport Safety Combining Zone  
No Club development shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- K.** Glare Producing Materials in the Airport Safety Combining Zone  
No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.



- L.** Club Parking Construction  
Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- M.** Club Parking Availability  
Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
- N.** Lighting for Club off-street parking  
Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.
- O.** Graveled Surface for Standing and Maneuvering of Vehicles  
***Prior to the initiation of use***, the property owner shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the various shooting disciplines and facilities. At all times, the graveled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.
- P.** Clear Vision Areas  
***Prior to the initiation of use or the issuance of building permits***, the property owner shall submit a revised site plan depicting the clear vision areas at each intersection of service drives. Clear vision areas, shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height. As a condition of approval, the service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- Q.** Club Site Operations, Safety, and Environmental Stewardship  
The property owner shall employ and, at all times, follow the ongoing recommendations and *Best Management Practices* as outlined in the entirety of the submitted AKS Reports related to any site design, safety protocols, environmental stewardship, and maintenance. These include:
- AKS Ballistics Study, dated May 31, 2022
  - AKS Revised Environmental Stewardship Plan, dated June 5, 2022
- R.** Confirmation of AKS Reports for Club Operations on Tax Lot 700  
***Prior to the initiation of use or issuance of building permits***, the property owner shall provide the Planning Division with either:
- A letter from AKS confirming the continued applicability and accuracy of Ballistics Study and the Revised Environmental Stewardship Plan with the movement of the Club to Tax Lot 700. This letter from AKS shall include the most recent version of the

site plan. Or,

- A revised Ballistics Report and Environmental Stewardship Plan that acknowledges the consolidation of Club facilities to Tax Lot 700 with updated analysis specific to the changes requested. These revised reports from AKS shall include the most recent version of the site plan.

**S.** Club Fire Safety

**Prior to the initiation of use or issuance of building permits**, the property owner shall submit written documentation to the Planning Division from the Redmond Fire Department confirming that the applicant has met all water supply and fire suppression standards.

**T.** ADA Requirements for the Club

The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.

**U.** Storm Water and Surface Drainage Systems

- 1) The property owner shall, **prior to initiation of use and/or issuance of building permits**, provide a statement from a licensed professional engineer that the "surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality" and
- 2) The property owner shall maintain any such systems in good working condition.

**V.** Exterior Lighting

All exterior lighting shall be shielded so that direct light does not project off site.

**W.** Emergency Transportation Access

**Prior to the initiation of use or the issuance of building permits**, the property owner shall submit to the Planning Division correspondence from Redmond Fire & Rescue stating approval of the access to the property and service drives within the property to accommodate their emergency vehicles. This receipt of approval shall include a copy of the most current and accurate version of the site plan.

**X.** ADA Requirements for the Club

The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.

**VII. DURATION OF APPROVAL, NOTICE, AND APPEALS**

Staff recommends the Hearings Officer include the following statement as part of any approval.

The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

**This decision becomes final twelve (12) days after the date mailed**, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

**NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

**DESCHUTES COUNTY PLANNING DIVISION**

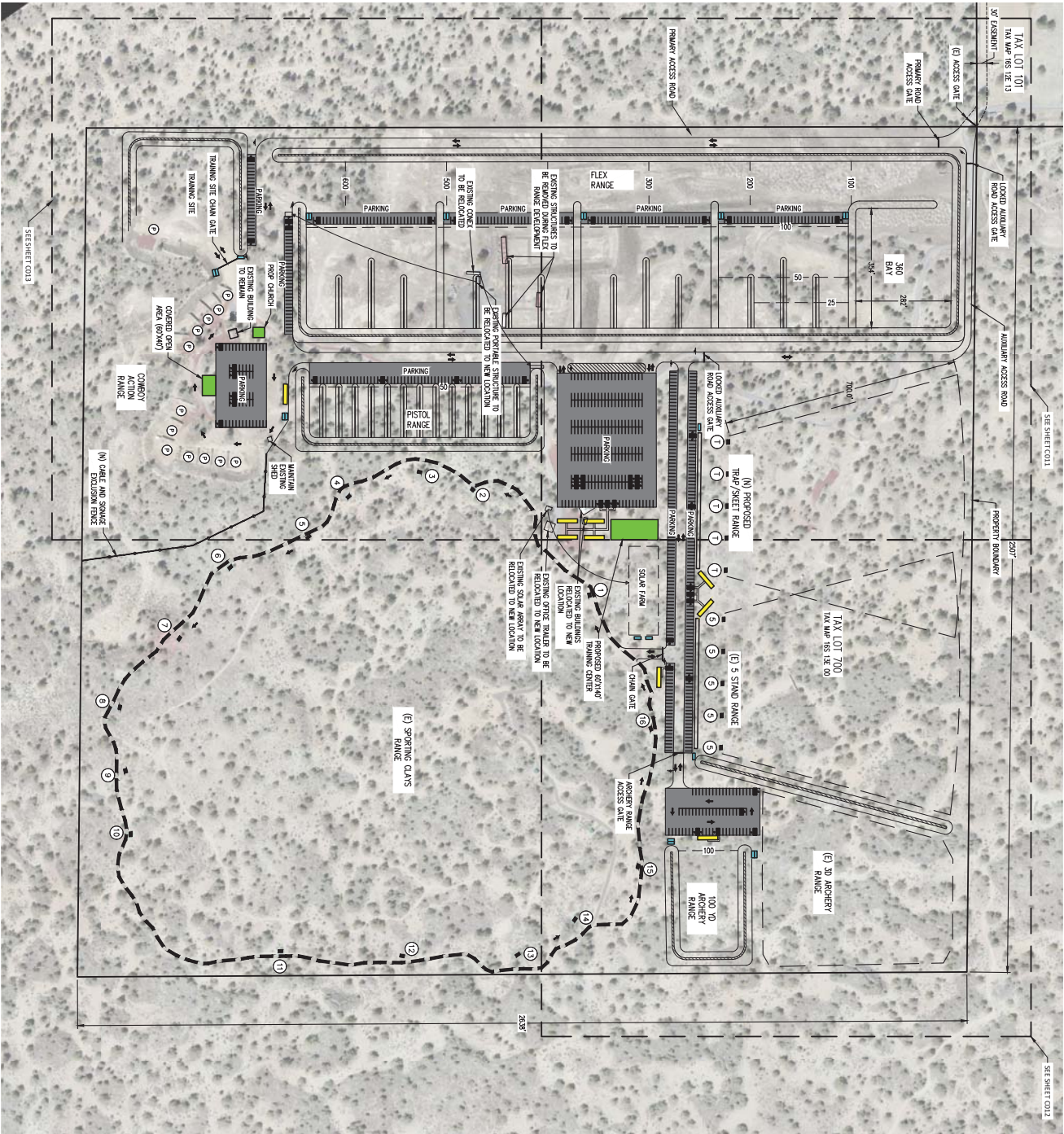


Nathaniel Miller, AICP, Associate Planner



Reviewed by: Will Groves, Planning Manager

- Attachment A:** Site Plans (22-547-MC, 518-SP, 961-MA)
- Attachment B:** Comments from Redmond Rod and Gun Club
- Attachment C:** SP-09-11, CU-09-17 Hearings Officer Decision
- Attachment D:** SP-09-11, CU-09-17 Site Plan
- Attachment E:** 15-263-CU, 264-SP HO Decision
- Attachment F:** 15-263-CU, 264-SP Site Plans
- Attachment G:** Declaration of Anticipated Noise
- Attachment H:** Conditions of Approval Agreement



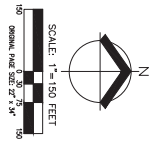
**SITE PLAN ITEMS**

PLAN ITEM	APPLICABLE?	NOTES
SCALE OF BARRIERS, HEIGHT	YES	LOT DIMENSIONS SHOWN
DIMENSIONS FOR LOTS, BUILDINGS, DRIVEWAYS AND PARKING	NO	EXISTING LANDSCAPE AREAS AND OTHER PROPOSED IMPROVEMENTS
EXISTING LANDSCAPE AREAS AND OTHER PROPOSED IMPROVEMENTS	YES	EXISTING CONDITIONS SHOWN
EXISTING UTILITIES (POWER, GAS, WATER, SEWER, SANITARY, TELEPHONE, CABLE, ETC.)	NO	EXISTING STRUCTURES SHOWN WITH ELEVATIONS, ENTRY LOCATION
STRUCTURAL DRAINAGE SYSTEM	NO	NO ADJACENT STREET OR ROW
BUILDING LOCATION, NUMBER OF LINES, FINISHED FLOOR ELEVATIONS, ENTRY LOCATION	NO	NO ADJACENT STREET OR ROW
ADJACENT STREETS AND ACCESS AND REGULATORY PATTERNS, PARKING DRIVEWAYS, LOADING AND UNLOADING	YES	SEE CONSULTATION PLAN SHEET
ADJACENT STREETS AND ACCESS AND REGULATORY PATTERNS, PARKING DRIVEWAYS, LOADING AND UNLOADING	NO	NONE ON SITE
SEWERLINES AND UTILITIES	NO	PROPOSED EXIST SHOWN
FENCES, SCREENS AND RETAINING WALLS, INCLUDING HEIGHTS AND MATERIALS	YES	NONE ON SITE
VISIBLE UTILITIES, ELECTRIC, GAS AND WATER	NO	LIGHT LOCATION SHOWN
EXISTING LIGHTING	YES	
SOIL EXISTING ELEVATIONS, MATERIALS AND COLOR	NO	
PAVING PLAN (IF APPLICABLE)	NO	
PROPOSED FIRE LANTERN/STATION	YES	ADA TRAINING STALLS SHOWN
PROPOSED PUBLIC IMPROVEMENTS	NO	
LOCATION OF WELL AND SPRING SYSTEMS	NO	

**LEGEND:**

- (E) - EXISTING FEATURE
- (N) - NEW IMPROVEMENT
- (P) - PISTOL RANGE
- (30) - 30 STAND AND BATTLE RANGE
- (T) - TRAP RANGE
- (S) - 5 STAND RANGE
- SINCE WIRE OFFICE REMOVAL (12/6/07)
- CONCRETE BOX (8/12/07)
- SHOOTING CLAY SHOOTING POSITIONS
- PERMANENT SHOOTING POSITIONS
- TRAP RANGE
- 5 STAND RANGE
- TRAFFIC FLOW DIRECTION

NOTE:  
 1. PARKING AREAS TO HAVE APPROPRIATE ADA SPACING.  
 2. EXISTING CONCRETE STORAGE BOXES TO BE RELOCATED TO DESIGNATED LOCATIONS DURING SITE DEVELOPMENT.



**PROPOSED MAIN RANGE COMPLEX LAYOUT  
 REDMOND ROD AND GUN CLUB  
 RANGE COMPLEX  
 REDMOND, OREGON**

AKS NUMBER:	9276
DATE:	12/19/2022
DESIGNED BY:	RS
DRAWN BY:	ABC
CHECKED BY:	RS



# REDMOND FIRE & RESCUE

341 NW Dogwood Avenue, Redmond, OR 97756

Phone: (541) 504-5000 Fax: (541) 526-1254

www.redmondfireandrescue.org

January 6, 2023

Nathaniel Miller  
Associate Planner  
Deschutes County  
117 NW Lafayette Ave  
Bend, OR 97703

**Re: Redmond Rod & Gun Club**

**File Number: 247-22-000517-MC, 22-518-SP, 22-961-MA**

Dear Nathaniel,

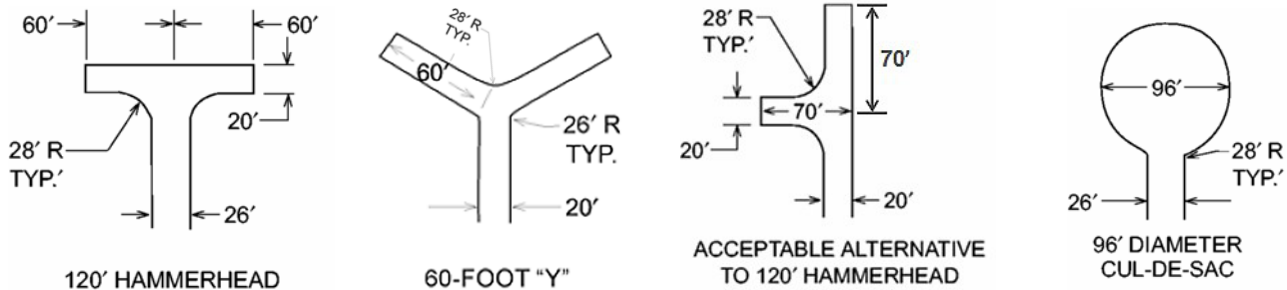
Thank you for the opportunity to review the proposed site plan surrounding the above-named development project. These notes are provided regarding the plans received January 3, 2023 and are based on the current New Construction Guide. There may be more or less requirements needed based upon the final project design, however, Redmond Fire & Rescue will endorse this proposal predicated on the following criteria and conditions of approval.

## **FIRE APPARATUS ACCESS:**

1. **FIRE APPARATUS ACCESS ROADS:** Access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into or within the jurisdiction. Exception: Approved agricultural and equine structures complying with ORS 455.315 are not required to have fire apparatus access roads (see New Construction Guide Appendix C). Access roads are not required to be modified for commercial buildings that undergo a change in occupancy, change in use, or conversion from agricultural or equine exempt to non-exempt unless there is a change to the structure's square footage or building footprint. (OFC 503.1.1)
2. **FIRE ACCESS ROADS FOR NON-BUILDING FACILITIES:** Fire apparatus access is required for uses at fixed locations that are deemed as being a "facility" by the Fire Marshal. A "facility" includes exterior storage, processing or filling areas for flammable and combustible substances and hazardous materials; piers and wharves; recreational vehicle, mobile home and manufactured housing parks, sales and storage lots; permanent outdoor assembly venues for gatherings exceeding 1,000 persons; and similar uses. Access to facilities may be modified by the Fire Marshal in accordance with OFC 104.8 based on the specific use, frequency, location and other site conditions. (OFC 503.1.1)
3. **FIRE ACCESS ROAD DISTANCE FROM BUILDINGS:** The access shall extend to within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility. (OFC 503.1.1)



4. **DEAD ENDS AND ROADS IN EXCESS OF 150 FEET (TURNAROUNDS):** Dead end fire apparatus access roads or roads in excess of 150 feet in length shall be provided with an approved turnaround. Diagrams of approved turnarounds are shown below: (OFC 503.2.5 & Figure D103.1)



**If any roadways dead end and exceed 150ft a turnaround is required.**

5. **FIRE APPARATUS ACCESS ROAD WIDTH AND VERTICAL CLEARANCE:** Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to fire hydrants (OFC D103.1)) and an unobstructed vertical clearance of not less than 13 feet 6 inches. (OFC 503.2.1 & D103.1)

**Ensure existing roadway in a minimum of 20ft wide.**

6. **TURNOUTS:** Where access roads are less than 20 feet and exceed 400 feet in length, turnouts 10 feet wide and 30 feet long may be required and will be determined on a case-by-case basis. (OFC 503.2.2)

**If roadway is less than 20ft wide turnouts will need to be added.**

7. **SURFACE AND LOAD CAPACITIES:** Fire apparatus access roads shall be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 75,000 pounds live load (gross vehicle weight). Documentation from a registered engineer that the final construction is in accordance with approved plans, or the requirements of the Fire Code may be requested. (OFC 503.2.3)
8. **TURNING RADIUS:** The inside turning radius and outside turning radius shall not be less than 30 feet and 50 feet respectively, measured from the same center point. (OFC 503.2.4 & D103.3)
9. **ACCESS ROAD GRADE:** Fire apparatus access roadway grades shall not exceed 10%. Alternate methods and materials may be available at the discretion of the Fire Marshal (for grade exceeding 10%).
10. **ANGLE OF APPROACH/GRADE FOR TURNAROUNDS:** Turnarounds shall be as flat as possible and have a maximum of 5% grade with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)

11. **ANGLE OF APPROACH/GRADE FOR INTERSECTIONS:** Intersections shall be level (maximum 5%) with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)
12. **GATES:** Gates securing fire apparatus roads shall comply with all of the following (OFC D103.5, and 503.6):
  1. Minimum unobstructed width shall be not less than 20 feet (or the required roadway surface width).
  2. Gates shall be set back at minimum of 30 feet from the intersecting roadway or as approved.
  3. Electric gates shall be equipped with a means for operation by fire department personnel
  4. Electric automatic gates shall comply with ASTM F 2200 and UL 325.

**Gates shall comply with the above.**

## **BUILDING ACCESS AND FIRE SERVICE FEATURES**

13. **PREMISES IDENTIFICATION:** New and existing buildings shall have approved address numbers; building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property, including monument signs. These numbers shall contrast with their background. Numbers shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. (OFC 505.1)

**Ensure address is visible from entrance.**

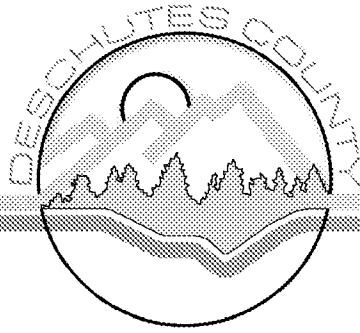
If you have questions or need further clarification, please feel free to contact me at **541-504-5010**.

Sincerely,

*Tom Mooney*

Tom Mooney  
Fire Marshal  
Tom.mooney@rdmfire.org

Cc: File



## Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

### CERTIFICATE OF MAILING

**FILE NUMBERS:** CU-09-17/SP-09-11

**DOCUMENT(S) MAILED:** Hearings Officer's Decision

**TAX LOT NUMBER(S):** 16-12-13, 101, 16-13, 700

I certify that on the 7<sup>th</sup> day of July 7<sup>th</sup>, 2009, the attached Hearings Officer's Decision, dated July 7<sup>th</sup>, 2009, was mailed by first class mail, postage prepaid, to the persons and addresses set forth on the attached list.

Dated this 7<sup>th</sup> day of July, 2009.

### COMMUNITY DEVELOPMENT DEPARTMENT

By: Bend Mailing Services

Farmland Preservation Group, LLC c/o Spencer Tabor 61144 Camden Place Bend, OR 97702	John E. Laherty, Attorney 15 SW Colorado Avenue, Suite 100 Bend, OR 97702
Elizabeth A. Dickson and Alison Hohengarten Hurley Re, P.C. Attorneys At Law 747 SW Mill View Way Bend, OR 97702	Bob Jeans 486 SW Bluff Drive Bend, OR 97702
James Pease 54949 Mallard Drive Bend, OR 97707	Gil Ash 32302 Watersmeat Fulshear, TX 77441
Dick Van Dusen P.O. Box 1291 Bend, OR 97709	Russell Scott 1368 NW City View Drive Bend, OR 97701
Chris Greenwood 160 SW Scalehouse Loop, Suite 204 Bend, OR 97702	Bill Truxal 55569 Wagon Master Way Bend, OR 97707



Lawrence D. Skovborg 333 NW Drake Road Bend, OR 97701-2315	Steven E. Timm 361 NE Franklin Avenue Bend, OR 97701
Jeffrey A. King 60175 Cheyenne Road Bend, OR 97702	Kevin Cole 36506 S. Sawtell Road Molalla, OR 97038
Kevin Hoar P.O. Box 5875 Bend, OR 97708	Kyle Sullivan P.O. Box 5875 Bend, OR 97708
Doug Winger 822 NW Wall Street Bend, OR 97701	James Muncrief Harold Jolley Jr. 60052 Cinder Butte Road Bend, OR 97702
David Swander 61582 Admiral Way Bend, OR 97702	Kecia Weaver 555 NE 15 <sup>th</sup> Street Bend, OR 97701
Danny Cannon 2775 NE 27 <sup>th</sup> Street Bend, OR 97701	Treva D. and Kurt O. Weaver 1020 SE Teakwood Drive Bend, OR 97702
Rob Dewitt 555 NE 15 <sup>th</sup> Street Bend, OR 97701	Aaron Schrader 1635 NW 2 <sup>nd</sup> Street Bend, OR 97701
Camille Morgan P.O. Box 7983 Bend, OR 97708	Kelly Patrick 20495 Swalley Road Bend, OR 97701
Scott Eaton, Nancy Viuhkola and John Putman 17905 SE 38 <sup>th</sup> Street Vancouver, WA 98683	Daniel Shaver 61520 American Lane Bend, OR 97702
Mark T. Silcocks 60774 Radcliff Circle Bend, OR 97702	Ray A. Rose 61543 American Loop Bend, OR 97702
William M. Rawson 16100 NW Cornell Road, Suite 260 Beaverton, OR 97006	Preston Prosser 61198 Day Spring Drive Bend, OR 97702
Martin Dillard 8 Mink Lane Sunriver, OR 97707	Dano Saarinen 1926 NE Hollow Tree Lane Bend, OR 97701
Michael Fassett P.O. Box 5323 Bend, OR 97709	Mark Rubbert 915 SW Rimrock Way, Suite 201-166 Redmond, OR 97756
Adam Brooks 377 SW Century Drive, Suite 102 Bend, OR 97702	Nancy Smogor 19417 Indian Summer Road Bend, OR 97702
Andrew Stearns 124 NW Franklin Avenue Bend, OR 97701	Steve Mastrud 705 NE Majesty Lane Bend, OR 97701

Vernon W. Robinson 1032 NE Paula Drive Bend, OR 97701	Greg Luke 21700 Coyote Drive Bend, OR 97702
Michael Johnston 20705 Wishing Well Court Bend, OR 97701	Ryan Duley 65600 Pronghorn Club Drive Bend, OR 97701
Joel Haffner 63232 Service Road Bend, OR 97701	Chris M. Wrench 351 South Grand Blvd. Vancouver, WA 98661
Gary A. Lewis P.O. Box 1364 Bend, OR 97709	Thomas R. and Lesley Edwards 862 NW Riverside Blvd. Bend, OR 97701
Leonard J. Swanzy 60755 Radcliff Circle Bend, OR 97701	Michael L. Dillard 1082 NW Stannium Road Bend, OR 97701
K. Robert Bates 60350 Arnold Market Road Bend, OR 97702	Jeff Dean 2650 SW Fissure Loop Redmond, OR 97756
Dave Chun 1510 NW Iowa Avenue Bend, OR 97701	Rod Webre 60281 Woodside Loop Bend, OR 97702
Terry Blaylock 61561 Twin Lakes Loop Bend, OR 97702	Brad Douglas 19461 Summerwalk Place Bend, OR 97702
Ronald Burns 1847 NW Canyon Drive Redmond, OR 97756	Del Erlandson P.O. Box 154 Sisters, OR 97759
James C. Mateski 61919 Dobbin Road Bend, OR 97702	Brandon Ladd 20707 Beaumont Drive Bend, OR 97701
Dave Kornish 19372 Piute Circle Bend, OR 97702	Josh Johnson 63232 Service Road Bend, OR 97701
Tom Hignell 20965 Country View Lane Bend, OR 97701	Gerald K. Opie 1900 NE 3 <sup>rd</sup> Street Bend, OR 97701
Bill Riser 19570 Green Lakes Loop Bend, OR 97702	Mike Lake 25345 Alfalfa Market Road Bend, OR 97701
Javan Shull P.O. Box 6164 Bend, OR 97708	Richard Gagne 52975 Riverview Drive La Pine, OR 97739
G. Randolph Grout 1141 NW Summit Drive Bend, OR 97701	Dan Ramming 1269 NW Wall Street Bend, OR 97701

Ron Adams 1565 NW Galveston Avenue Bend, OR 97701	Julie Alexander Sr. Contract Specialist Jones Land LaSalle 3017 Lou Menk Drive, Suite 100 Fort Worth, TX 76131-2800
Jed Ramey 1797 Marys Way Central Point, OR 97502	John Farwell P.O. Box 767 Libertyville, IL 60048
Jeff Perin P.O. Box 1179 Sisters, OR 97759	Molly Brown Bureau of Land Management 3050 NE 3 <sup>rd</sup> Street Prineville, OR 97754
Jay Walsh 3014 NE Rock Chuck Drive Bend, OR 97701	Matt Tomseth 61049 River Bluff Trail Bend, OR 97701
Rod Webre 60281 Woodside Loop Bend, OR 97702	Jeff Coffey 2453 NW Hosmer Lake Drive Bend, OR 97701
Greg Luke 21700 Coyote Drive Bend, OR 97702	Dano Saarinen 1926 NE Hollow Tree Lane Bend, OR 97701
Bill Harrin P.O. Box 7499 Bend, OR 97709	Dan Galecki 1909 SE Autumnwood Ct. Bend, OR 97702
George Lohr P.O. Box 6462 Bend, OR 97708	

**DECISION OF THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBER:** CU-09-17, SP-09-11

**APPLICANT:** Farmland Preservation Group, LLC  
61144 Camden Place  
Bend, OR 97702

**AGENT:** John E. Laherty  
15 SW Colorado Avenue, Suite 100  
Bend, OR 97702

**OWNER:** The Halligan Ranch, Inc.  
19855 SW Touchmark Way #C-16  
Bend, OR 97702-1945

**REQUEST:** Conditional Use Permit and Site Plan for a private hunting preserve and a sporting clays park in an Exclusive Farm Use zone. A portion of the property is also within an Airport Safety (AS) combining zone.

**STAFF REVIEWER:** Paul Blikstad, Senior Planner

**HEARING DATE:** May 12, 2009

**RECORD CLOSED:** May 27, 2009

**I. APPLICABLE STANDARDS AND CRITERIA:**

Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance

Chapter 18.16, Exclusive Farm Use Zone (EFU)

- 18.16.031, Nonresidential Conditional Uses on Nonhigh Value Farmland Only
- 18.16.040, Limitations on conditional uses
- 18.16.060, Dimensional standards
- 18.16.070, Yards

Chapter 18.80, Airport Safety Combining Zone (AS)

- 18.80.026, Notice of Land Use and Permit Applications
- 18.80.028, Height Limitations on Allowed Uses in the Underlying Zone
- 18.80.044, Land Use Compatibility Requirements
- 18.80.054, Conditional Uses
- 18.80.072, Water Impoundments

Chapter 18.128, Conditional Use

- 18.128.015, General standards governing conditional uses
- 18.128.090, Medical Clinic, Veterinary Clinic, Club, Lodge...

CU-09-17, SP-09-11  
Farmland Preservation Group LLC

- Chapter 18.124, Site Plan Review
  - 18.124.060, Approval criteria
  - 18.124.070, Required minimum standards

- Chapter 18.116, Supplementary Provisions
  - 18.116.030, Off-street parking and loading
  - 18.116.031, Bicycle parking

ORS 215.296 - Standards for approval of certain uses in exclusive farm use zones.

**II. FINDINGS OF FACT:**

- A. LOCATION:** The subject property has an assigned address of 9020 S. Highway 97, Redmond, and is identified on County Assessor’s Maps 16-12-13, as tax lot 101, and 16-13, as tax lot 700.
- B. LOT OF RECORD:** Tax lot 16-13, 700 is recognized as a legal lot of record pursuant to file no. LR-06-33. Staff believes that based on the lot of record approval for tax lot 700, tax lot 101 is left as a remainder parcel, due to the numerous building and septic permits issued for tax lot 101 (MH 2184, 13533; B 26375, 40990; S 5907, 26505, 40774, 43446), as well as the conditional use permit for a farm dwelling (CU-89-35) issued for both tax lots.
- C. ZONING:** The subject property is zoned Exclusive Farm Use – Alfalfa subzone (EFU-AL), and is designated Agriculture by the Deschutes County Comprehensive Plan. A portion of the subject property (all of tax lot 101, the northwest portion of tax lot 700) is also located within the Airport Safety (AS) combining zone associated with the Redmond Airport.
- D. SITE DESCRIPTION:** The subject property includes both tax lots listed above (101, 700) for a total of approximately 223 acres and has a varied topography of some generally level areas, and rock outcrops. There are two existing dwellings and the buildings listed above located on tax lot 101. Tax lot 700 has no structures and is currently undeveloped. The property is accessed from an existing private driveway that extends from Highway 97 across adjacent property to the west. The driveway has a cinder/gravel surface and is wide enough for only one-way traffic. The property contains juniper trees and scrub brush on the undisturbed portions of the property, and dead grass and weeds on the disturbed (previously irrigated) portions of the property. The property is fenced and cross-fenced, and has existing llamas within fenced areas (on tax lot 101).

The subject property has the following soil types as shown on the Natural Resource Conservation Service map: 142B, Stukel-Rock outcrop-Deschutes complex, dry, 0 to 8 percent slopes; 138A, Stukel sandy loam, 0 to 3 percent slopes. Neither of these two soil types are considered high value soil, as that term is defined in DCC 18.84.030. The entire property is thus considered nonhigh value farmland.

- E. SURROUNDING PROPERTY:** Tax lot 101 is surrounded by BLM lands and is bordered by the Burlington Northern Santa Fe Railway (“BNSF”) rail line.

The railroad sits atop a berm which effectively separates the subject property from other properties to the west. Tax lot 700 is similarly surrounded by BLM lands and a parcel owned by the State of Oregon.

- F. PROPOSAL:** The applicant is proposing to establish a private park and hunting preserve, which will include low-flying upland game birds, such as chukar, quail and pheasant, and a sporting clays facility on the property.

The applicant states that tax lot 101 has two existing dwellings, one of which is to remain as the dwelling of the current owner, and the other is to become the dwelling of the applicant. Tax lot 101 is to be used as a parking and staging area for the hunting preserve, as well as the site for raising the birds for the hunting preserve, and will also serve as the parking and staging area for the sporting clays use. The applicant is proposing to install removable pens for the birds on tax lot 101. Tax lot 101 also has several accessory structures, including a barn, equipment shed, hay cover and a garage/shop building. The applicant is proposing to convert a portion of the existing garage/shop building into an office and staging facility for the two uses.

Tax lot 700 is to be used for the hunting preserve and sporting clays course, and will be left mainly in a natural state. The applicant intends to place approximately 15 portable clay shooting machines on tax lot 700 for the sporting clays course, and one moveable storage container for storing the clay shooting machines, clays, and related equipment and supplies. No permanent structures are proposed on tax lot 700.

The applicant has submitted a burden of proof statement, site plan drawings, a copy of the current deed, aerial photo copies, and shooting diagrams, as part of the applications. The applicant has also submitted a supplemental letter dated April 30, 2009, addressing issues raised by an opponent to the applications.

- G. PUBLIC AGENCY COMMENTS:** The Planning Division sent notice of the land use applications to several public agencies and received the following responses:

**County Road Department:**

Background information:

- Per the applicants supporting documentation, this application is accessed off of Highway 97 by an existing unrestricted 60-foot wide easement over tax lot 502, a 40-foot wide right of way over tax lot 602 (#OR3666) and a private crossing permit over the tracks of BNSF railroad (permit #CS17002). The applicant also has an ODOT access permit (#10A35319) for the driveway access on Highway 97. This application does not affect any existing county

roads but ODOT and ODOT rail section should be notified of this project as it does affect their facilities.

- Deschutes County is planning on extending 19<sup>th</sup> Street from Redmond south to Deschutes Junction. There is no timeline yet on the construction but we are in the process of updating the TSP to include this project and are also working with the BLM on getting a right of way grant across BLM property. This project will impact this property in the future as it will require a 100-foot dedication for right of way adjacent to the east side of the railroad tracks. The Road Department has had contact with Halligan Ranch concerning the 19<sup>th</sup> Street Project.

**County Environmental Health Division:**

Two septic systems on the property, both for single family residential use. If they are using the house for lodging, entertaining or business office, an authorization notice is needed for the septic system. If providing lodging or food service, they need to apply for a license.

**Oregon Department of Transportation:**

We would request a condition of approval on the proposed land use action that all access to US 97 be relinquished and extinguished from the subject property when alternative access is provided to a lower order facility. Prior to making application for land use approvals, I responded to a request about access to this property and have attached the letter for your information. Due to the low number and off-peak nature of the added trips, ODOT does not oppose the request as long as a rescission of access clause is included in any approval order.

**Redmond Fire Department:**

The Department submitted a 3-page list of fire code requirements, which is incorporated herein by reference.

**Bureau of Land Management:**

Thank you for the opportunity to comment on the proposed Private Hunting Preserve and Sporting Clay Course proposed adjacent to public land near Redmond. This proposal is covered by applications CU0917, SP0911 – 16-12-13, 101 from “Farmland Preservation Group LLC.” Summarized below are my comments regarding the effect this development could have on public land resources, the history of BLM rights of way (ROW) for that area, and a reminder that the area may be impacted by the 19<sup>th</sup> Street extension.

My primary concern with the proposal is public safety. It is important that there be adequate setbacks from both the sporting clay course and the hunting preserve

area to prevent shooters from firing shot onto the adjacent public lands. I am concerned about direct effects from shot striking people, as well as indirect environmental effects from lead contamination. While the area is fairly flat, and runoff may not be an issue, the County may still want to require the use of steel shot and biodegradable clay pigeons to minimize potential toxic accumulations on the subject parcel.

On May 4, 1984, BLM granted Reginald Halligan an access ROW (serial number OR 36666) for a term of 30 years with a right of renewal. The ROW is 40 feet wide by 1,360 feet long, incorporating approximately 1.26 acres. On April 12, 1985, BLM approved a name change, assigning the ROW to The Halligan Ranch, Inc. Any ROW holder has the right to request an amendment to their ROW grant. The BLM would need to complete an environmental analysis and potentially address reasonable alternatives, prior to approving any modifications to the ROW. The ROW will expire on May 3, 2014, at which time the BLM will consider whether or not to reissue the grant. If it is reissued, the BLM may require changes.

It appears a portion of the existing BLM ROW grant is not being used (that portion in T 16S, R 12E, Section 13, NESE). Instead, another access has been created across BLM managed public land in T 16S, R 13E, Section 18. This alternate route is not an authorized route for personal access or commercial access to the property.

As you are aware, the BLM's 2005 Upper Deschutes Resource Management Plan (available on the BLM's website <http://www.blm.gov/or/districts/prineville/plans/deschutesrmp/index.php>) designated a transportation corridor through this area, from the end of 19<sup>th</sup> Street in Redmond to Deschutes Market Road. Deschutes County has recently proposed a six mile long, 100 foot wide road in this corridor, running adjacent to and east of the railroad tracks. Based on the County map, the road appears to traverse through tax lot 101 (Halligan Ranch).

**County Assessor's Office:** The property is currently under deferral.

**County Building Division:** Any structure to be built will require permits and proper plan review as per 2007 OSSC.

**Bend Fire Department:** I was looking over the site plan review for 9020 S. Highway 97, CU0917/SP0911. This application is actually not in our fire district; this falls into Deschutes County Rural Fire District #1, Redmond Fire Department. The contact there is Traci Cooper, Fire Marshal.

**County Transportation Planner:**

I have reviewed the submitted materials and no traffic analysis will be required. The site plan does not have any structures that will penetrate the imaginary surfaces described in the Airport Safety (AS) zone.



I would add to the record that Deschutes County is in the preliminary stages of amending its TSP map to add 19<sup>th</sup> Street, a future rural arterial, between Bend and Redmond on the east edge of the BNSF railroad right of way. The alignment will cross the parcel and will need 100 feet of right of way.

Finally, the applicant will need to pay a transportation system development charge (SDC). Neither our SDC chart nor the ITE trip generation manual has a category for sporting clay or private hunting preserve. We will need to work with the applicant's traffic engineer to determine an appropriate and acceptable SDC. Please let me know if you have any questions.

A second response from the Transportation Planner states:

If the applicant claimed 80 trips a day when discussing the approach road to the highway, did they enter similar info in their land use application. As the 80 trips are on the record based on the applicant's own info, then they would need to do a traffic site analysis based on DCC 17.16.115(C)(4), which requires traffic analysis for land use proposals that generate more than 50 daily trips.

**Burlington Northern Santa Fe Railway:**

Thank you for your invitation to respond to the proposed use of tax lots 101 and 700 in Deschutes County, Oregon. From the information you provided, it appears that the property is currently owned by The Halligan Ranch, Inc. ("Halligan") one of the members of Halligan will continue to reside on the property. In addition, the property will be leased by Farmland Preservation Group, LLC ("Farmland") who will have an option to purchase the property after the expiration of their lease. Farmland intends to operative a private hunting preserve and sporting clay course on the subject property.

Access to the property is via a private roadway east of the existing Highway 97 which crosses the tracks. At present this is the only access to the property.

At BNSF Railway Company, safety is the highest property (sic). Each at-grade crossing presents the opportunity for collision to occur. Every year, needless injuries occur due to driver inattentiveness at grade crossings. In connection with the proposed development of the property, it would be beneficial to develop alternative access to the property which does not cross the railroad tracks. This would be the best and safest access to the property.

In the event this is not practicable, the continued and proposed use of the private at-grade crossing located at or near Redmond/Bend, Deschutes County, Oregon would only be granted provided both Halligan and Farmland execute BNSF's standard private crossing agreement for use of the crossing and procure the necessary insurance in connection therewith. If alternate access to the subject parcels cannot be developed, please ensure that The Halligan Ranch, Inc. and Farmland Preservation Group, LLC contact Ms. Julie Alexander to secure the necessary application and agreement for use of the crossing. BNSF requests that this condition be a condition precedent to the approval of the site use plan by the County.

**Oregon Department of Fish and Wildlife:**

It has come to our attention that there is some concern about Golden Eagle use of the applicant's property and the potential impacts to Golden Eagles from the activity associated with a shooting preserve. Additionally there seems to be concern about the release of birds and their potential for airport combining zone safety.

There are no known Golden Eagle nest sites within ¼ mile of this property. The closest known Golden Eagle nest site is about 2.75 miles from the property. The activity associated with this application would not have an effect on any known nesting Golden Eagles.

Golden Eagles do forage in this area and are relatively common. Hunting game birds in areas frequented by Golden Eagles for foraging appears to not have any effect in their use of the area. If there are concerns about the potential for killing Golden Eagles associated with game bird hunting, this is already an illegal activity by federal and state laws and is not common. Most of the incidences of illegal take of eagles comes from non-hunters and it is a rare occurrence that a hunter could mistake an eagle for a legal game bird.

Game birds raised and released at this location (pheasant, quail, chukar) are birds that typically do not go far from the release location, have very poor survival in the wild locally, and are low flying birds. Since the location of this application is about 4 miles from the closest airport, the changes of these types of birds causing a problem with aircraft would be extremely rare. There are more problems associated with higher flying birds (eagles, hawks, geese) than the types of birds that would be released.

**County Property Address Coordinator, Pacific Power and Light, and the Redmond Airport Manager:** No comment responses.

No response was received from: **Central Oregon Irrigation District, Watermaster's Office, Central Electric Cooperative, Qwest, Oregon Department of Environmental Quality.**

- H. PUBLIC COMMENTS:** The Planning Division sent notice of the proposed land use applications and public hearing to all property owners within 750 feet of the subject property. One response (10-page letter) to the notice was received from the attorney for the Jeans' property (16-12-13, 502), through which the subject property takes access. The Jeans oppose the application.
- I. NOTICE REQUIREMENT:** The applicants have complied with the posted notice requirements of Section 22.23.030(B) of Title 22. The applicants have submitted a Land Use Action Sign Affidavit, dated March 13, 2009, indicating that the applicant posted notice of the land use action on that date at a location on Highway 97.
- J. PROCEDURAL HISTORY:** The subject property was approved for a farm dwelling under conditional use permit application no. CU-89-35 (a temporary use permit – TU-89-9 was submitted with CU-89-35). Staff stated they were unsure

why a conditional use permit was necessary, as the permit history shows a placement permit for a manufactured home (MH 2184) approved in 1984, and a subsequent manufactured placement permit from 1997 (MH 13533). Additionally, a building permit for a conventional home (B 26375) was approved in 1989. Septic permits were issued for two septic systems on the property (S 5907, 26505).

A conditional use permit (CU-00-87) for a wireless telecommunications facility (150-foot metal lattice tower) was denied in January of 2001 on the property. An appeal of this denial was submitted, and the Deschutes County Board of Commissioners, through Order no. 2001-024, denied review of the appeal.

These conditional use and site plan applications were submitted on March 2, 2009. The applications were accepted and deemed complete on April 1, 2009. On May 12, 2009 a public hearing was held on the application. The applicants were represented by attorney John Laherty and Spencer Tabor. The following individuals testified in favor of the application: Jay Walsh, John Harrold, Gary Lewis, Matt Tomseth, Rob Webber, Jeff Coffey, Greg Luth, Daniel, Saannen, Bill Harrid, George Lohr, Dan Galecki, Charlie Rowles. David Agee from BNSF testified as a neutral party. Attorney Alison Hohengarten, representing the Jeans Estate and Trust, and Bob Jeans testified in opposition to the application.

During the hearing, Alison Hohengarten requested that the record be left open to allow additional information to be submitted. I granted all parties seven days to submit information into the record. The applicant was granted seven more days for a final response. Elizabeth Dickson, representing the Jeans, submitted a letter on May 19, 2009. On May 27, 2009, John Laherty submitted a letter on behalf of the applicant.

During the period in which the record was left open, Elizabeth Dickson, via e-mail, requested that the record be held open for a second period to rebut new materials in the record. This request was also included in her letter of May 19, 2009. In a May 20, 2009, Mr. Laherty objected to the request. In order to clarify the requirements of state law and the relevant county code provisions which control when the record may be reopened, on May 20, 2009, I provided via e-mail the following statement to Paul Blikstad:

“Paul – all parties need to have a look at ORS 197.763(6 & 7). These sections spell out the rights of the parties and applicant. I’m not going to reopen the record without a demonstration that new argument or evidence was submitted prior to the record closing yesterday. The applicant’s final rebuttal is limited to argument – so no new evidence should be included in that submission. This is consistent with the instruction I gave to the applicant at the hearing – that rebuttal should be limited in scope to what has been submitted during the first 7 days in which the record was held open.”

The public record closed on May 19, 2009. Ms. Dickson’s letter was the only evidence or argument submitted during that time. The applicants had until May 27, 2009, (an extra day was added to account for the Memorial Day holiday) to submit their final statement. Mr. Laherty’s May 27, 2009 letter is that final statement. I find that this letter is limited to responding to Ms. Dickson’s May 19, 2009, letter and to arguments made by Ralph Griffin during the May 12, 2009

hearing. I find that the letter does not raise new argument. However, the letter contains two affidavits which are strictly speaking new evidence. These affidavits are intended to support the rebuttal.

Subsequent to the close of the applicant's rebuttal period on May 27, 2009, no party requested that the record be reopened to respond to new evidence or argument. Absent such a request, I decline to reopen the record. To the extent the affidavits are even relevant to the decision criteria applicable to this application, I find that they are sufficiently related to arguments already made in the applicant's burden of proof and at the May 12, 2009, hearing that opposing parties had the opportunity to prepare for and submit opposing testimony during the May 12, 2009 hearing or the time the record was left open.

### **III. CONCLUSIONS OF LAW:**

#### **A. Chapter 18.16, Exclusive Farm Use (EFU-SC) zone.**

##### **1. Section 18.16.031, Nonresidential Conditional Uses on Nonhigh Value Farmland Only.**

**The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute nonhigh value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.**

##### **E. Private parks, playgrounds, hunting and fishing preserves and campgrounds.**

**FINDING:** The applicant is proposing a private hunting preserve and a sporting clays facility under the above provision of the county code. The staff report states that the subject property has soil types (142B, 138A) which are not designated high value soils, establishing the entire property as nonhigh value farmland. This information is undisputed.

Opponents argue that the proposed use does not fit within the permitted uses authorized by DCC 18.16.020. The applicant has not applied under that section of the code.

DCC 18.16.031(E) allows private parks and hunting preserves on EFU land if the conditional use criteria are met. The authorizing state statute allowing private parks and hunting preserves on farmland is ORS 215.283(2)(c) from which DCC 18.16.031(E) is derived. Neither state statute nor the county code provides a definition of "private park" or "hunting and fishing preserves."

The County has previously approved two "recreational" uses as private parks in the EFU zone. In CU-07-63, Hearings Officer Karen Green found that the key element in applying this provision is to consider whether the applicant is proposing to put the land to use for some outdoor recreational purpose. In that decision, she found that DCC 18.16.031(E) properly applied to a trap shooting range. In CU-07-09, Hearings Officer Green approved a private paintball park as a conditional use under DCC 18.16.031(E). In that opinion she found:

“I find there is no meaningful distinction between the characteristics of the trap club and the characteristics of the proposed paintball facility. Both involve the use of a private parcel by members of a private club and their guests for an organized activity involving shooting at targets – shooting lead pellets at clay targets in the case of the trap club, and shooting paintball pellets at game participants in the case of the proposed paintball facility. Therefore, I find the paintball park also constitutes a “private park” permitted conditionally on the EFU subject property.”

I find that the proposed sporting clays activity is sufficiently similar to the trap club in CU-07-63, and the paintball park in CU-07-09, that it may be considered under DCC 18.16.031(E). The proposed hunting component involves the raising of game birds and the periodic release of those birds on the property for sport hunting. The raising of game birds is consistent with the EFU zone in and of itself. The proposed hunting activities reasonably fall under the concept of a hunting preserve as allowed by ORS 215.283(2)(c) and DCC 18.16.031(E).

**2. Section 18.16.040, Limitations on conditional uses.**

**A. Conditional uses permitted by DCC 18.16.030(F) through (BB) may be established subject to applicable provisions in DCC 18.128 and upon a finding by the Planning Director or Hearings Body that the proposed use:**

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm or forest use; and**
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and**
- 3. That the actual site on which the use is to be located is the least suitable for the productions of farm crops or livestock.**

**FINDING:** For the purposes of these provisions the staff report considered the area of analysis that is generally a 1-mile radius surrounding the property, which is similar to the “area” relied upon for the review of nonfarm dwellings.

**DCC 18.16.040(A)(1 & 2)**

DCC 18.16.040(A)(1 & 2) are the local implementing measures for ORS 215.296(1)(a & b). Findings responding to those county code provisions satisfy the requirements of ORS 215.296.

The only nearby farm practice identified in the record is the Jeans’ farm which is located to the west of the subject property and also west of the BNSF railroad berm which is approximately 12 feet in height and effectively isolates the subject property from lands to the west.

In the Jeans' letter of March 25, 2009, it is asserted that the increased traffic on the access road to the subject property will impact the Jeans' horse herd and restrict the Jeans' ability to expand their use to include a training facility and breeding, and pasturing of "warm-blooded" breeds. Testimony offered by Bob Jeans at the May 12, 2009 hearing clarified that the Jean's Estate and Trust properties are about 95.5 acres in size. Of that, 41 acres are currently for sale as a horse farm, with the balance for sale for farm use consistent with EFU zoning.

The applicant provided three pieces of evidence on sound impacts that may occur as a result of shotgun fire and traffic resulting from the proposed use. The first is a report by acoustical engineer Author Noxon. Although his analysis focuses on the noise impact of shotgun fire from sites adjacent to the Jeans' property, he also measured the ambient traffic noise registered from Highway 97 which is immediately adjacent to the Jeans' property. The second is a letter from Angel Gnau of Pacific Equine Appraisal. The third is a May 11, 2009 letter from Timothy Elliot of JT Racing Stable, Inc.

The staff found, and I agree, that there would be some increased noise from both the vehicles traveling to and from the Halligan's property. There would also be additional noise created by the use of shotguns for both the sporting clays use and the private hunting preserve. However, the opponents have not demonstrated that either of these factors will actually cause a "significant change" in farming practices or significantly increase the cost of farm practices on the Jean's property.

As for traffic, the applicant has submitted a trip generation report for the proposed use, prepared by Gary Judd, Traffic Engineer. The traffic report indicates a total of 45 new trips to the site per day as the maximum number of trips produced by the proposed uses, with up to 16 trips in the p.m. peak hour. The staff report states, and I agree, that the horse operation has the existing traffic on Highway 97 adjacent to it, and this traffic includes thousands of vehicle trips per day. It is simply implausible that 45 additional trips per day (at the most) would somehow be more disturbing to the horses stabled on the Jean's property than the existing traffic on Highway 97. The letter from Angel Gnau addresses this point directly and states that the additional vehicle use of the access road will not have any impact on the horses or other agricultural uses on the Jeans' property.

As for gunshot noise, Mr. Noxon's noise report concluded that the noise from shotguns would be virtually undetectable from the surrounding ambient noise. Additionally, the noise report indicated that traffic noise from the highway made the noise from vehicles on the driveway undetectable. Staff concluded, and I agree, that based on the applicant's submittals from the noise and equine experts, the proposed use would not force a significant change in accepted farm practices on adjacent lands devoted to farm use or significantly increase the cost of farm practices on surrounding lands.

Opponents also asserted that the applicant's proposal will increase the usage of the private crossing of the BNSF railroad which is adjacent to the Jeans' property – which might disturb horses stabled at their property due to increased rates of warning whistles from incoming trains. At the May 12, 2009, hearing I asked the BNSF representative if such warning whistles would result. His response was that trains are not required to sound their warning whistles at private crossings and generally do not do so. Based on this response, I find that it is unlikely that the increased number of vehicle trips will trigger a consequent increase in warning whistles from BNSF trains, and therefore, also find that there is no basis for believing horses on the Jeans' property will be affected.

Staff found, and I agree, that none of the adjoining properties have any forest use associated with them. These criteria are met.

DCC 18.16.040(A)(3)

The existing dwelling and outbuildings are located on the developed portion of the property (tax lot 101). Tax lot 101 is proposed to be used for the parking and staging area for both proposed uses. The sporting clays and hunting preserve shooting activities are to occur on tax lot 700. Staff found, and I agree, that the parking and staging areas would be on the portion of tax lot 101 least suitable for farm use, as they include existing areas for parking and use of the existing buildings for registering and organizing the members for the sporting clays and hunting preserve activities.

Opponents argue that areas used for the sporting clays course will be taken out of agricultural production. The applicant has indicated that the sporting clays will be conducted on the unirrigated portions of tax lot 700, where no farm use occurs. The applicant also states that to the extent any portion of the irrigated land is used for hunting, the land will only be used after the last crop of the year has been harvested. Staff's site visit showed that there is no current farm use on tax lot 700. Based on this information and the record, I find that the proposed uses will occur on areas of the subject property which are least suitable for farm use. This criterion is met.

**3. Section 18.16.060, Dimensional standards.**

- E. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.**

**FINDING:** The applicant is proposing only small movable structures for the propagation of upland birds. These structures will be required to meet the height requirement above. This criterion is met.

**4. Section 18.16.070, Yards.**

- A. The front yard shall be 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector, and 100 feet from a property line fronting on an arterial.**
- B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on parcels or lots with side yards adjacent to a property currently employed in farm use, the side yard shall be a minimum of 100 feet.**
- C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on parcels or lots with rear yards adjacent to a property currently employed in farm use, the rear yard shall be a minimum of 100 feet.**
- D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.**

**FINDING:** The applicant is proposing small structures for the propagation of the upland game birds on the site. The above setbacks shall apply to any new structures proposed for the site. This criterion is met.

**B. Chapter 18.128, Conditional Use**

**1. Section 18.128.015, General standards governing conditional uses.**

**Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:**

**A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:**

**1. Site, design and operating characteristics of the use;**

**FINDING:** The site for the proposed hunting preserve and sporting clays facility is an existing ranch that consists of two tax lots totaling approximately 223 acres, which has two existing dwellings, a shop building, equipment shed, barn, animal (llama) shelters, irrigated areas and dry areas, as well as driveways. The site has a somewhat varied topography of mostly level areas, as well as some rock outcrops. The site is accessed from a private road extending east from Highway 97, through adjacent private property (tax lot 502) and public property (tax lot 602) to the west. The proposed location for the sporting clay and hunting preserve uses (specifically the shotgun shooting) are on tax lot 700. The parking and staging area for registering and organizing the patrons of the uses is to occur on tax lot 101, adjacent to the existing dwellings and other buildings.

The design of the proposed sporting clays and hunting preserve uses will include the use of tax lot 700 for approximately 15 small, portable clay shooting machines, and one moveable storage container for storing the clay shooting machines, clays and related equipment and supplies. The applicant is proposing to conduct the sporting clay shooting primarily on the unirrigated portions of tax lot 700. The applicant is proposing small buildings for the raising of the upland game birds at the site. The applicant proposes to convert a portion of the existing garage/shop into an office and staging facility for registering and organizing the members on the site.

The operating characteristics include both sport clay shooting and the hunting of low flying upland game birds, such as quail, pheasant and chukar, and only during the periods as allowed by law (August 1<sup>st</sup> through March 31<sup>st</sup> according to the applicant). The applicant intends to release birds raised on tax lot 101 into the preserve (tax lot 700) to supplement naturally existing prey. The applicant indicates that the release and harvest of these birds will be in accordance with all applicable ODFW requirements. The sporting clay use is to be open year round. The applicant states that members and guests using the property will only be permitted on an advanced reservation basis, and activities will only be conducted during daylight hours.

The applicant has stated that during the hunting season, use of the property will be limited to two groups per day, and the rest of the year it will be three groups per day.



Groups will consist of no more than 12 people, and only one group will be allowed on the course at any time.

## 2. Adequacy of transportation access to the site; and

**FINDING:** Access to the subject property is from Highway 97 via an easement through the adjacent property to the west (16-12-13, 502). The applicant also has access through BLM property (16-12-13, 602). The existing access road is approximately 12 feet wide with a cinder road surface. The Oregon Department of Transportation has not opposed the proposed uses, provided there is a rescission of the Highway 97 access for the subject property, when the alternative access (19<sup>th</sup> Street in Redmond) is available. The proposal is estimated to produce up to 45 daily vehicle trips into the site. According to a December 23, 2008 letter from ODOT Regional Planner James Bryant, that level of increase would not trigger a change in use permit.

The construction of the 19<sup>th</sup> Street extension may take a number of years, and the applicant should be limited to the three groups per day limit as proposed in the application, as long as access to Highway 97 remains.

The record includes a request from BNSF, that the applicant and the owners of the property execute a new private crossing agreement with BNSF, that would include the necessary insurance mentioned in their response. BNSF has requested that this be required as a condition of approval. Such a condition will be imposed.

The Jeans argued both at the hearing and in written materials that the road easement (over tax lot 502) that serves tax lots 101 and 700 is restricted and cannot be utilized for the proposed sporting clay and hunting preserve uses. The Jeans assert that the easement is limited to the uses to which it was put in 1985 when the easement was created by judicial act by the Deschutes County Circuit Court. The Jeans contend that the easement may not be used for “commercial” purposes, and that approving the application would transform the easement from a private to public easement, and that even if the easement could support the proposed use on tax lot 101, that the easement cannot serve lot 700.

The applicant responds that the 1985 Circuit Court order merely interpreted the existing deed language which identified an easement over what is now the Jeans’ property in favor of the current owners of tax lots 101 and 700 – the Halligan’s. The applicant argues that the terms of the easement are clear on their face and that the easement is unrestricted in terms of scope and use. In particular, the applicant argues the easement does not prohibit access for commercial uses. The applicant cites *Criterion Interests, Inc. v. The Deschutes Club*, 136 Or App 239 (1995) for the proposition that if an easement is unambiguous on its face and contains no restrictions or limitations it may be used for any reasonable purpose and is not limited in scope.

I agree with the applicant. The question of the easement’s purpose has already been determined by the Deschutes County Circuit Court. The court’s order does not create an easement by judicial act. The court’s decision simply interprets the 1982 deed from Marilou Cross the Swansons who in turn conveyed the property to the current owners. The court held, “ \* \* \* the deed from Cross to Swanson does not contain a patent ambiguity. It purports to convey exactly what it does convey, a roadway easement in favor of the Defendants over the property now owned by the Plaintiffs.” The Halligans were the defendants in that case.

The Jeans request that the Hearings Officer participate in exactly the exercise rejected by the Court of Appeals in *Criterion Interests*. In that case, The Deschutes Club alleged that an easement over their land was limited to agricultural uses even though the language of the easement did not contain that language. They also argued that the easement was restrictive by virtue of not listing all the permitted uses of the easement. The Court of Appeals rejected both arguments.

The nature of the access easement in favor of the Halligans has already been unambiguously interpreted by the circuit court. It contains no limitations on scope or use. It does not prohibit commercial uses. The easement is also clearly a private easement. However, I find that this fact is not relevant to fulfilling this criterion. The applicant is not proposing to open the proposed park and hunting preserve to the public. The burden of proof states that use will be limited to members and quests who will use the park only by appointment. As to the question of whether the easement is restricted to benefit only tax lot 101, I find that a reasonable interpretation of the 1982 deed is that the access roadway was intended to benefit all of the parcels conveyed by the deed. If this were not the case, lot 700 would have no access at all. That would be an irrational interpretation. In any event, the application states that members and guests will access lot 700 by foot. Since the access easement is unrestricted, what members do or where they walk having once arrived at tax lot 101 cannot be controlled by the terms of the access easement.

As a final matter, Richard Jeans argues, in an attachment to Elizabeth Dickson's May 19, 2009 letter, that somehow the county is making a conditional use determination on tax lot 502 which the applicant does not own. He asserts that a separate conditional use approval must attach to tax lot 502 for the current application to be valid. I disagree. Ownership of tax lot 502 is not relevant to this application. The only facts that are relevant are those discussed above – which show that the Halligans hold a roadway access easement over tax lot 502. That the legal description of tax lot 502 and the fact that the easement extends to most or all of the land area of the tax lot does not affect either the Jeans' ownership of the lot or the Halligans right to use the roadway over the tax lot for access to the subject property.

For all these reasons, I find that transportation access to the site is sufficient to comply with this criterion.

**3. The natural and physical features of the site, including but not limited to, general topography, natural hazards and natural resource values.**

**FINDING:** The natural and physical features of the site include the existing trees, scrub brush and grasses in unirrigated areas, as well as the natural topography. The level topography of the subject property appears to be well suited for a hunting preserve, by having areas of cover for the game birds, which can be accessed on foot, to reach the hunting areas. Based on the amount of gravel/cinder areas on the site, it does not appear that any additional ground will be needed for parking. According to the staff report, there are no apparent natural hazards associated with the property. The applicant is proposing to retain the natural resource values of farming, vegetation, wildlife areas, and open space of the site. This criterion is met.

**B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in (A) above.**

- C. **These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.**

**FINDING:** Staff concluded, and I agree, that the proposed hunting preserve and sporting clay facility should have little impact on farming activity in the area. The farm use to the west is separated from the proposed sporting clay and hunting preserve uses by the railroad berm as well as hundreds of feet of distance, which includes a dense cover of juniper trees. The other adjacent property is all public land under the administration of the BLM, and some State of Oregon-owned property. These public lands will likely continue to be managed for open space and recreational uses. The BLM has raised concern with the possibility of hunters from the site shooting in the direction of public land, possibly striking people, and well as indirect environmental effects from lead contamination. The applicant has proposed a lead management plan as recommended in the US Environmental Protection Agency publication Best Management Practices for Lead at Outdoor Shooting Ranges, and has submitted an environmental stewardship plan to the EPA for its review. Following these best management practices will be a condition of approval.

2. **Section 18.128.040, Specific Use Standards.**

**A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through 18.128.370.**

**FINDING:** Consistent with the Hearings Officer's decisions for CU-07-63 and CU-07-79, the proposed hunting preserve and sporting clays uses are subject to the standards listed below.

3. **Section 18.128.090, Medical Clinic, Veterinary Clinic, Club, Lodge, Fraternal Organization, Community Center, Grange Hall, Golf Course, Horse Stable and Horse Events Requiring Conditional Uses, Grounds and Buildings For Games or Sports, Country Club, Swimming, Boating, Tennis Clubs and Similar Activities, Government Structures and Land Uses, Parks, Playgrounds.**

**In considering the above, the Planning Director or Hearings Body may authorize the conditional use after it has been determined that the following will be provided:**

- A. **Access from principal streets subject to Deschutes County Road Department standards.**
- B. **Off-street parking subject to DCC 18.116.030.**
- C. **Building and site design provisions, including landscaping, that will effectively screen neighboring uses from noise, glare, odor and other adverse impacts.**
- D. **Playgrounds, recreation facilities and community centers in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.**

**FINDING:** Staff believes, and I agree, that the “grounds and buildings for games or sports” language above most likely encompasses the proposed hunting preserve and sporting clays uses.

As indicated in foregoing findings, access to the subject property is from a private driveway extending from Highway 97. The ODOT has indicated that based on the relatively low number of vehicle trips associated with the proposed uses, no specific improvements to the highway are necessary. However, when 19<sup>th</sup> Street is extended from Redmond to the subject property, ODOT will require rescission of the access to Highway 97 for the Halligan property. This will be a condition of approval.

Off-street parking is addressed below. The proposed uses will not require any special building or site design provisions. The only changes to the site will include some bird enclosures, and the installation of an office in the existing garage/shop building. There should be no significant impacts from noise, glare or odor from the proposed uses. Based on the applicant’s noise study, neighboring properties will not experience adverse noise impacts.

The subject property is not located within a wildlife area combining zone. The record contains some discussion of whether Golden Eagles might visit the area from time to time. Information from the Oregon Department of Fish and Wildlife, which is in the record, shows that the presence of Golden Eagles is infrequent, and potential harm to eagles is remote.

These criteria are met.

**C. Chapter 18.80, Airport Safety Combining Zone**

**1. Section 18.80.026, Notice of land use and permit applications within overlay zone area.**

**Except as otherwise provided herein, written notice of application for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.**

**For the Redmond, Bend, Sunriver and Sisters airports:**

- A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 10,000 feet of the sides or ends of a runway.**
- B. Notice of land use and limited land use applications shall be provided within the following timelines.**

2. **Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use applications.**
3. **Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.**

**FINDING:** Notice of the proposed conditional use permit/site plan applications for the hunting preserve/sporting clays uses was sent to both the airport sponsor (Redmond Airport) and the Oregon Aeronautics Department (Dept. of Aviation). The Redmond Airport Manager submitted a “No comments” response. The Department of Aviation did not respond, and the subject property is outside the Federal Aviation Administration notification area.

Satisfying these criteria requires no more than providing notice to the identified agencies. The applicant has done so. To that extent these criteria are met.

Citing DCC 18.80.010, opponents argue that the low flying game birds which will be released could end up flying above tree level, and therefore, potentially pose a hazard to aircraft. No evidence was submitted to substantiate those assertions. The opponents also contend that the DCC 18.80.030 which describes the Redmond Municipal Airport applies to this application. I find that neither DCC 18.80.010 nor DCC 18.80.030 are applicable approval criteria. The two provisions merely describe the Airport Safety Combining Zone and the Redmond Airport.

Opponents also contend that DCC 18.80.058(C) governing non-conforming uses applies to this application. I disagree. This provision applies to existing non-conforming uses in the Airport Safety Combining Zone. There is no evidence that the existing structures on the Halligan’s property are non-conforming uses. This provision does not apply.

Opponents further argue that DCC 18.80.064 and 18.80.078 which require, in certain instances, the FAA to be notified of a proposed use also applies to this application. I find that these provisions do not apply to this application. Information in the applicant’s April 30, 2009, letter demonstrates that the subject property is outside of the FAA notification area. Furthermore, the provisions of DCC 18.80.078 appear to only apply to “construction” of structures that may be a hazard to aircraft. The applicant is not proposing new structures other than the removable bird pens which will be below tree top level.

I find that the “No Comment” response from the Redmond Airport in combination with the supplemental information submitted by the application is sufficient evidence to conclude that the proposed use will not interfere with aviation in the area.

2. **Section 18.80.028, Height limitations on allowed uses in underlying zone.**

**All uses permitted by the underlying zone shall comply with the height limitations in DCC 18.80.028. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control.**

- A. **Except as provided in DCC 18.80.028(B) and (C), no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.**
- B. **For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at highest elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.**
- C. **Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA (for Redmond, Bend and Sunriver).**

**FINDING:** The EFU zone in this instance is the underlying zone. This zone has a 30-foot height limit, which can only be exceeded by an owner applying for a height exception, up to 36 feet in height. The subject property is not within the visual approach surface, but it appears that it is located within the transitional surface. The applicant is not proposing any structures which would exceed 30 feet in overall height. These criteria are met.

3. **Section 18.80.044, Land use compatibility requirements.**

**Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility,**

**the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body.**

- A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. (Note: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.)**

**FINDING:** The proposed hunting preserve/sporting clays property may be within the noise impact boundaries for the Redmond Airport. A condition of approval will require the applicant/owner to sign a declaration of anticipated noise, prior to commencement of the use.

- B. Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.**

**FINDING:** Lighting for any proposed buildings on the subject property must meet the restrictions under DCC Chapter 15.10. A condition of approval will require this.

- C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.**

**FINDING:** Staff concluded, and I agree, that the proposed bird enclosures will not produce glare which would affect a pilot's vision. These are the only new structures proposed at the site. This criterion is met.

- D. Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use..**

**FINDING:** The proposed hunting preserve and sporting clays facility would not involve uses that would be considered industrial, mining or other similar use. The criterion does not apply.

- E. Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communications towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to insure this result.**

**FINDING:** There is no evidence that the proposed hunting preserve/sporting clays uses will cause electrical interference with airplane signals or any radio communications. This criterion is met.

- F. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.**

**FINDING:** Only the northwest portion of tax lot 700 is within the AS zone, which in this instance is a transitional surface. Table 1 listed above allows parks/open space use in the transitional surface. This criterion is met.

**4. Section 18.80.054.**

**18.80.054, Conditional uses.**

**Uses permitted conditionally shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.**

**FINDING:** The hunting preserve/sporting clays proposal is subject to conditional use review under chapters 18.16 and 18.128 of Title 18, which are addressed in this decision.

**5. Section 18.80.072, Water Impoundments.**

**Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of DCC 18.80.072.**



**FINDING:** The applicant is not proposing any water impoundments as part of these applications.

**D. Chapter 18.124, Site Plan Review**

**1. Section 18.124.060, Approval criteria.**

**Approval of a site plan shall be based on the following criteria:**

**A. The proposed development shall relate harmoniously with the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.**

**FINDING:** The applicant is proposing little in the way of changes to the site. The existing buildings and driveways are to remain as constructed. The applicant is proposing to add clay launching machines at shooting stations, and a moveable storage container for equipment and clays, on tax lot 700. The proposed bird pens for propagating the birds are also removable and will be located on tax lot 101. The natural environment of trees, scrub brush and grasses will be preserved. There will be no views or topographical features that will be impacted.

Opponents argue that the proposed use is a firearms facility that is prohibited on EFU land. There is no definition for “firearms facility” in the code. As discussed above, the private park and hunting preserve fits both the conditional use code provisions in the county code and under the state statutes governing EFU lands. Therefore, I reject the contention that the proposed use is a firearms facility. The Hearings Officer’s decisions in CU-07-63 and CU-07-79 approved uses that are very similar to that being proposed by the applicant. I adhere to those decisions.

The opponents also claim that the lead shot resulting from the hunting and sport clay shooting activities will contaminate the subject property. I disagree. The applicant has agreed to use the best management practices discussed above in order to avoid the negative effects of the lead shot’s presence on the ground. This will be required as a condition of approval. The opponents do not provide any argument or evidence that these practices will not be effective.

This criterion is met.

**B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.**

**FINDING:** As indicated in a foregoing finding, the applicant is adding only the clay shooting machines, a moveable storage container, and bird pens/enclosures for raising the game birds. The relatively level topography on the property and the nature of the proposed use will not require much in the way of topographic changes. The applicant is proposing to preserve the natural vegetation. This criterion is met.

**C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.**

**FINDING:** The proposed site plan appears to provide a safe environment by the utilization of the existing access driveway from Highway 97. ODOT has indicated that a rescission of this access for the Halligan property will be required when 19<sup>th</sup> Street is constructed. Hunting is to occur on other areas of the site (on tax lot 700), away from the existing dwellings on tax lot 101, as well as other dwellings west of the railroad tracks. Staff concluded, and I agree, that the proposed site plan should provide a safe environment for the patrons of the hunting preserve/sporting clays facility, as well as the general public on adjacent BLM land. This criterion is met.

**D. When appropriate, the site plan shall provide for the special needs of the handicapped persons, such as ramps for wheelchairs and Braille signs.**

**FINDING:** The applicant is not proposing any new structures for the site, other than the bird enclosures, which would not require ADA compatibility. The staff report states that the proposed conversion to an office within the garage/shop may require it to meet ADA requirements. However, I find that it is unclear that such access will be required as the office is to be used by club staff for organizing and administrating the park.

The applicant's burden of proof states that the parking area and office will be ADA accessible. A condition of approval will require that all applicable building permits are obtained for the office conversion. To the extent those permits require compliance with the ADA, the condition shall be construed to require such compliance.

**E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.**

**FINDING:** The subject property has one existing access from a private road extending east from Highway 97. Based on input from ODOT, the existing access to Highway 97 will be sufficient until 19<sup>th</sup> Street is extended to the subject property. Once 19<sup>th</sup> Street is completed, a rescission of the access to Highway 97 will be required for the Halligan property. Until that time, the existing road access is sufficient to meet the requirements of this criterion.

The proposed interior circulation pattern would be accommodated on the existing driveways within the property. Staff concluded, and I agree, that the main driveway into the property is improved to the point (12 feet wide, cinder surface) that it will not produce a significant amount of dust. Since this main driveway will be the only way into the property until 19<sup>th</sup> Street is constructed, there should be no conflicts with any other traffic. There will be no pedestrians on the site, except for hunters going to and from their positions. Members and guest will be able to walk on the property, and there should be no conflict between them and vehicles on the site. The proposed parking area for the hunting preserve/ sporting clays uses will be immediately adjacent to the structures on tax lot 101, allowing easy access to and from these structures. I find that the proposed uses

will be harmonious with the existing uses on the site, and will not have any impact on neighboring buildings.

**F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.**

**FINDING:** The applicant is proposing that surface water drainage be to soil and natural landscape areas surrounding the site. With the level topography on the site, runoff into the ground will easily occur. There should be no drainage to neighboring properties. This drainage into soil and natural landscaped areas should have no impact on surface or subsurface water quality. This criterion is met.

**G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse visual impacts on the site and neighboring properties.**

**FINDING:** The only neighboring properties to the subject property are vacant lands owned by the State of Oregon or BLM. The property is already screened from view to the west by the BNSF railway berm. The propose development will not require machinery and equipment, except for the sporting clays equipment, and the hunting gear used by patrons. Solid waste (garbage) can be taken to the closest landfill. Any utilities needed for development at the site should have minimal, if any, impact on the subject property or the adjoining properties. Mail will be handled by the applicant and staff at the site. This criterion is met.

**H. All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.**

**FINDING:** No new utility installations are proposed.

**I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).**

**FINDING:** The subject property is located within the Exclusive Farm Use zone. There are no additional criteria for the EFU zone than those listed in foregoing findings.

**J. All exterior lighting shall be shielded so that direct light does not project off-site.**

**FINDING:** A condition of approval will require that all exterior lighting for the hunting preserve/sporting clays facility will be shielded and not project off-site, and must meet the lighting code requirements of Chapter 15.10 of the Deschutes County Code.

2. **Section 18.124.070, Required minimum standards.**

**B. Required Landscaped Areas.**

1. **The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:**
  - a. **A minimum of 15 percent of the lot area shall be landscaped.**

**FINDING:** The proposed private park and hunting preserve is not a “commercial, multi-family or industrial use” under this section. This is consistent with the Hearings Officer’s decision in CU-07-63. DCC 18.124.070(B)(1) does not apply.

2. **In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:**
  - a. **A parking or loading area shall be required to be improved with defined landscape areas totaling no less than 25 square feet per parking space.**
  - b. **In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscape strip at least five feet in width.**
  - c. **A landscape strip separating a parking or loading area from a street shall contain:**
    - i. **Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.**
    - ii. **Low shrubs not to reach a height greater than 3 feet zero inches, spaced no more than eight feet apart on the average.**
    - iii. **Vegetative ground cover.**
  - d. **Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**
  - e. **The landscaping in a parking areas shall have a width of not less than five feet.**

- f. Provision shall be made for watering planting areas where such care is required.**
- g. Required landscaping shall be continuously maintained and kept alive and attractive.**
- h. Maximum height of tree species shall be considered when planting under overhead utility lines.**

**FINDING:** The proposed parking area is to be located adjacent to the existing cinder driveway that provides access to the property. The parking area is all in one spot and will not require a defined landscape area. It is not adjacent to a lot line. The existing natural landscape on the property will be retained, and serve as the vegetation for landscaping. No new landscaping is proposed and the existing vegetative cover is to be preserved. Preserving existing vegetation, to the extent practicable, will be a condition of approval. No new overhead utility lines are proposed with this development. These criteria are met.

**C. Non motorized access.**

- 1. Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in Sections 18.116.031 and 18.116.035 of this title. The location and design of bicycle parking facilities shall be indicated on the site plan.**

**FINDING:** The 15 required vehicular parking spaces establish a requirement for four bicycle parking spaces. The applicant proposes 17 parking spaces. The bicycle parking can be accommodated within the existing buildings on the site. The applicant's burden of proof states that 5 bicycle parking spots will be provided in the office area. This will be a condition of approval.

**2. Pedestrian Access and Circulation:**

**FINDING:** Opponents argue that DCC 18.124.070(C)(2) applies to this application and that the applicant's site plan does not adequately show pedestrian walkways.

The provisions of DCC 18.124.070(C)(2) apply only to "new commercial, office and multi-family residential developments." These provisions do not apply to this application.

**Section 18.124.080 The Planning Director or Hearings Body may require the following in addition to the minimum standards of DCC Title 18 as a condition for site plan approval.**

The opponents argue that the Hearings Officer should impose this discretionary provision to the proposed site plan with regard to DCC 18.124.080(H, J & K). As this provision is entirely discretionary, and there is no evidence that additional conditions will be necessary beyond those already imposed, I decline to do so.

I will respond to the opponents' contention that a Traffic Impact Analysis should be required for this application under DCC 17.16.115. The opponents have submitted a memorandum from Kittelson & Associates, Inc. which attempts to interpret that provision in a way that would make a "site traffic report" required for the application. Specifically, the Kittelson interpretation asserts that both the current number of daily trips generated by the Halligan residences and the projected increased trip from the park and hunting preserve users must be considered together in determining whether the threshold for a site traffic report is needed. I disagree with this interpretation.

In interpreting a statute or local ordinance provision, the reviewer must comply with ORS 174.010 which states that the reviewer's job is:

"simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."

The language of DCC 17.16.115(4)(a-c) applies to "new or expanded development" and to circumstances where the "development or change in use" will trigger the prescribed thresholds. It is clear by the way the section is organized that it is divided into categories. Less than 50 new trips requires no report. 50-200 new trips requires a site traffic report, and more than 200 trips requires a traffic impact analysis. If any part of this section were intended to require the applicant to also count trips generated by existing development, then the language would expressly state that. It does not. Therefore, such an interpretation would violate ORS 174.010.

The applicant's traffic analysis states that at most 45 new trips will be generated by this application. The opponents provide no contradictory evidence on trip generation. I find that 45 trips does not trigger the need for a site traffic report.

**D. Chapter 18.116, Supplementary Provisions**

**1. Section 18.116.030, Off-Street Parking and Loading.**

**A. Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The**

subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.

- B. Off-Street Loading.** Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:
  - 1. Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths subject to the following table:**  
**Less than 5,000 No berths required.**

**FINDING:** The proposed use is recreational. This provision does not apply. This findings is consistent with the Hearings Officer's decision on CU-07-63.

- C. Off-Street Parking.** Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the sue of a building existing on the effective date of DCC Title 18 is changed.
- D. Number of Spaces Required.** Off-street parking shall be provided as follows:

**FINDING:** This section has no specific standard for a use such as the proposed park and hunting preserve. Staff concluded that with the possibility of up to 12 guests, and providing parking for any employees, at least 15 spaces should be available for parking. The applicant has submitted exhibit F, which shows a parking area capable of accommodating up to 17 vehicles. This area will accommodate the required parking for the proposed uses. These criteria are met.

- E. General Provisions. Off-Street Parking.**
  - 1. More Than One Use on One or More Parcels.** In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.
  - 2. Joint Use of Facilities.** The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking spaces must be evidence by a deed, lease, contract or other appropriate written document to establish the joint use.

3. **Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existing of such off-premise parking arrangements rests upon the applicant.**
4. **Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.**

**FINDING:** The hunting preserve and sporting clays facility will be tied together. Staff concluded, and I agree, that the proposed uses will have sufficient parking as shown on the site plan. The parking spaces are located adjacent to the garage/shop building which is to accommodate the registration and organizing of patrons. The parking will be used for members, guest and employees, and not used for the storage of vehicles or materials, or for the parking of trucks used in the business.

The opponents argue that to satisfy this section, that the applicant must show how 36 members and guests can be accommodated at one time. I disagree. The above finding demonstrates that the site plan shows adequate parking for both members, guests and employees. The record shows that because of the way the sporting clays course is set up, no more than 12 members and guests will be on the course at one time. Even if each member drove his or her own car to the facility, only 12 parking spaces would be required to accommodate those members during the time they were using the facility. The record also shows that the shooting groups will be organized on an appointment basis, which will avoid groups overlapping. The opponents provide no evidence to contradict the information already in the record which shows that 17 parking spaces will be sufficient to handle the projected usage of the facility. This criterion is met.

**F. Development and Maintenance Standards for Off-street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:**

1. **Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight-obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.**

**FINDING:** Staff concludes, and I agree, that the existing vegetative cover will provide the screening envisioned under this criterion. There are no adjacent residential uses that are within sight of the subject property. The proposed parking areas will not require that a fence be constructed, as it will not be visible from adjoining properties. This criteria is met.



2. **Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.**

**FINDING:** Any proposed lighting for the parking shall be shielded, and meet the requirements of the county lighting code. A condition of approval requires this.

3. **Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.**

**FINDING:** The site plan indicates that the parking areas will not require any vehicles to back out into a street or right of way. This criteria is met.

4. **Areas used for the standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all-weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:**
  - a. **A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or**
  - b. **The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or**
  - c. **The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.**

**FINDING:** The applicant has indicated that they intend to have gravel parking areas. The subject property is located outside of an unincorporated community, and with the gravel driving surfaces and parking areas, dust control should be sufficient.

Opponents argue that the applicant must demonstrate compliance with DCC 18.166.030(F)(4)(a) in order to take advantage of the exception to the requirement to provide paved surfaces. That is incorrect. DCC 18.166.030(F)(4)(b) provides an alternate exception. The record shows that the applicant's use of the gravel parking area will not create dust problems for neighboring properties. These criteria are met.

5. **Access aisles shall be of sufficient width for all vehicular turning and maneuvering.**

**FINDING:** Staff concluded, and I agree, that the existing driveway, and the parking areas, including access aisles, will be of sufficient width for all vehicular turning and maneuvering on the site.

6. **Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of**

traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.
8. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.

**FINDING:** There are no “service drives” on the site plan. There are also no parking areas adjacent to a street right of way. This criteria does not apply.

**G. Off-Street Parking Lot Design.** All off-street parking lots shall be designed subject to county standards for stalls and aisles as set forth in the following drawings and table:

**FINDING:** The site plan shows the proposed parking area. It appears that there is sufficient space to provide the 17 parking spaces proposed at the 9’ x 20” standard required by the county code. The applicant shall submit a revised site plan showing the individual parking spaces. A condition of approval will require this.

**Section 18.116.031 - New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.**

**A. Number and Type of Bicycle Parking Spaces Required.**

**FINDING:** This section requires one bicycle parking space for every 5 required motor vehicle spaces, with a minimum of two of the spaces sheltered. The applicant has complied with the bicycle parking requirements as discussed in the findings for DCC 18.124.070. The applicant has agreed to provide 5 bicycle parking spaces in the proposed office area. This is required as a condition of approval. This criteria is met.

#### **ALLEGED CODE VIOLATION**

Both at the May 12, 2009, public hearing and in written submissions, opponents claimed that the applicants and property owners have been conducting shooting activities at the subject property in violation of the county code. At the hearing I explained that alleged code violations are not resolved during a hearings officer’s consideration of a land use application. It was explained that alleged code violations must be addressed to the County’s Code Enforcement Officer.

During the time the record was held open both opponents and the applicant submitted affidavits and information related to the alleged code violations. For the record, I find that this information is irrelevant to the determination of this application's compliance with the applicable conditional use and site plan criteria. The submitted information and arguments played no part in my review of the proposed application.

#### **IV. CONCLUSION:**

Based on the above Findings of Fact and Conclusions of Law this application is **APPROVED** subject to the following conditions:

1. Approval of the site plan for the proposed hunting preserve and sporting clays facility is based on the submitted burden of proof statement and site plan (for 223 acres). Any substantial change to the proposal will require a new application.
2. All exterior lighting for the project shall be installed in compliance with Chapter 15.10 of the County Code, Outdoor Lighting Control.
3. Clear vision areas shall be maintained at the driveway locations for the site.
4. Prior to initiating the use, all parking areas and driveways shall have aggregate surfaces.
5. The bicycle parking for the site shall meet all standards under DCC 18.116.031 Five bicycle parking spaces shall be provided.
6. The hunting preserve shall be limited to the subject property only, and shall not include hunting activity on the adjacent public or private land. The applicant shall meet all requirements of the Oregon Department of Fish and Wildlife for the proposed hunting preserve.
7. All access and parking areas shall be maintained in a manner which prevents dust to the greatest extent possible. This may include watering the roads when necessary.
8. The applicant shall meet all requirements of the Oregon Health Division for the drinking water supply for the proposed hunting preserve and sporting clays facility.
9. The applicant shall obtain all necessary permits for the office addition from the Deschutes County Environmental Health and Building Safety Divisions. The applicant shall comply with any applicable ADA requirements for the proposed office area.

10. The applicant shall follow the guidelines in the Best Management Practices for Lead at Outdoor Shooting Ranges, as specified in the applicant's supplemental statement (4-30-09).
11. The applicant/owner shall relinquish all access rights to Highway 97 when 19<sup>th</sup> Street is constructed and operational to the subject property, and establish a new access road/driveway from 19<sup>th</sup> Street.
12. The applicant/owner shall execute a private crossing agreement with Burlington Northern Santa Fe Railroad for use of the railroad crossing. This agreement shall be completed prior to commencement of operation of the hunting preserve/sporting clay uses.
13. The applicant shall obtain the necessary access permit from the County from 19<sup>th</sup> Street, when 19<sup>th</sup> Street is in place.
14. The applicant shall submit a revised site plan showing the dimensions of the required parking spaces compliant with the county code.
15. The existing native vegetation outside of the residential use areas, office, garage and parking areas shall be preserved to the extent practicable.
16. The applicant shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future, complain about the allowed airport activities at the adjacent airport.



Kenneth D. Helm, Hearings Officer

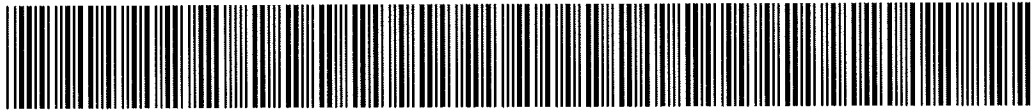
**A DECISION BY THE HEARINGS OFFICER BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE OF MAILING, UNLESS APPEALED BY A PARTY OF INTEREST.**

Dated this 7th day of July, 2009

Mailed this 7th day of July, 2009

CDD COVER SHEET FOR SLB  
08/10/2009 14:59:37

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1 PAGES

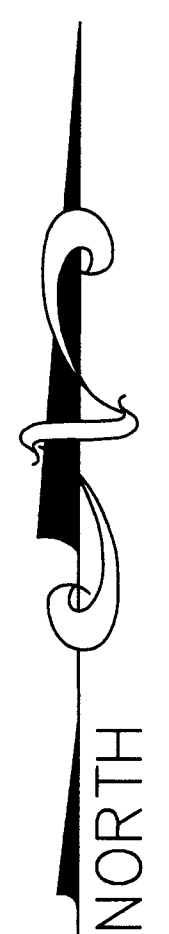


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HOUSE#	9020
STREET	HWY 97
CONTENT	CU0917/SP0911 Overall Site Plan
RECORD ID	CU0917
LOCATED IN	DATE FILE

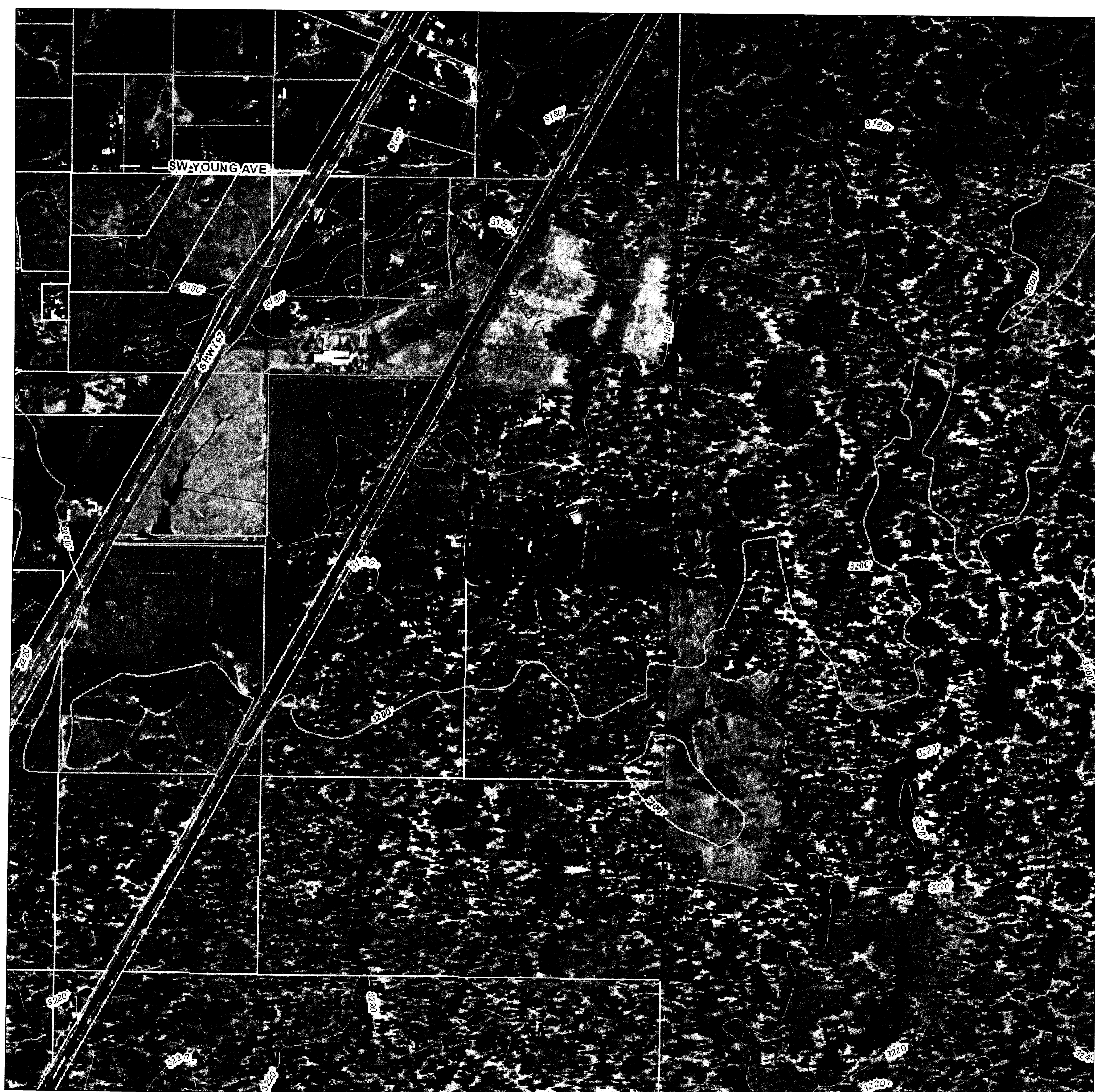
Cover Sheet Identifier

AHJKMTWX





SCALE: 1"=300' APPROX.



40' BLM ACCESS RIGHT-OF-WAY  
60' EASEMENT

ACCESS ROAD TO PRE  
40' WIDE ACCESS ACROSS  
PROPERTIES AT CORNER  
310 YD SAFETY CIRCUMFERENCE  
285 YD SHOT FALL AREA  
TRAIL  
SHOOTER STATION NUMBER  
TRAP THROWER POSITION

SERVE  
SS BLM  
ERS  
E(TYP)  
RC(TYP)

NUMBER(TYP)

THIS SITE PLAN IS BASED ON  
AERIAL PHOTOGRAPHIC  
INFORMATION FROM  
AMERITITLE, INC.

**C A ROWLES ENGINEERING**  
720 S.E. BUSINESS WAY, SUITE 200 BEND, OREGON 97702 541.585.2207

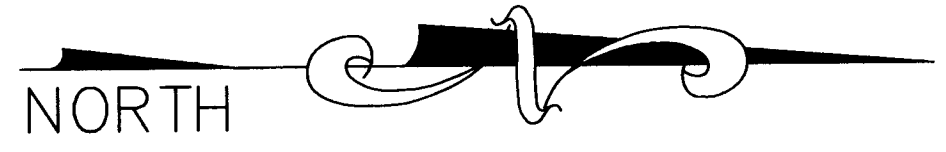
Developer:  
FARMLAND PRESERVATION GROUP  
61144 CAMDEN PLACE  
BEND, OREGON 97702

Title:  
**OVERALL SITE PLAN  
HALLIGAN RANCH  
REDMOND, OREGON**

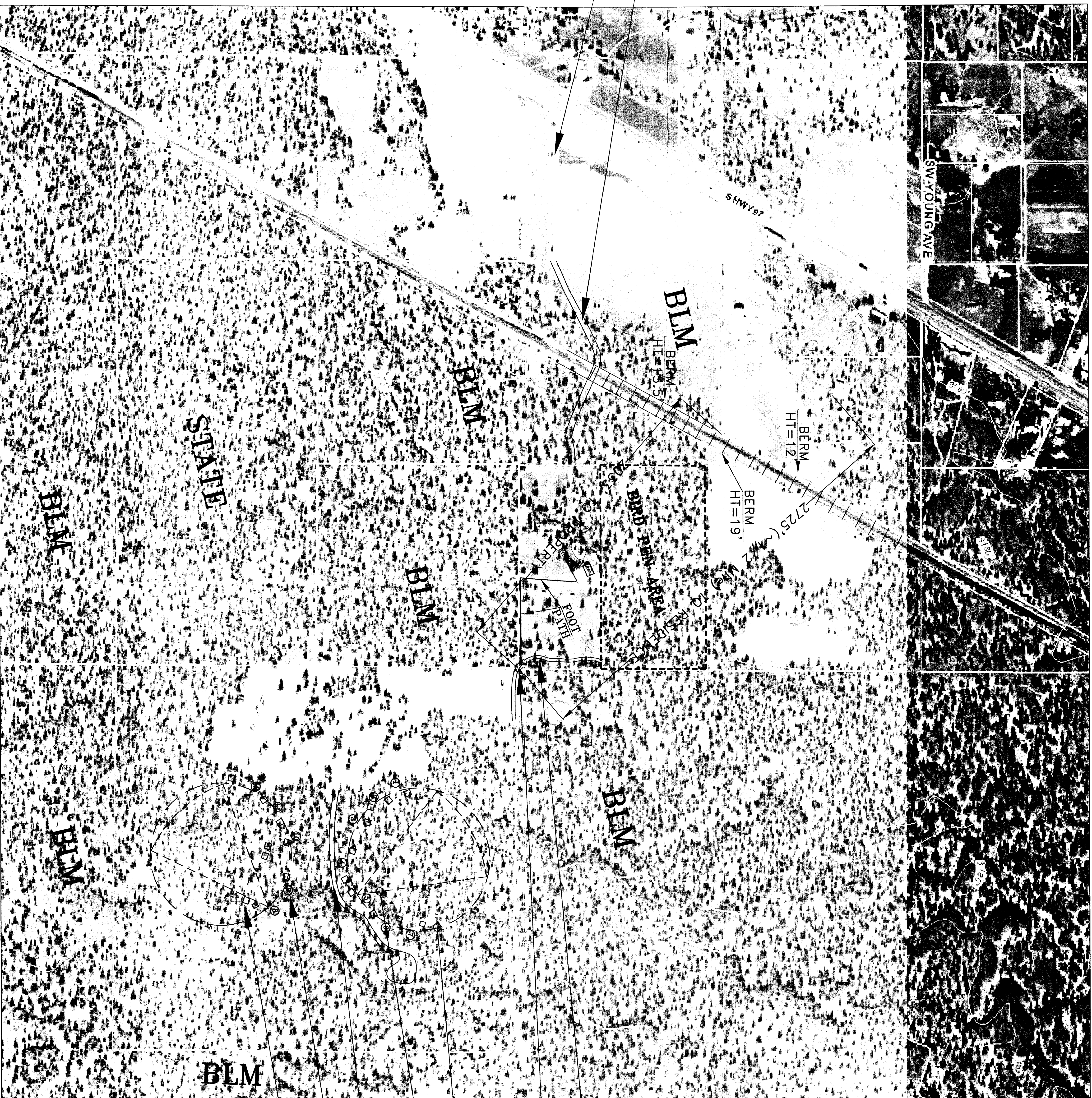
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Design	C.R.			
Scale	1"=300' APPROX			
Date	6-7-08			
P.O. No.	00-811-SITE			

LOCATION(TYP)





SCALE: 1"=500' APPROX.



THIS SITE PLAN IS BASED ON  
AERIAL PHOTOGRAPHIC  
INFORMATION FROM  
AMERITITLE, INC.

- ACCESS ROAD TO PRESERVE
- 40' WIDE ACCESS ACROSS BLM PROPERTIES AT CORNERS
- 310 YD SAFETY CIRCLE(TYP)
- 285 YD SHOT FALL ARC(TYP)
- TRAIL
- SHOOTER STATION NUMBER(TYP)
- TRAP THROWER POSITION(TYP)

# C A ROWLES ENGINEERING

720 S.E. BUSINESS WAY, SUITE 200

BEND, OREGON 97702

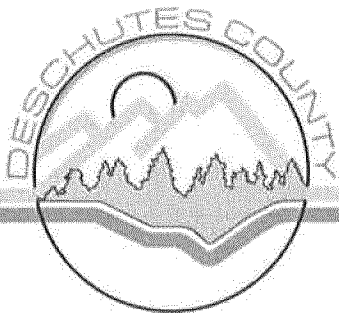
541.585.2207

Prepared For:  
FARMLAND PRESERVATION GROUP  
61144 CAMDEN PLACE  
BEND, OREGON 97702

Title:  
**OVERALL SITE PLAN**  
**HALLIGAN RANCH**  
**REDMOND, OREGON**

Revised	DATE	BY	REVISION	SHEET
Scale	1"=500' APPROX			1
Scale	6.5"-1"=100'			
Scale	0.625"-1"=10'			
Scale	0.3125"-1"=5'			





## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

### HEARINGS OFFICER DECISION

**FILE NUMBERS:** 247-15-000263-CU / 264-SP

**HEARING DATE:** July 21, 2015, 6:30 p.m.  
Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97701

**APPLICANT:** High Desert Shooting Sports Foundation  
Attn: Kate Chandler  
P.O. Box 14  
Redmond, OR 97756

Redmond Rod and Gun Club  
Attn: Bill Layton  
P.O. Box 14  
Redmond, OR 97756

**PROPERTY OWNER:** The Halligan Ranch, Inc.  
19855 SW Touchmark Way #C-16  
Bend, OR 97702

**ATTORNEY:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702

**REQUEST:** Conditional Use Permit and Site Plan to expand a private park in an Exclusive Farm Use zone. A portion of the property is also within an Airport Safety (AS) combining zone.

**STAFF CONTACT:** Paul Blikstad, Senior Planner

**HEARINGS OFFICER:** Dan R. Olsen

**SUMMARY OF DECISION:** Approved with Conditions, based on the findings and conclusions set forth herein



**Hearings Officer:** The findings reflect those in the staff report except where otherwise noted.

**I. BASIC FINDINGS:**

- A. LOCATION:** The subject property has an assigned address of 9020 S. Highway 97, Redmond, and is identified on County Assessor's Maps 16-12-13, as tax lot 101, and 16-13, as tax lot 700.
- B. ZONING:** The subject property is zoned Exclusive Farm Use – Alfalfa subzone (EFU-AL), and is designated Agriculture by the Deschutes County Comprehensive Plan. A portion of the subject property (all of tax lot 101, the northwest portion of tax lot 700) is also located within the Airport Safety (AS) combining zone associated with the Redmond Airport.
- C. PROPOSAL:** The applicant is proposing to expand a private park that includes a sporting clays area and hunting range. The expansion involves relocating the sporting clays area, and adding a rifle range, a pistol range, and a trap and skeet range on the site.

More specifically, the Applicant is proposing to add 5 clay launching machines at 5 shooting stations, a parking area and an "archery rounds paper" area on the northern portions of tax lot 101. On Tax Lot 100, Applicant proposes a shooting clays range/a 5-stand skeet range, rifle and pistol ranges, cowboy action shooting range, an archery practice range and two parking areas." The applicant also indicates on page 24 of the burden of proof statement that the parking areas and driveways will have gravel surfacing.

- D. SITE DESCRIPTION:** The subject property includes both tax lots listed above (101, 700) for a total of approximately 223 acres and has a varied topography of some generally level areas, and rock outcrops. There are two existing dwellings and several accessory buildings. Tax lot 700 has no structures and is currently undeveloped. The property is accessed from an existing private driveway that extends east from Highway 97 across adjacent property to the west, as well as across a right of way grant from the Bureau of Land Management. The driveway has a cinder/gravel surface and is wide enough for only one-way traffic. The property contains juniper trees and scrub brush on the undisturbed portions of the property, and dead grass and weeds on the disturbed (previously irrigated) portions of the property. The property is fenced and cross-fenced.
- E. HEARINGS OFFICER:** The public hearing was held on Jul 21, 2015. At the hearing I stated that I have no relationship with the applicant and have had no ex parte contacts, nor did I conduct a site visit. There was an opportunity to raise jurisdictional, procedural or other objections but none were raised. Numerous persons testified in favor, primarily stressing the community benefits of this type of facility. Others raised concerns about impact on other properties and environmental contamination.

At the request of the applicant the record was kept open with the understanding that this extends the 150 day decision deadline:

1. July 28, 2016 for submission of any written testimony or exhibits
2. August 4, 2015 for submission of any rebuttal to information previously submitted

3. Final applicant's rebuttal. On August 7, the applicant's counsel submitted an email waiving final rebuttal.

- F. NOTICE: Hearings Officer:** Staff indicates that notice of the proposed land use applications and public hearing was mailed to all property owners within 750 feet of the subject property. Rowan Hollitz submitted a comment suggesting that a motel, the BNSF Railroad Agency and Saturn Power Corporation appear to have been omitted from the notice. The affidavit of mailing shows notice to Saturn Power Corp and staff indicates that it notified BNSF prior to the hearing. It is not clear what motel is referenced. Absent more information, I find it appropriate to rely on the affidavit of mailing and staff assurances that required notices were sent.
- G. REVIEW PERIOD:** The applications were submitted on May 21, 2015. The applications were accepted and deemed complete on June 22, 2015.<sup>1</sup> The 150<sup>th</sup> day on which the County must take final action on these applications is December 5, 2015.
- H. LOT OF RECORD:** Tax lot 16-13, 700 is recognized as a legal lot of record pursuant to file no. LR-06-33. Staff believes that based on the lot of record approval for tax lot 700, tax lot 101 is left as a remainder parcel, due to the numerous building and septic permits issued for tax lot 101 (MH 2184, 13533; B 26375, 40990; S 5907, 26505, 40774, 43446).
- I. PREVIOUS LAND USE HISTORY:** The subject property was approved for a farm dwelling under conditional use permit application no. CU-89-35 (a temporary use permit – TU-89-9 was submitted with CU-89-35). Staff is not sure why a conditional use permit was necessary, as the permit history shows a placement permit for a manufactured home (MH 2184) approved in 1984, and a subsequent manufactured placement permit from 1997 (MH 13533). Additionally, a building permit for a conventional home (B 26375) was approved in 1989. Septic permits were issued for two septic systems on the property (S 5907, 26505).

A conditional use permit (CU-00-87) for a wireless telecommunications facility (150-foot metal lattice tower) was denied in January of 2001 on the property. An appeal of this denial was submitted, and the Deschutes County Board of Commissioners, through Order no. 2001-024, denied review of the appeal.

Conditional Use Permit and Site Plan review (CU-09-17/SP-09-11) for a private hunting preserve and sporting clays park was approved by the Hearings Officer on July 7, 2009.

- J. SOILS:** The subject property has the following soil types as shown on the Natural Resource Conservation Service map: 142B, Stukel-Rock outcrop-Deschutes complex, dry, 0 to 8 percent slopes; 138A, Stukel sandy loam, 0 to 3 percent slopes. Neither of these two soil types is considered high value soil, as that term is defined in DCC 18.84.030. The entire property is thus considered nonhigh value farmland.

142B, Stukel-Rock outcrop-Deschutes complex, dry, 0-8% slopes. This soil complex is composed of 35% Stukel soils and similar inclusions, 30% Rock outcrop, 20% Deschutes soils and similar inclusions and 15% contrasting inclusions. The complex is well drained and has a moderately rapid permeability, with an available water capacity of about 2 inches. The major use of this complex is livestock grazing. The Stukel soil is rated 4E/6E; the Deschutes soil is rated 3E/6E; and the Rock outcrop is rated 8S. This

<sup>1</sup> The 30<sup>th</sup> day following the submittal of the applications is June 20, 2015, which is a Saturday. Accordingly under DCC 22.08.070, the time computation extends to June 22<sup>nd</sup>.

complex is not a high value soil. This complex comprises approximately 95 percent of the property.

138A, Stukel sandy loam, 0 to 3% slopes: This soil complex is composed of 85% Stukel soil and similar inclusions, and 15% contrasting inclusions. The Stukel soil is well drained with a moderately rapid permeability, and an available water capacity of about 2 inches. The major use of this soil complex is livestock grazing. The NRCS rates this complex as 6S, with no rating for irrigated soil. This soil complex is not considered a high value soil. This soil comprises approximately 5 percent of the property.

- K. **Hearings Officer:** As with most Development Codes, many of the standards discussed below overlap. For the most part, I have not repeated findings that address what effectively are the same or very similar standards. Accordingly, the findings below should be applied in their entirety and cross-related to all similar standards.

II. **APPLICABLE STANDARDS:**

A. **Chapter 18.16, Exclusive Farm Use (EFU-SC) zone.**

1. **Section 18.16.031, Conditional Uses on Nonhigh Value Farmland Only.**

***The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute nonhigh value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.***

***E. Private parks, playgrounds, hunting and fishing preserves and campgrounds.***

**FINDING:** The applicant addressed the use on page 4 of the burden of proof as follows:

*“Applicant proposes to expand the private park approved as a hunting preserve and a sporting clays facility, which was authorized under a conditional use permit and site plan (CU-09-17/SP-09-11), a use permitted only on nonhigh value farmland. The subject property is comprised of soil units 142B and 138A, which are not designated high value soils, establishing the entire property as nonhigh value farmland.*

*Files CU-09-17/SP-09-11 approved a sporting clays use as a “private park” use on the property, and also approved a hunting preserve on the site. The proposed expansion will maintain the “private park” use as a hunting/shooting facility, but in addition to sporting clays, the proposal will expand the recreational firearms disciplines to include trap shooting, skeet shooting, and rifle and pistol disciplines, as well as cowboy action shooting, and an archery practice range. Although a variety of uses will exist on Tax Lot 700, a significant amount of unoccupied space will exist on the site and the Applicant will maintain the hunting preserve use on the site, including occasional ODFW-sponsored youth bird hunting activities.”*

Staff finds that the proposed use can be considered an expansion of the private park use previously approved, since they are both recreation oriented uses.

2. **Section 18.16.040, Limitations on conditional uses.**

***A. Conditional uses permitted by DCC 18.16.030 may be established subject to ORS 215.296 and applicable provisions in DCC 18.128 and***

*upon a finding by the Planning Director or Hearings Body that the proposed use:*

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm or forest use; and*
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- 3. That the actual site on which the use is to be located is the least suitable for the productions of farm crops or livestock.*

**Staff note:** The above criteria (1 and 2) are virtually the same as those described in ORS 215.296(1) (a and b), and staff will consider the ORS standards to be addressed with findings on the above criteria.

**FINDING:** For the purposes of this review, staff considers the area of analysis one that is generally a 1-mile radius surrounding the property, which is similar to the "area" relied upon for the review of nonfarm dwellings.

Change in farm practices and costs: With respect to the potential for a significant change in accepted farming practices on adjoining lands from the changes to the facility, Staff believes there would be some increased noise from both the vehicles traveling to and from the applicant's property, as well as the additional people who would visit the site for shooting pistols and rifles as well as archery use. There would also be the existing noise created by the use of shotguns for both the sporting clays use and the private hunting preserve.

Staff finds that the farm use on tax lot 16-12-12, 700 would be the most directly affected by the proposed changes to the site and is approximately 1,500 feet from the subject property. Based on a staff site visit to the area, the farm use on this tax lot appears to be irrigated pasture. This property is zoned Multiple Use Agricultural (MUA-10). The property identified on County Assessor's map 16-12-13, as tax lots 501, 502 and 503 is no longer in farm use. When the review of CU-09-17/SP-09-11 was completed, these tax lots were in farm use (pasture for horses), and this was the closest property in farm use at that time. No comments have been received to date from any of the adjacent property owners.<sup>2</sup>

The response from the BLM indicates there is a grazing allotment for Pronghorn in the area. The applicant will need to address the gate closing and possible cattle guard mentioned in the response.

The applicant has submitted a trip generation report for the proposed changes, prepared by Clemow Associates LLC. The traffic report anticipates no significant increase in the amount of vehicles coming to the site (less than 50 trips), with very few trips occurring during the peak hours of Highway 97.

The adjacent farm use is separated from the applicant's site by the railroad tracks and the highway, as well as being separated by approximately 1,500 feet. Staff believes that the railroad tracks and highway, and the distance between the subject property and the adjacent farm use, would serve as a buffer for the adjacent farm use.

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<sup>2</sup> The letter received from Rowan Hollitz does not indicate what property he might own. There is no record of property owned by him in the County's DIAL system.

Change in forest practices and costs: None of the properties within one mile of the site has any forest use associated with it, as the primary vegetation in the entire area is juniper trees, scrub brush and native grasses. Juniper trees are not a commercial tree species.

**Hearings Officer:** I concur with staff's finding. The applicant asserts that the prior approval is sufficient to demonstrate a lack of impacts, but that is questionable given the significant expansion of uses being proposed. On the other hand, trip generation remains low. See comments of County transportation engineer and May 11, 2015 transportation analysis. The evidence is that the activities, including discharges will be contained internally to the site. There was testimony from Diane Lyons that she lives on a 70 acre parcel near a gun range and has noticed no impact on livestock. In contrast, the testimony expressing concerns about offsite impacts focused on residential rather than agricultural impacts.

As regards the grazing allotment, the only reference I can find in the record is a rather cryptic June 15, email from the BLM stating, "The area is an active grazing allotment (Pronghorn Resort) and during certain times of the year, the gate at the railroad crossing would need to be kept closed at all times." It also suggests that the applicant may consider working with the BLM and grazing permittee to put in a cattle guard. Pronghorn Resort did not address these comments. There is no evidence that the proposal would worsen an existing condition or interfere with the grazing allotment. Based on the record, I find that this issue is not raised with sufficient specificity for me to address it substantively. The applicant, however, at the hearing indicated it is willing to work with the BLM and implement gate closing protocols or a cattle guard if the BLM determines that to be necessary, so a condition of approval to that effect will be imposed.

Least suitable for farm use: The existing dwellings and outbuildings are located on the developed portion of the property (tax lot 101), and there is also a farm use (llamas with pasture) on the southern portion of tax lot 101. Tax lot 101 is 72.35 acres and is proposed to be used for the trap ranges and archery rounds/paper (targets), and includes one parking area for both uses. Staff states that the northern portion of tax lot 101 has had historical farm use as recently as 2012 (as evidenced by aerial photography, but has no current farm use. This area that has had prior farm use is level ground that has been previously cleared for the farm use. It is not clear from the record whether this area – to be used for the trap ranges and archery – has any current water rights. It is not currently in farm use. The trap ranges and archery site require level ground, and the area where the shots take place for the trap ranges is on the edge of the cleared ground. Most of the rest of the property has surface rock or rock outcropping.

Tax lot 700 is 153.08 acres and is undeveloped. A portion of the western side of tax lot 700 also appears to have had historical farm use as recently as 2012 (as evidenced by aerial photography mentioned above. The rifle range (200/300, 400 and 600 yard ranges), conex shooting bays, and sporting clays course activities are to occur on tax lot 700. The rifle range would be located on a portion of tax lot 700 that has historically been irrigated. The sporting clays course, archery course, cowboy action area, and shooting bays would be located on the dry portions of tax lot 700.

The applicant states the following on page 5 of the burden of proof:

*"There is no portion of the property that is currently used for the production of farm crops or livestock, and the proposed modification will maintain this existing condition. Furthermore, all proposed activities will be carried out with temporary or mobile structures, thus will not permanently impact any areas of the property that may be suitable for the production of farm crops or livestock. As previously addressed above, the site consists of soils that classified (sic) as nonhigh value."*

Staff concludes that the proposed activities will not cause any permanent impact on the potential for the production of farm crops or livestock, as there will be no permanent structures located on what has previously been irrigated land.

**Hearings Officer:** Staff indicates that it is unable to determine whether this standard is met. As I have noted in other decisions, application of this standard to large scale conditional uses, as opposed to dwellings or similar uses, is problematic. "Private parks, playgrounds, hunting and fishing preserves and campground" by their very nature require use of large areas that likely may involve some portions of the site that are better suited to agriculture than others at least in relative terms.

In the case of the proposal at issue, safety and functionality virtually require use of the flatter, more open areas of the property. This appears to be why the rifle and trap ranges are proposed to be located as shown. These tend to be areas more suitable for agriculture, or perhaps, "least unsuitable" in the case of a site that entirely is non-high value farmland. So there is an almost inevitable conflict. See section 18.128 A, requiring a finding that the site be suitable given the nature of the use.

The most likely alternative, grading and clearing other areas of the site, would seem to run contrary to other code standards, see e.g. Section 18.124.060 regarding preservation of topography, natural features and vegetation.

There is no evidence as to specifically where, how large, or the nature of, the prior agricultural use. Nor is there evidence as to why the use terminated in 2012, well before this application. In its rebuttal, the applicant states that the property currently is irrigated only for grasses related to cover and feed for birds associated with the hunting preserve previously approved and to "raise several Llamas as a "hobby". The hunting preserve is largely preserved in this application. In this case, the uses located on the least suitable area are of a type that should not impact return of these areas to agricultural use in the long run, assuming they are managed correctly as discussed below. The structures are small, portable and not permanent and the applicant indicates they are not located on historically irrigated areas. The area will remain largely undisturbed and open space.

This is a close-call, but balancing the relevant code provisions, I find that the "least suitable" standard in this context should be read as primarily concerned with preserving the potential for agricultural use as opposed to essentially taking agricultural use off the table by placement of a dwelling or similar structure or use. In the long run, it would be helpful if the Board of Commissioners were to adopt a formal interpretation or amendments clarifying whether and how this standard should be applied to large-scale conditional uses.

Accordingly, I find that, as conditioned below, the application meets this standard.

3. Section 18.16.060, Dimensional standards.

**E. *Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.***

**FINDING:** The applicant is proposing only small mobile structures for storage. These structures will be required to meet the height requirement above. The pictures submitted by the applicant indicate that these mobile structures will all be 10 feet in height or less.

4. Section 18.16.070, Yards.

- A. *The front yard shall be 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector, and 100 feet from a property line fronting on an arterial.*
- B. *Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on parcels or lots with side yards adjacent to a property currently employed in farm use, the side yard shall be a minimum of 100 feet.*
- C. *Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on parcels or lots with rear yards adjacent to a property currently employed in farm use, the rear yard shall be a minimum of 100 feet.*
- D. *In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.*

**FINDING:** As indicated in the foregoing finding, the applicant is proposing small structures for storage. The above setbacks would apply to any new structures proposed for the site. The site plan indicates that these structures will meet the above setbacks.

B. **Chapter 18.128, Conditional Use**

1. Section 18.128.015, General standards governing conditional uses.

*Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:*

- A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*
  - 1. *Site, design and operating characteristics of the use;*

**FINDING:** The site for the proposed expansion of the private park is an existing ranch that consists of two tax lots totaling approximately 223 acres, which has two existing dwellings, a shop building, equipment shed, barn, animal (llama) shelters, irrigated areas and dry areas, as well as driveways. The site has a somewhat varied topography of level areas, as well as some rock outcrops, and areas of surface rock. The site is accessed from a private road extending east from Highway 97, through adjacent private property (tax lot 502) and public property (tax lot 602) to the west. The proposed locations for the shooting sports are on both tax lots 101 and 700. The parking and staging area for registering and organizing the patrons of the uses is to occur on tax lot 101, adjacent to the existing dwellings and other buildings.

The burden of proof on pages 8-9 lists the following for the design of the proposed shooting sports facility:

*"The existing sporting clay and hunting preserve uses (specifically the shotgun shooting) are on Tax Lot 700 and will remain on Tax Lot 700 but the sporting clay area will be relocated as shown on the attached Site Plan. The parking and staging areas for*

registering and organizing the patrons of the shooting disciplines are shown on the submitted Site Plan and are well screened from surrounding properties by distance, topography and intervening vegetation or uses.

The Trap Range will have a layout as shown on the Site Plan and described in the AECOM report submitted herewith as Exhibit D, which is consistent with the NRA Design Manual. The trap range will provide members 5 targets at which to shoot. The trap area will be 300 yards deep, a distance that has been established for safety, however all shot drops at 150-170 yards.

The Archery Practice Range will be located in the northeast corner of Tax Lot 101.

The Rifle Range will have shooting range of up to 600 yards. Bullet impact will be in the berms that surround the rifle range on the three down-range sides.

The Pistol Range will have shooting range of up to 50 yards. The shooters will be able to shoot from 50 yards from each shooting table. Bullet impact will be in the berms that surround the rifle range on the three down-range sides. The pistol range can be turned slightly so that either the rifle or the pistol range can shoot when the other is down.

The Sporting Clays will have 12 moveable trap throwers that will be set up around the area shown. They can be placed anywhere, but will be set up so the shooters will be shooting inward to keep the shot on the subject property.

The Skeet Range will have house and a low house with eight shooting stations which will be on a combined range with sporting clays. As with the sporting clays, shooters will be shooting inward to keep the shot on the subject property.

The Cowboy Action Range is located in the southeast corner of Tax Lot 700. The range will accommodate pistol, shotgun and rifle using false front western town structures.

The Applicant has hired AECOM, an environmental engineering firm that specializes in firearms parks and facilities, to study the operating characteristics of the site and each of the ranges. The attached AECOM study and Site Plan show the proposed range locations, discharge areas, and other site features. As detailed on the Exhibits, all ranges are oriented in a way so that the combination of shot distance and range location can contain all discharge on site. As proposed, the range locations are situated away from neighboring properties, parking, and non-shooting uses and avoid discharges onto neighboring properties, thus providing safety throughout the site; ensuring a safe and functional site in conformance to this section."

The burden of proof on pages 9-10 lists the following for the operating characteristics of the proposed shooting sports facility:

"The operating characteristics of the use include sport clay, trap, skeet, rifle and pistol shooting, including a cowboy action range. The existing bird hunting will continue to occur as allowed under CU-09-17. The range will be open year-round, 4 days per week (Tuesdays, Wednesdays, Saturdays and Sundays).

The operation of the range only at scheduled times allows for a controlled environment and minimal off-site impacts. The following schedule is proposed.

Trap

- \* Wednesday, 10am – 2 pm with 10-12 shooters on a consistent basis.
- \* Wednesday, 5pm – 9pm with 10-12 shooters on a consistent basis



- \* Sunday, 10am – 2pm and the number of shooters varies throughout the year ranging from 10-20.

#### *Skeet*

- \* Tuesday, 10am – 2pm with 12 or fewer shooters on a consistent basis. Occasional youth group attendance with more shooters.
- \* Sunday, 10am – 2pm and the number of shooters varies throughout the year ranging from 10-20.
- \* The number of shooters at this discipline varies and the skeet range has at times been closed due to lack of shooters and qualified personnel to operate the discipline.

#### *Sporting Clays*

- \* 1<sup>st</sup> and 3<sup>rd</sup> Saturdays from March thru August, 10am – 2pm.
- \* The number of shooters at this discipline varies greatly and is high early in the season and very low at the end. Estimated 10-15 shooters on any particular day.

#### *Rifle/Pistol/Archery*

- \* Operates all 4 days the Club is open beginning at 8am. The number of shooters varies greatly depending on season and weather from 0 to a maximum of 40. Estimated 10-12 shooters on an average day.

*The operation of the range with participants using the Club only at scheduled times allows for a controlled environment and minimal off-site impacts. More than 30% of shooters carpool when traveling to/from the Club with two or more shooters per vehicle. Based on the historical operations at the present location, operators have observed that there are days with very few or no shooters and there are days with events such as Holiday "turkey shoots" or youth activities where there are a large number of shooters. The Club will occasionally host scheduled events sanctioned by local and regional shooting organizations. The Club will have advance notice of large numbers for scheduled events and estimates these occur less than 10 times per year. The Club is only open 4 days a week, and only the rifle/pistol/archery discipline is open all days. The other disciplines operate 1 or 2 days per week for 4-hour time periods. The Club estimates average daily trip generation to be 45 trips or less. With the proposed land use action, Club operations and amenities will increase; however, there are a limited number of shooters in the Club service area and overall facility trip generation is not anticipated to significantly increase."*

**Hearings Officer:** Staff reached no conclusion on this standard. The unrefuted testimony is that the applicant currently operates a similar facility and has extensive experience in evaluating suitable sites. An extensive search was conducted and the lease on the existing site extended several times until a suitable site was located. By their nature shooting facilities require a large, fairly isolated parcel with sufficient flat and cleared or clearable areas. The record indicates that the applicant used the extensive locational and design guidelines for safety and functionality promulgated by the NRA and other organizations to evaluate sites. This site largely is surrounded by BLM and State of Oregon vacant lands that are unlikely to develop. The rail line and existing berm provide a buffer. The site already has a similar, albeit less intense, approved use. The closest residence is approximately 700' from the nearest trap range. The closest residential development of any size appears to be Pronghorn, which is approximately 2 miles away. I find that the site is suitable based on the design and operating characteristics of the site, subject to compliance with more specific standards as discussed below.

**2. Adequacy of transportation access to the site; and**

**FINDING:** The burden of proof on pages 10-11 states the following for this criterion:

*The proposal does not modify access to the site. Access to the subject property is from Highway 97 via an easement through the adjacent property to the west (16-12-13, 502). The Applicant also has access through BLM property (16-12-13, 602). The existing access road is approximately 12 feet wide with a cinder road surface.*

*Through membership, events and scheduled activities, the Applicant has indicated that the planned uses will not generate more trips than previously anticipated, 45 ADT and 16 pm peak hour trips; therefore the proposal will not alter the site's conformance to this section as established in CU-09-17/SP-09-11.*

*The submitted trip generation report from Clemow & Associates establishes conformance with this section.*

Staff notes that no response from the Oregon Department of Transportation was submitted, and the County Road Department did not respond to the notice, an indication of their lack of concern over the proposed expansion of the private park. Additionally, the County Transportation Planner has indicated no further traffic analysis is required. Staff finds that transportation access to the Highway can be adequate for the proposed use.

**Hearings Officer:** In a June 15, 2015 email, a representative of the BLM indicated that the property may already be served by right of way or may need to obtain BLM approval.

In a July 7, 2015 email, a representative of BNSF indicated that a prior crossing agreement had expired. Further, private crossing agreements are "specific to the user" and not transferable.

In a July 9, 2015 email, Redmond Fire and Rescue raised several questions regarding requirements for a turn-around and other standards, including how to apply them to movable structures.

These all are specific non-land use permits or approvals required of other agencies. There is no indication that it is not feasible to obtain such permits/approvals. The application will be conditioned accordingly.

**3. *The natural and physical features of the site, including but not limited to, general topography, natural hazards and natural resource values.***

**FINDING:** The natural and physical features of the site include the existing trees, scrub brush and grasses in unirrigated areas, as well as the natural topography. The topography of the subject property appears to be well suited for the shooting disciplines. There are no apparent natural hazards associated with the property, based on a staff site visit to the property. The applicant is proposing to retain the natural resource values of vegetation and open space of the site.

Staff is uncertain if potential lead contamination of agricultural areas and undeveloped wildlife habitat is a relevant concern under this criterion. Staff notes that the Hearings Officer required development and implementation of a lead management plan for the Bend Trap Club under this criterion in CU-09-17/SP-09-11.

**Hearings Officer:** I conclude that lead contamination is a relevant concern under this and other criteria. See discussion below.

**B. *The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in (A) above.***

**FINDING:** As indicated in a foregoing finding, the property to the west (16-12-13, 501/502/503) is no longer in farm use, and staff finds that the proposed expansion to the facility should have little impact on any other farming activity in the area. The closest farm use is on the property identified on County Assessor's map 16-12-12, as tax lot 700. The farm use on this property is separated from the proposed shooting sports facility by the railroad tracks, Highway 97, as well as hundreds of feet of distance, and a cover of juniper trees between the subject property and the highway. The other adjacent property is all public land under the administration of the BLM, and some State of Oregon-owned property. These public lands will likely continue to be managed for open space and recreational uses. The BLM has raised several issues, incorporated herein by reference, including the issue of whether a right of way to cross over BLM between the two tax lots may be needed. Staff finds that projected uses on adjacent lands would primarily be for open space (public lands), and dwellings and possible hobby farming on private land.

Staff notes that tax lots 700 and 101 constitute a remote private property and the public land in the area has very limited access from any roads. Staff finds that the proposed uses may be compatible with existing and projected uses on surrounding properties in the area, if the issues raised by the BLM can be adequately addressed.

**Hearings Officer:** The concerns raised by BLM generally relate to potential trespass, debris fall-out and fire control. Mr. Hollitz raised some of these same concerns. The conceptual range layout shows the potential outfall areas within the property. The rifle range will have berms on the three down-range sides. The applicant testified that it has an onsite well and a 300 gallon portable water tank for fire suppression. Kate Chandler testified that the applicant has operated at its existing location for 35 years with no off-site problems. The unrefuted, albeit to some extent self-interested testimony of numerous persons with expertise in the area of shooting ranges testified that the layout, operational standards and track record of the proposal and applicant are excellent. This includes a representative of ODF&W.

Counsel for the Pronghorn "Community Associations" argues in its July 28, letter that the proposal does not meet this standard due to noise impacts on the Pronghorn Destination Resort. Pronghorn is approximately 2 miles away, separated from the site by BLM land that, as discussed later, is used by the National Guard for training exercises. I find that Pronghorn is not a "surrounding property" and, further, that the noise impacts do not make the site unsuitable as discussed under 18.124.060.

**C. *These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.***

**Hearings Officer:** See conditions of approval.

2. Section 18.128.040, Specific Use Standards.

***A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through 18.128.370.***

**FINDING:** As described in the Hearings Officer's decision for CU-09-17 and CU-09-11, Staff concludes that the proposed expansion of the shooting sports use is subject to the standards listed below.

3. Section 18.128.090, Medical Clinic, Veterinary Clinic, Club, Lodge, Fraternal Organization, Community Center, Grange Hall, Golf Course, Horse Stable and Horse Events Requiring Conditional Uses, Grounds and Buildings For Games or Sports, Country Club, Swimming, Boating, Tennis Clubs and Similar Activities, Government Structures and Land Uses, Parks, Playgrounds.

***In considering the above, the Planning Director or Hearings Body may authorize the conditional use after it has been determined that the following will be provided:***

- A. ***Access from principal streets subject to Deschutes County Road Department standards.***
- B. ***Off-street parking subject to DCC 18.116.030.***
- C. ***Building and site design provisions, including landscaping, that will effectively screen neighboring uses from noise, glare, odor and other adverse impacts.***
- D. ***Playgrounds, recreation facilities and community centers in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.***

**FINDING:** In CU-09-17, the Hearings Officer found that the "grounds and buildings for games or sports" language above was applicable to the use approved. Staff finds that it also should apply to the proposed expansion of the private park. Since hunting and associated shooting are generally considered a sport, the above criteria should be addressed.

As indicated in foregoing findings, access to the subject property is from a private driveway extending east from Highway 97, as well as a right of way grant from the BLM. In the original approval ODOT indicated that, based on the relatively low number of vehicle trips associated with the proposed uses, no specific improvements to the highway are necessary. No additional concern has been expressed by ODOT in this proceeding.

Off-street parking is addressed below. Staff finds that the proposed private park expansion will not require any special building or site design provisions. The only changes to the site will include some temporary structures. There should be no significant impacts from noise, glare or odor from the proposed uses. There will be noise created from the rifles and pistols. However, staff concludes that based on the applicant's noise study, neighboring properties will not experience adverse impacts. The subject property is not located within a wildlife area combining zone.

**Hearings Officer:** See discussion below regarding noise impacts.

**C. Chapter 18.80, Airport Safety Combining Zone**

1. Section 18.80.026, Notice of land use and permit applications within overlay zone area.

***Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as***

*notice is provided to property owners entitled by law to written notice of land use or limited land use applications.*

*For the Redmond, Bend, Sunriver and Sisters airports:*

- A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 10,000 feet of the sides or ends of a runway.*
- B. Notice of land use and limited land use applications shall be provided within the following timelines.*
  - 1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to notice.*
  - 2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.*
  - 3. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.*

**FINDING:** Notice of the proposed conditional use permit/site plan applications for the expansion of the shooting sports facility uses was sent to the Redmond Airport and the Oregon Department of Aviation. The Redmond Airport Manager submitted a letter indicating that a full 7460 process should be conducted to ensure FAA has sufficient opportunity to determine if there are any potential hazards to air navigation with this site given the location near the Redmond and Bend airports, and aircraft/helicopter operations conducting overflight of the general area. Staff believes that this should be made a condition of approval for any approval granted for these applications. Additionally, the Oregon Department of Aviation submitted comments which are listed in a foregoing finding.

**Hearings Officer:** See discussion below.

- 2. Section 18.80.028, Height limitations on allowed uses in underlying zone.

*All uses permitted by the underlying zone shall comply with the height limitations in DCC 18.80.028. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control.*

- A. Except as provided in DCC 18.80.028(B) and (C), no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.*

- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at highest elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.**
- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA (for Redmond, Bend and Sunriver).**

**FINDING:** The EFU zone in this instance is the underlying zone. This zone has a 30-foot height limit, which can only be exceeded by an owner applying for a height exception, up to 36 feet in height. The subject property is not within the visual approach surface, but it appears that it is located within the transitional surface. The applicant is not proposing any structures which would exceed 30 feet in overall height.

3. Section 18.80.044, Land use compatibility requirements.

***Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body.***

**Hearings Officer:** Several concerns were raised regarding the compatibility of the proposed use in relation to aviation. There was testimony that the existing facility is closer to the Redmond Airport than this site and that there has never been an incident of inadvertent vertical shooting. In another context, the ODF&W representative commented that facilities such as this help alleviate uncontrolled, and potentially more dangerous, shooting on public lands in the area.

In a July 28 email, applicant's counsel indicated that the applicant had worked with representatives of the Redmond Airport to apply the FAA Notice tool and Form 7460, but agreed that it is tied to structures and not particularly adapted to a use such as the one proposed. This was confirmed by Nettice Honn, Aviation Program Manager for the airport. This suggests that the Redmond Airport and the applicant have concluded that it is feasible to satisfactorily address any concerns with the following condition (as modified):

Prior to initiation of the new uses, the applicant shall submit written documentation to the Planning Division from the Redmond Airport confirming that the applicant meets and has a

satisfactory program for ensuring continued compliance with, all applicable FAA regulations or other airspace requirements, as they may be amended.

- A. Noise.** *Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. (Note: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.)*

**FINDING:** The proposed use is within the noise impact boundaries for the Redmond Airport. The approval will thus need to be subject to the applicant/owner signing the declaration of anticipated noise, prior to commencement of the use, if that has not already been completed.

- B. Outdoor lighting.** *No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.*

**FINDING:** Lighting for any proposed buildings on the subject property must meet the restrictions under DCC Chapter 15.10.

- C. Glare.** *No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.*

**FINDING:** Staff finds that the proposed temporary structures will not produce glare which would affect a pilot's vision, based on the color photographs submitted by the applicant. These are the only new structures proposed at the site.

- D. Industrial emissions.** *No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use.*

**FINDING:** The proposed shooting sports facility would not involve uses that would be considered industrial, mining or other similar use.

- E. Communications Facilities and Electrical Interference.** *No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communications towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to insure this result.*

**FINDING:** Staff finds that the shooting sports facility use should not cause electrical interference with airplane signals or any radio communications.

- F. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas.** *For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.*

**FINDING:** Only the northwest portion of tax lot 700 is within the AS zone, which in this instance is a transitional surface. Table 1 listed above allows parks/open space use in the transitional surface, which staff finds the proposed use falls under.

4. Section 18.80.054.

**18.80.054, Conditional uses.**

*Uses permitted conditionally shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.*

**FINDING:** The shooting sports use is subject to conditional use review under chapters 18.16 and 18.128 of Title 18, which are addressed in foregoing findings.

5. Section 18.80.072, Water Impoundments.

*Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of DCC 18.80.072.*

**FINDING:** The applicant is not proposing any water impoundments as part of these applications.

**D. Chapter 18.124, Site Plan Review**

1. Section 18.124.010. Purpose



***DCC 18.124.010 provides for administrative review of the design of certain developments and improvements in order to facilitate safe, innovative and attractive site development compatible with the natural and man-made environment.***

2. Section 18.124.020. Elements of Site Plan

***The elements of a site plan are: The layout and design of all existing and proposed improvements, including, but not limited to, buildings, structures, parking, circulation areas, outdoor storage areas, bicycle parking, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill sections, accessways, pedestrian walkways, buffering and screening measures and street furniture.***

**FINDING:** The application materials address all required and relevant elements of site plan review.

3. Section 18.124.030. Approval Required

**A. *No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.***

**B. *The provisions of DCC 18.124.030 shall apply to the following:***

**5. *All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and***

**D. *Noncompliance with a final approved site plan shall be a zoning ordinance violation.***

**E. *As a condition of approval of any action not included in DCC 18.124.030(B), the Planning Director or Hearings Body may require site plan approval prior to issuance of any permits.***

**FINDING:** The use is a recreational facility that requires parking facilities and, thus, staff finds that site plan review is required under B(5) above.

4. Section 18.124.060. Approval criteria.

***Approval of a site plan shall be based on the following criteria:***

**A. *The proposed development shall relate harmoniously with the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.***

**FINDING:** The applicant is proposing a few changes to the site. The existing buildings and driveways are to remain as constructed. The applicant is proposing to add clay launching machines at shooting stations, moveable storage containers for equipment and clays, on tax lot 700. The natural environment of trees, scrub brush and grasses will be preserved. There will be no views or topographical features that will be impacted.

**Hearings Officer:** Counsel for the Pronghorn "Community Associations" submitted a 7-28 letter raising noise impact concerns. The letter argues that the sound study performed by the applicant was insufficient as it dealt only with the western property line, not the eastern property line toward the Pronghorn Resort. It states that the prior clay pigeon shooting was audible to residents and that the expanded and relocated facilities will be even more so. The letter seeks a 25' berm along the entire eastern property line, similar to that proposed around the rifle and pistol range.

The sound study indicates that trap shooting is the loudest noise source and will be audible at 68-69 db at the residence that is 700' away. It suggests that this is consistent with background noise sources, although I agree that the nature of gun fire is different and in some ways more impactful. While it is true that the study was oriented to the west, absent some unusual circumstances, it would seem that the impacts to the east would be comparable. Pronghorn is approximately 2 miles distant. Logically, this distance would mean that the noise would be significantly less at that point than at the residence 700' away. In its August 4, response, the applicant states that the National Guard uses the BLM land between the subject site and Pronghorn for heavy equipment training maneuvers, including shooting dummy or blank rounds. It also has a live firing range on the BLM property which is used at least once per month.

As I understand it, the purpose of the berms around the rifle/pistol ranges is for safety, not sound control, although perhaps they provide sound buffering. The evidence is that this is a heavily noise impacted area, even without the proposed use. I find that there is insufficient information to rebut the evidence submitted by the applicant or conclude that the proposal would add any significant impacts.

Finally, it should be noted that this standard is in reference to the "site plan" and not whether the use itself is permitted. It is not apparent that it encompasses noise impacts. In any event, construction of a berm would conflict with the preservation of natural features. The applicant states that it would cost \$600,000. On the record before me, I find that there is insufficient evidence that such a condition has both an insufficient nexus to eliminating noise and is disproportionate to the impact of the proposal.

Several concerns were raised about the potential for lead contamination. This impacts how the proposal relates to the natural environment and to the potential future use of the site for agriculture as discussed above. Mr. Loe submitted a letter detailing significant environmental and health related concerns associated with lead based ammunition. On the other hand, as he notes, the EPA takes the position that lead shot/bullets are not hazardous waste and not subject to environmental law. The Oregon Department of Environmental Quality has raised no concerns.

In response, the applicant submitted a draft Environmental Stewardship Plan prepared by AECOM and prepared in accordance with several guidance documents, including the EPA "Best Management Practices" document referenced by Mr. Loe. It appears to be a reasonable, good faith effort to address this issue. The applicant has agreed that it is appropriate to be conditioned on compliance with the final adopted Plan and limiting all hunting to use of "non-toxic" ammunition. I find that a few items are appropriate for special treatment to help ensure that the portion of the site most suitable for potential agricultural production remains as such. In

particular, a number of the Plan provisions are worded as "should" when they need to be "shall" to satisfy the Code standards. Accordingly, the following condition of approval is imposed:

Prior to initiation of the use the applicant shall adopt and file with the County a final Environmental Stewardship Plan substantially conforming to, and no less rigorous than, the draft Plan and with the following modifications:

- Annual soil pH sampling *shall* be conducted and steps *shall* be taken to maintain soil at 6.5 to 8.5 pH. Logs shall be maintained.
- Annual berm inspections *shall* be conducted and appropriate steps taken (Section 4.5) Logs shall be maintained.
- Lead recycling recording *shall* be implemented and logs maintained. (Section 4.6)
- Annual collection of clay targets *shall* be implemented and logs maintained. (Section 4.8)
- Only non-toxic ammunition shall be used for hunting.
- Incidents involving alleged violations of the ESP shall be investigated and the resolution documented.
- All ESP logs, incident reports, investigations and similar ESP records shall be maintained permanently and made available to the County on request.

The applicant shall at all times enforce and comply with the adopted ESP. Amendments/revisions to the ESP shall be filed with the County.

- B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.***

**FINDING:** As indicated in a foregoing finding, the applicant will be adding trap range and archery shooting on tax lot 101, and sporting clays and skeet shooting, rifle and pistol shooting, as well as archery shooting. The relatively level topography on the property and the nature of the proposed use will not require much in the way of topographic changes. The applicant is proposing to preserve the natural vegetation.

- C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.***

**Hearings Officer:** See discussion regarding concerns raised by citizens, BLM and Redmond Airport, and related conditions.

- D. When appropriate, the site plan shall provide for the special needs of the handicapped persons, such as ramps for wheelchairs and Braille signs.***

**FINDING:** The applicant is not proposing any new structures for the site, other than temporary storage buildings, which would not require ADA compatibility.

- E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.***

**FINDING:** The subject property has one existing access from a private road extending east from Highway 97. Staff believes, based on lack of response from ODOT, that the existing access to Highway 97 will be sufficient.

The proposed interior circulation pattern would be accommodated on both the existing and new driveways within the property. There will be no pedestrians on the site, except for patrons going to and from their shooting areas. Patrons will be able to walk on the property, and there should be no conflict with between them and vehicles on the site. The proposed new parking areas for the site will be immediately adjacent to the shooting areas, allowing easy access to and from these areas. Staff finds that the proposed uses, with gravel driveways and parking areas, will be harmonious with the existing uses on the site, and will not have any impact on neighboring buildings.

- F. *Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.***

**FINDING:** The applicant is proposing that surface water drainage be to soil and natural landscape areas surrounding the site. With the topography on the site, runoff into the ground will easily occur. There should be no drainage to neighboring properties. This drainage into soil and natural landscaped areas should have no impact on surface or subsurface water quality.

- G. *Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse visual impacts on the site and neighboring properties.***

**FINDING:** Staff finds that with the limited amount of improvements proposed and the size of the property, as well as the lack of development adjacent to the property, there should be adequate screening. The propose development will not require machinery and equipment, except for the sport shooting equipment. Solid waste (garbage) can be taken to the closest landfill. Any utilities needed for development at the site should have minimal, if any, impact on the subject property or the adjoining properties. Mail will be handled by the applicant and staff at the site.

- H. *All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.***

**FINDING:** The applicant states that no new utility installations are proposed.

- I. *Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).***

**FINDING:** The subject property is located within the Exclusive Farm Use zone and the Airport Safety (AS) Combining Zone. There are no additional criteria for the EFU zone or the AS zone than those listed in foregoing findings.

- J. *All exterior lighting shall be shielded so that direct light does not project off-site.***

**FINDING:** A condition of approval should be established which requires that all exterior lighting for the hunting preserve/sporting clays facility will be shielded and not project off-site, and must meet the lighting code requirements of Chapter 15.10 of the Deschutes County Code.

- K. Transportation access to the site shall be adequate for the use.**
- 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.**
  - 2. Mitigation for transportation-related impacts shall be required.**
  - 3. Mitigation shall meet applicable County standards in DCC 171.6 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.**

**FINDING:** Access and transportation impacts were discussed in a foregoing finding.

**Hearings Officer:** The applicant is required to obtain access approvals from the BLM and BNSF railroad as conditions of approval.

5. Section 18.124.070, Required minimum standards.

**B. Required Landscaped Areas.**

- 1. The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:**
  - a. A minimum of 15 percent of the lot area shall be landscaped.**

**FINDING:** Staff finds that the proposed hunting preserve/sporting clays facility expansion would not be considered a commercial, multi-family or industrial use under this section. This is consistent with the hearings officer's decision on application nos. CU-09-17/SP-09-11 for the existing facility. Consequently, the proposed expansion of the use would not be subject to DCC 18.124.070(B) (1).

- 2. In addition to the requirement of DCC 18.124.070(B) (1) (a), the following landscape requirements shall apply to parking and loading areas:**
  - a. A parking or loading area shall be required to be improved with defined landscape areas totaling no less than 25 square feet per parking space.**
  - b. In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscape strip at least five feet in width.**
  - c. A landscape strip separating a parking or loading area from a street shall contain:**

- i. *Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.*
  - ii. *Low shrubs not to reach a height greater than 3 feet zero inches, spaced no more than eight feet apart on the average.*
  - iii. *Vegetative ground cover.*
- d. *Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.*
  - e. *The landscaping in parking areas shall have a width of not less than five feet.*
  - f. *Provision shall be made for watering planting areas where such care is required.*
  - g. *Required landscaping shall be continuously maintained and kept alive and attractive.*
  - h. *Maximum height of tree species shall be considered when planting under overhead utility lines.*

**FINDING:** The proposed new parking areas are to be located adjacent to the new trap range, sporting clays course, skeet range, rifle and pistol ranges, as well as the archery courses. The parking areas are located where they will not be visible from adjoining properties. No landscaping beyond the existing natural vegetation should be required. With the natural landscaping, no watering of trees or other shrubs will be necessary. The majority of the site will remain in its natural state, and serve as the vegetation for landscaping. No new landscaping is proposed and the existing vegetative cover is to be preserved. Staff believes that this should be made a condition of approval. No new overhead utility lines are proposed with this development.

**C. *Non motorized access.***

- 1. *Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in Sections 18.116.031 and 18.116.035 of this title. The location and design of bicycle parking facilities shall be indicated on the site plan.*

**FINDING:** The applicant is proposing 30 new vehicular parking spaces. This number would require six bicycle parking spaces. Staff finds that the applicant's proposal qualifies for an exception to the bicycle parking requirements under DCC 18.116.031(A) (1) (c). Therefore bicycle parking would not be required. However, the applicant has stated and staff concurs, that the bicycle parking can be accommodated within the existing buildings on the site. This is consistent with the Hearings Officer's decision on application nos. CU-09-17/SP-09-11).

**2. *Pedestrian Access and Circulation:***

- a. *Internal pedestrian circulation shall be provided in new commercial, office and multi-family residential developments*

*through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.*

**FINDING:** This proposal does not include commercial, office or multi-family residential development. This criterion does not apply.

- b. *Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.***
- c. *Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.***
- d. *Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.***
- e. *To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings***

**FINDING:** Staff finds that, following the Board's adoption of findings in 247-14-000229-SP, criteria (b) - (e) apply to any use subject to site plan review, independent of the requirements in criterion (a). Staff finds that, however, that this proposal does not include new building entrances. No new walkways are proposed or required and, therefore, no new connections with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use are required.

#### **D. Chapter 18.116, Supplementary Provisions**

- 1. Section 18.116.030, Off-Street Parking and Loading.
  - A. *Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.***
  - B. *Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which***

*will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:*

1. *Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths subject to the following table:  
Less than 5,000 No berths required.*

**FINDING:** Staff finds that since the proposed use would be considered recreational, the proposed use would not require a loading berth. This is consistent with the hearings officer's decision on CU-09-17/SP-09-11.

- C. *Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the sue of a building existing on the effective date of DCC Title 18 is changed.*
- D. *Number of Spaces Required. Off-street parking shall be provided as follows:*
  9. *Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.*

**FINDING:** This section has no specific standard for a use such as the proposed hunting preserve/sport shooting facility. The applicant has proposed 30 parking spaces. Staff finds that the parking areas proposed will accommodate the required parking for the proposed uses.

- E. *General Provisions. Off-Street Parking.*
  1. *More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.*
  2. *Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking spaces must be evidence by a deed, lease, contract or other appropriate written document to establish the joint use.*
  3. *Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the*



**building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existing of such off-premise parking arrangements rests upon the applicant.**

- 4. Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.**

**FINDING:** The proposed uses include the hunting preserve and sport shooting facility. The applicant has indicated that the uses will be tied together, as many of the patrons will participate in a variety of uses. Staff finds that the proposed uses will have sufficient parking as shown on the site plan. The parking spaces are located adjacent to the shooting areas. The applicant states that parking will be used for patrons and employees, and not used for the storage of vehicles or materials, or for the parking of trucks used in the business. This should be made a condition of approval.

- F. Development and Maintenance Standards for Off-street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:**

- 1. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight-obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.**

**FINDING:** Staff finds that the proposed parking areas will not require that a fence be constructed, as they will not be visible from adjoining properties. Staff believes that the existing vegetative cover will provide the screening envisioned under this criterion.

- 2. Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.**

**FINDING:** No adjoining property is in a residential zone.

- 3. Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.**

**FINDING:** The site plan indicates that the parking areas will not require any vehicles to back out into a street or right of way.

- 4. Areas used for the standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all-weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving**

**requirements by the Planning Director or Hearings Body upon finding that:**

- a. ***A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or***
- b. ***The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or***
- c. ***The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.***

**FINDING:** The applicant has proposed that the new driveways, as well as the new parking areas, will have a gravel surface to prevent dust from becoming a problem. As a condition of any approval, staff recommends that the Hearings Officer require that areas used for the standing and maneuvering of vehicles be maintained in a manner which will not create dust problems for neighboring properties. The subject property is located outside of an unincorporated community, and with the gravel driving surfaces and parking areas, dust control should be sufficient.

Staff notes that, following the Board's adoption of findings in 247-14-000229-SP, cinders are not an all-weather surface under this criterion. Staff recommends that, as a condition of any approval, the applicant be required to gravel or pave all new areas used for the standing and maneuvering of vehicles prior to the initiation of the use.

**Hearings Officer:** I find that paving the areas used for standing, maneuvering and parking of vehicles may conflict with the analysis above relating to minimizing impacts on lands that are potentially more suitable for agriculture. Accordingly, the condition will require that the areas be graveled and not paved.

5. ***Access aisles shall be of sufficient width for all vehicular turning and maneuvering.***

**FINDING:** Table 1 of DCC 18.116.030, specifies that access aisles in parking lots be a minimum 12 feet wide for one-way traffic and 24 feet wide for two way traffic. The applicant submitted parking lot design materials do not indicate how traffic flow within the parking area will be designed. Staff recommends as a condition of any approval that the applicant be required to provide a revised parking lot diagram showing the layout of all proposed parking spaces and access aisles in accordance with DCC 18.116.030 and develop that parking area prior to initiation of the new uses.

6. ***Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined***

*through the use of rails, fences, walls or other barriers or markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.*

7. *Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.*
8. *Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.*

**FINDING:** The term "service drive" is not defined in Title 18. Section 18.04.030 defines "driveway" as "a way created to provide vehicular access from a public or private road to a garage or parking area." There is an existing driveway providing access from Highway 97 to the property and to the proposed parking area. Therefore, these criteria are not applicable because no service drives are proposed.

- G. *Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to county standards for stalls and aisles as set forth in the following drawings and table:*

**FINDING:** The site plan shows the proposed parking area, with individual parking areas drawn separately. The parking areas appear to meet the parking space requirements (9 x 20 feet). The applicant submitted parking lot design materials, which do not indicate how traffic flow within the parking area will be designed. Staff recommends as a condition of any approval that the applicant be required to provide a revised parking lot diagram showing the layout of all proposed parking spaces and access aisles in accordance with DCC 18.116.030 and develop that parking area prior to initiation of the new uses.

2. Section 18.116.031, Bicycle Parking

*New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.*

A. *Number and Type of Bicycle Parking Spaces Required.*

1. *General Minimum Standard.*

\* \* \*

- c. *When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:*

- i The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.*
- ii. The proposed use generates less than 50 vehicle trips per day.*
- iii. No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.*
- iv. The size, weight, or dimensions of the goods sold at the site makes transporting them by bicycle impractical or unlikely.*
- v. The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.*

**FINDINGS:** Staff finds that an exception under these criteria is available as the subject property is located outside of an unincorporated community, a destination resort, and a rural commercial zone, and because it is unlikely patrons of the facility would access the remote site by bicycle. The proposed use would generate fewer than 50 vehicle trips per day. Therefore, staff finds that the applicants' proposal qualifies for an exception to the bicycle parking requirements under this section. The applicant notes that bicycle parking could be accommodated in existing structures.

**B. Bicycle Parking Design.**  
**1. General Description.....**

**FINDINGS:** Staff finds that applicants' proposal qualifies for an exception to the bicycle parking requirements under 18.116.031(A) (1) (c). Therefore, these criteria do not apply.

**III. CONCLUSION:**

Based on the foregoing findings and conclusions, 247-15-000263-CU / 264-SP are approved, subject to compliance with the conditions below:

- 1. Approval of the site plan for the proposed hunting preserve and sporting clays facility expansion is based on the submitted burden of proof statement and site plan. This includes but is not limited to preservation of existing vegetative cover. Any substantial change to the proposal will require a new application.
- 2. All exterior lighting for the project shall be installed in compliance with Chapter 15.10 of the County Code, Outdoor Lighting Control. All exterior lighting for the hunting preserve/sporting clays facility will be shielded and not project off-site.
- 3. Clear vision areas shall be maintained at the driveway locations for the site.
- 4. The applicant shall gravel (not pave) all new areas used for the standing and maneuvering of vehicles prior to the initiation of the use. Areas used for the standing

and maneuvering of vehicles shall be maintained in a manner which will not create dust problems for neighboring properties. This may include watering the roads when necessary.

5. The hunting preserve shall be limited to the subject property only, and shall not include hunting activity on the adjacent public or private land. The boundary shall be posted accordingly. The applicant shall meet all requirements of the Oregon Department of Fish and Wildlife for the proposed hunting preserve.
6. Prior to initiation of the use the applicant shall adopt and file with the County a final Environmental Stewardship Plan substantially conforming to, and no less rigorous than, the draft Plan and with the following modifications:
  - Annual soil pH sampling shall be conducted and steps shall be taken to maintain soil at 6.5 to 8.5 pH. Logs shall be maintained.
  - Annual berm inspections shall be conducted and appropriate steps taken (Section 4.5) Logs shall be maintained.
  - Lead recycling recording shall be implemented and logs maintained. (Section 4.6)
  - Annual collection of clay targets shall be implemented and logs maintained. (Section 4.8)
  - Only non-toxic ammunition shall be used for hunting.
  - Incidents involving alleged violations of the ESP shall be investigated and the resolution documented.
  - All ESP logs, incident reports, investigations and similar ESP records shall be maintained permanently and made available to the County on request.

The applicant shall at all times enforce and comply with the adopted ESP. Amendments/revisions to the ESP shall be filed with the County.
7. The applicant shall meet all requirements of the Oregon Health Division for the drinking water supply for the proposed hunting preserve and sporting clays facility.
8. Prior to initiation of new uses on the site, the applicant/owner shall execute a private crossing agreement with BNSF Railroad for use of the railroad crossing if determined necessary by BNSF. A copy of the agreement, or confirmation from BNSF that it is not necessary, shall be provided to the Deschutes County Planning Division.
9. Prior to initiation of the new uses, the applicant shall obtain any necessary right of way grant from the Bureau of Land Management (BLM) for access to the subject property. The applicant also shall consult with the BLM and the Pronghorn Resort and shall comply with any gate closure protocols or installation of a cattle guard as determined necessary by the BLM to avoid conflicts with the grazing allotment.
10. Prior to initiation of the new uses, the applicant shall submit written documentation to the Planning Division from the Redmond Fire Department confirming that the applicant has met all fire access, water supply and fire suppression standards.

11. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
12. Prior to initiation of the new uses, the applicant shall provide a revised parking lot diagram showing the layout of all proposed parking spaces and access aisles in accordance with DCC 18.116.030 and develop that parking area.
13. Prior to initiation of the new uses, the applicant shall submit written documentation to the Planning Division from the Redmond Airport confirming that the applicant meets and has a satisfactory program for ensuring continued compliance with, all applicable FAA regulations or other airspace requirements, as they may be amended.
14. Prior to initiation of the new uses, sign and record a Declaration of Anticipated Noise as provided in Section 18.80.044 A.
15. Prior to initiation of the new uses, the applicant shall sign and record a County Conditions of Approval Agreement to ensure compliance with all conditions of approval.

Dated this 23rd day of September, 2015

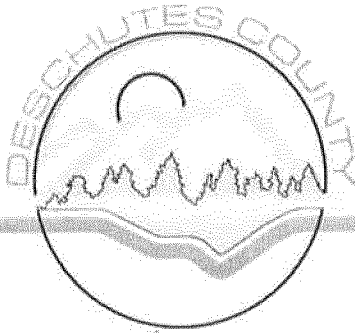
Mailed this 25th day of September, 2015

Dan R

Digitally signed by Dan R Olsen  
DN: cn=Dan R Olsen, o,  
ou=Attorney,  
email=DanR.Olsen@gmail.com,  
c=US  
Date: 2015.09.23 11:40:13 -07'00'

Dan R. Olsen, Hearings Officer

**THIS DECISION BECOMES FINAL TWELVE DAYS AFTER MAILING UNLESS TIMELY APPEALED BY A PARTY OF INTEREST.**



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005

(541)388-6575 FAX (541)385-1764

<http://www.co.deschutes.or.us/cdd/>

### CERTIFICATE OF MAILING

**FILE NUMBER:** 247-15-000263-CU, 247-15-000264-SP

**DOCUMENT/S MAILED:** Hearings Officer's Decision

**LOOKUP AREA:** N/A

**MAP/TAX LOT NUMBER:** 16-12-13, 101, 16-13, 700

I certify that on the day of September 25th, 2015 the attached Hearings Officer's Decision, dated September 25th, 2015, was mailed by first class mail, postage prepaid, to the persons and addresses set forth on the attached list.

Dated this 25th day of September, 2015.

### COMMUNITY DEVELOPMENT DEPARTMENT

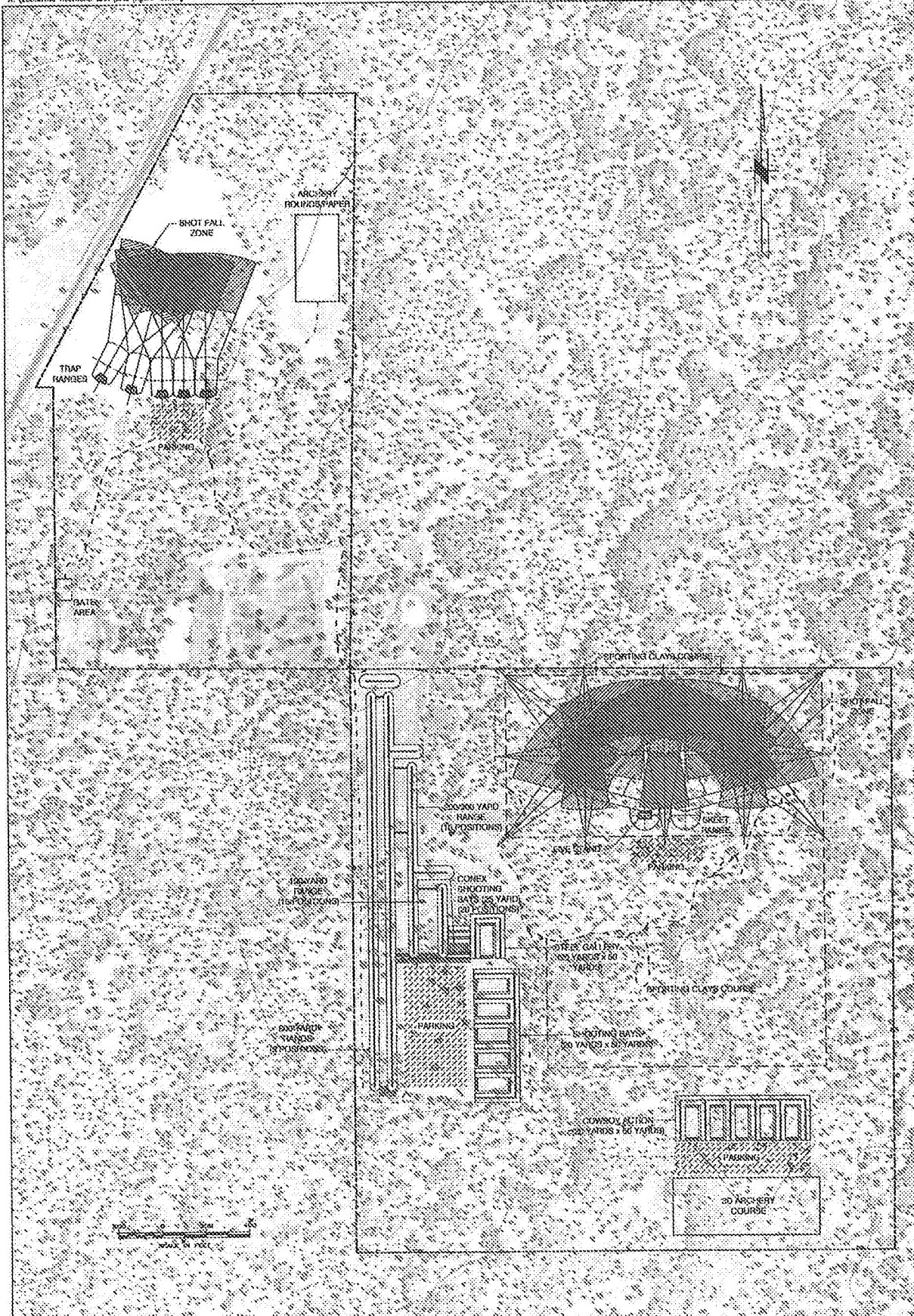
By: Moonlight BPO


Kate Chandler High Desert Shooting Sports Foundation P.O. Box 14 Redmond, OR 97756	Bill Layton Redmond Rod and Gun Club P.O. Box 14 Redmond, OR 97756
Tia Lewis Schwabe, Williamson & Wyatt P.C. 360 SW Bond Street, Suite 500 Bend, OR 97702	The Halligan Ranch, Inc. 19855 SW Touchmark Way #C-16 Bend, OR 97701
Nettice Honn Aviation Program Manager Redmond Airport 716 SW Evergreen Avenue Redmond, OR 97756	Carol Macbeth Central Oregon Landwatch 50 SW Bond Street, Suite 4 Bend, OR 97702
Susie Manezes, Asst. Field Manager Prineville District BLM 3050 NE Third Street Prineville, OR 97754	William R. Labore P.O. Box 1425 Redmond, OR 97756

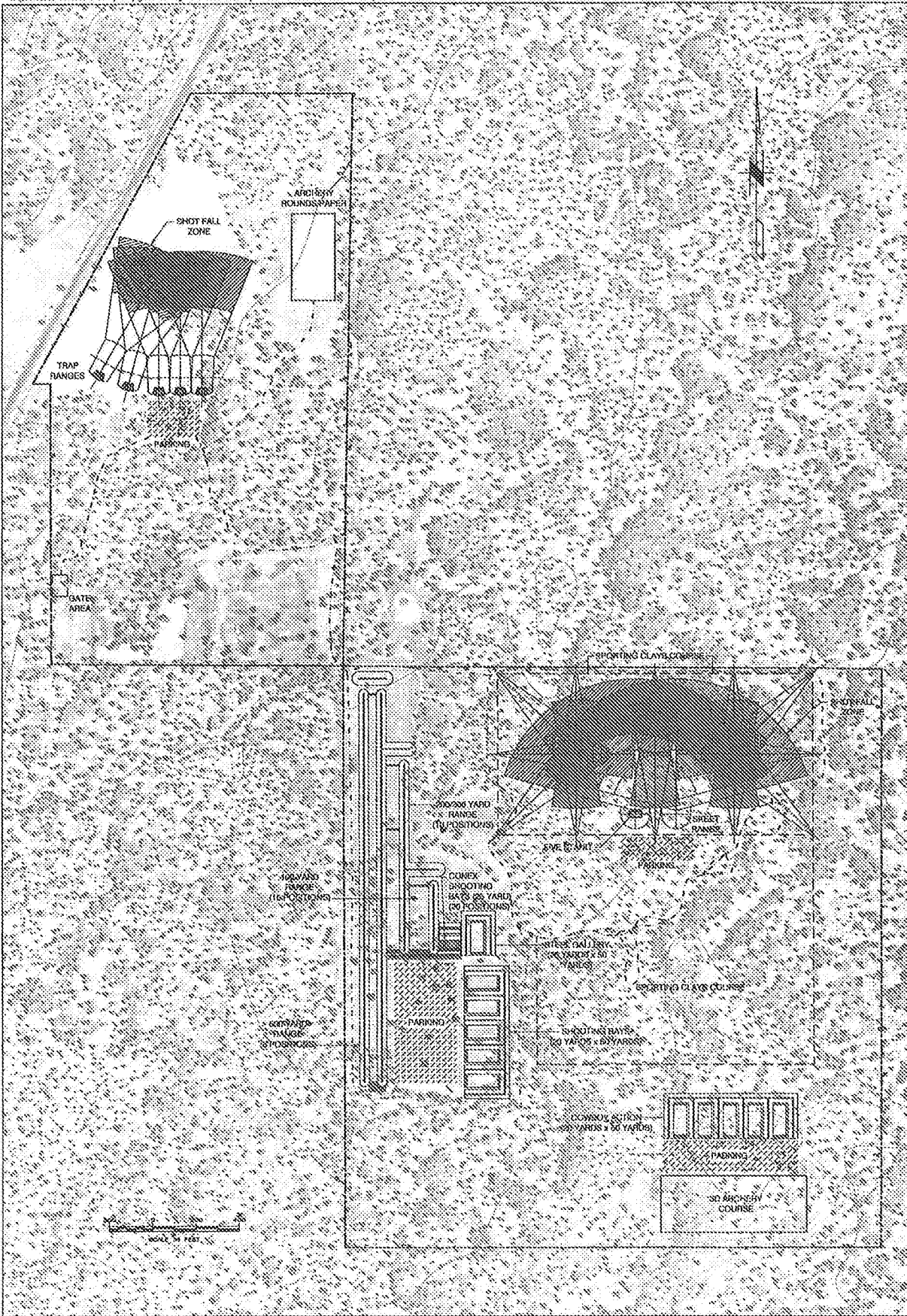
Fred Baldwin Century 21 Gold County Realty 2421 S. Highway 97 Redmond, OR 97756	Dave Ganskopp P.O. Box 592 Hines, OR 97738
Gary C. Barnett 16922 Royal Coachman Drive Sisters, OR 97759	Larry Sale P.O. Box 135 Powell Butte, OR 97753
William R. LaBore P.O. Box 1425 Redmond, OR 97756	Michael H. McGean Francis, Hansen & Martin LLP 1148 NW Hill Street Bend, OR 97701-1914
Joseph Loe 20429 Timberline Bend, OR 97702	Eldon L. Buckner NRA YHEC Program 13976 Hunt Mountain Lane Baker City, OR 97814
Phillip D. Havens 20650 Coventry Circle Bend, OR 97702	James C. McNamara 6388 Shad Road Crooked River Ranch, OR 97760-7786
Eddy Okulove P.O. Box 4894 Sunriver, OR 97707	Jon Webber 9330 NE 5 <sup>th</sup> Street Terrebonne, OR 97760
Candi C. Bothum 4-H Program Coordinator 3893 SW Airport Way Redmond, OR 97756	James Reed ODFW Hunter Education Program Coordinator 4034 Fairview Industrial Drive SE Salem, OR 97302
Bill Price 825 NW 11 <sup>th</sup> Street Ontario, OR 97914	Tim McCormick 410 East F Street Culver, OR 97734
Jeff Caines Oregon Dept of Aviation 3040 25 <sup>th</sup> Street SE Salem, OR 97302	Clara Butler Redmond Fire and Rescue 341 NW Dogwood Avenue Redmond, OR 97756
R. H. Simonson P.O. Box 548 Redmond, OR 97756	James Hoduffer P.O. Box 112 Dundee, OR 97115
Tony Kuklis P.O. Box 103 Powell Butte, OR 97753	Zac Detweiler 3003 SW Deschutes Avenue Redmond, OR 97756



<p>Steve Rychetsky  P.O. Box 1457  Redmond, OR 97756</p>	<p>Steven W. Neubauer  BNSF  2650 Lou Menk Drive  Ft. Worth, TX 76131</p>
<p>Charles and Diana Ackerman  39552 SE Tillamook Loop  Prineville, OR 97754</p>	<p>Maureen Adams-Heywood  14506 SW Peninsula Drive  Crooked River Ranch, OR 97760</p>
<p>Kevin Borst  60474 Zuni Road  Bend, OR 97702</p>	<p>Christopher Douglass  1686 NE Tucson Way  Bend, OR 97701</p>
<p>Row Smith  20907 Vista Bonita  Bend, OR 97703</p>	<p>Katherine Adams  13663 SW Summit View Pl  Crooked River Ranch, OR 97760</p>
<p>Brian Ferry  5060 NW Kingwood Avenue  Redmond, OR 97756</p>	<p>Scott Brees  19989 Cliffrose Dr.  Bend, OR 97702</p>
<p>J. Beatty  2490 NW Garden Lane  Prineville, OR 97754</p>	<p>Mo Chandler  1650 NW Helmholtz Way  Redmond, OR 97756</p>
<p>Brian O Connor  847 SW 14<sup>th</sup> Street  Redmond, OR 97756</p>	<p>G. Bryson  223 NW Greenwood  Redmond, OR 97756</p>
<p>Fred Kowolowski  P.O. Box 667  Redmond, OR 97756</p>	<p>Diana Lyons  9020 S. Highway 97  Redmond, OR 97756</p>
<p>Dave Peterson  10473 SW Cornett Loop  Powell Butte, OR 97753</p>	<p>Larry Langdon  64355 Old Bend-Redmond Highway  Bend, OR 97701</p>
<p>Shelley Marie  14215 SW Stallion Drive  Crooked River Ranch, OR 97760</p>	<p>Stew Butts  515315 Madras Hwy  Prineville, OR 97754</p>
<p>Dan Littlefield  2293 NE Johnson Creek Road  Prineville, OR 97754</p>	<p>M.C. Himshaw  1392 Barberry Drive  Terrebonne, OR 97760</p>



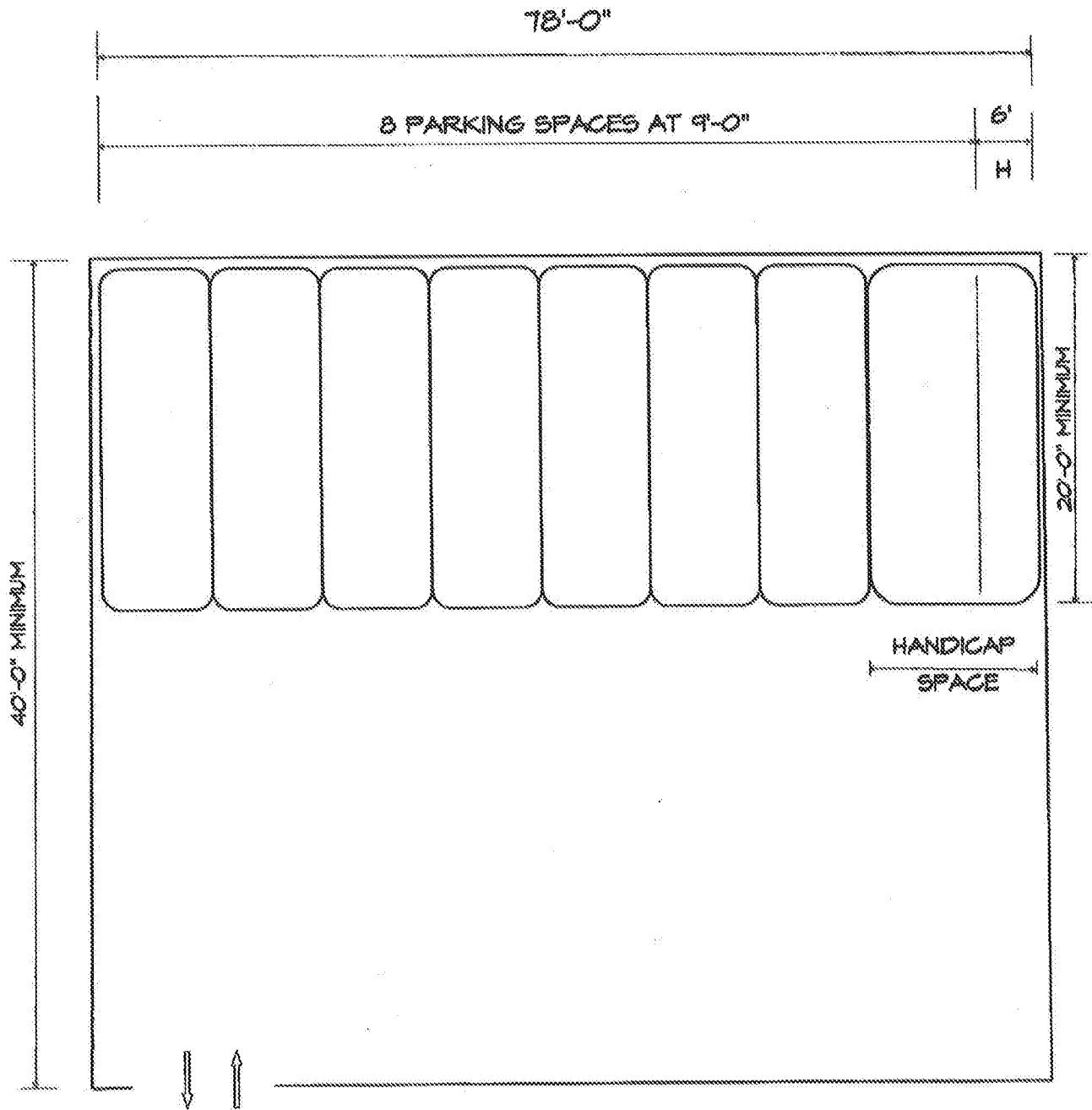
DESIGNED BY SK	DATE FEBRUARY 2015		<p><b>REDMOND ROD AND GUN CLUB</b></p> <p>CONCEPTUAL RANGE LAYOUT</p>	<p>LOGSHEET NUMBER <b>01</b></p> <p>CAD FILE NUMBER</p> <p>SHEET NO. <b>A</b></p>
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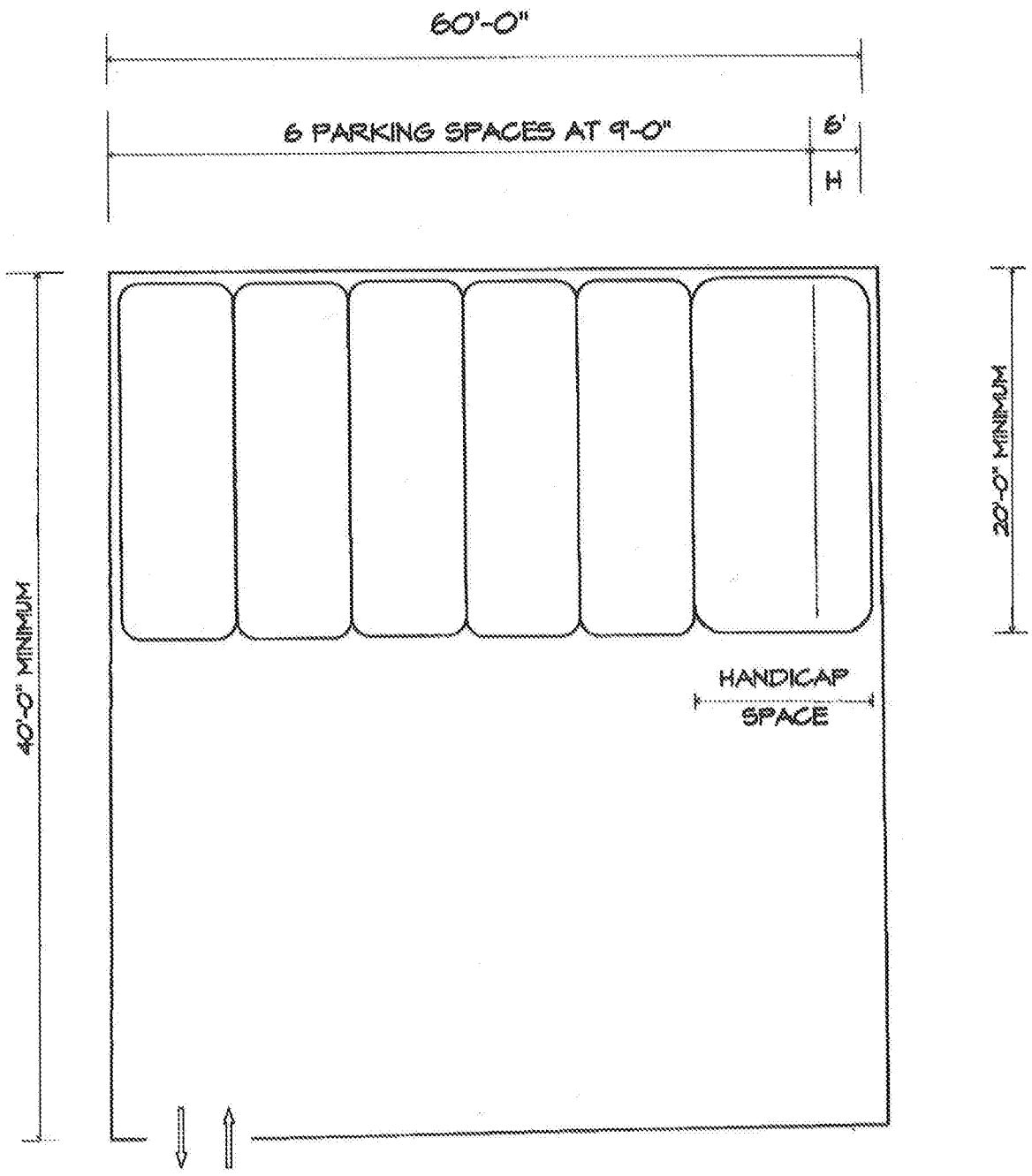
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DRAWN BY: PEP		DATE: FEBRUARY 2015		CAD FILE NUMBER: 01	
IF OAS DOES NOT MEASURE 1" AT FULL SIZE, THIS SCALE ON COPYING NOT TO SCALE.		<b>REDMOND ROD AND GUN CLUB</b> <b>CONCEPTUAL RANGE LAYOUT</b>		SHEET: OF:	
				REV: <b>A</b>	



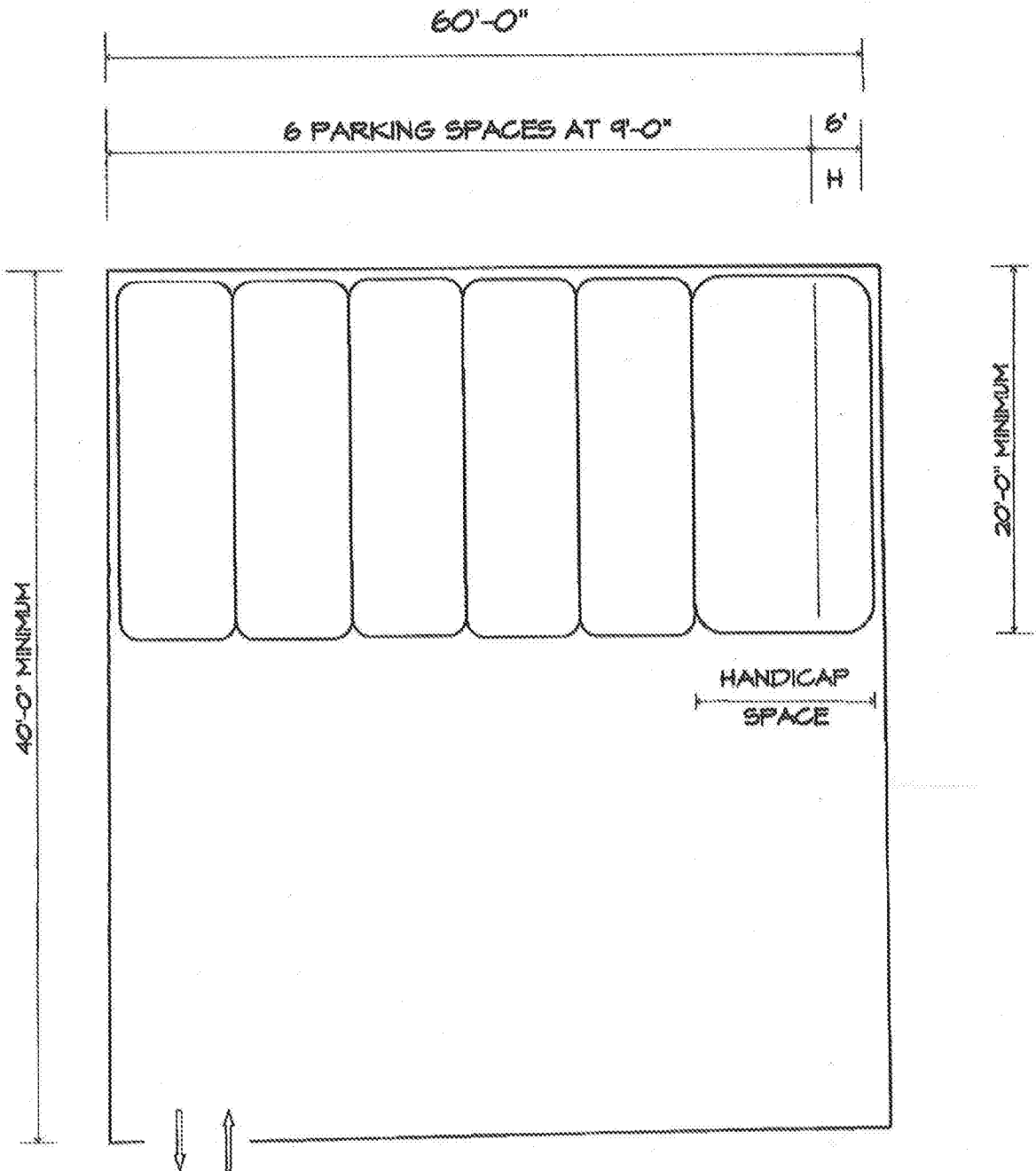
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<b>TITLE: TRAP RANGE PARKING LOT</b>		
<b>SCALE: AS SHOWN WITH DIMENSIONS</b>	<b>DRAWN BY: BR</b>	<b>APPROVED BY:</b>



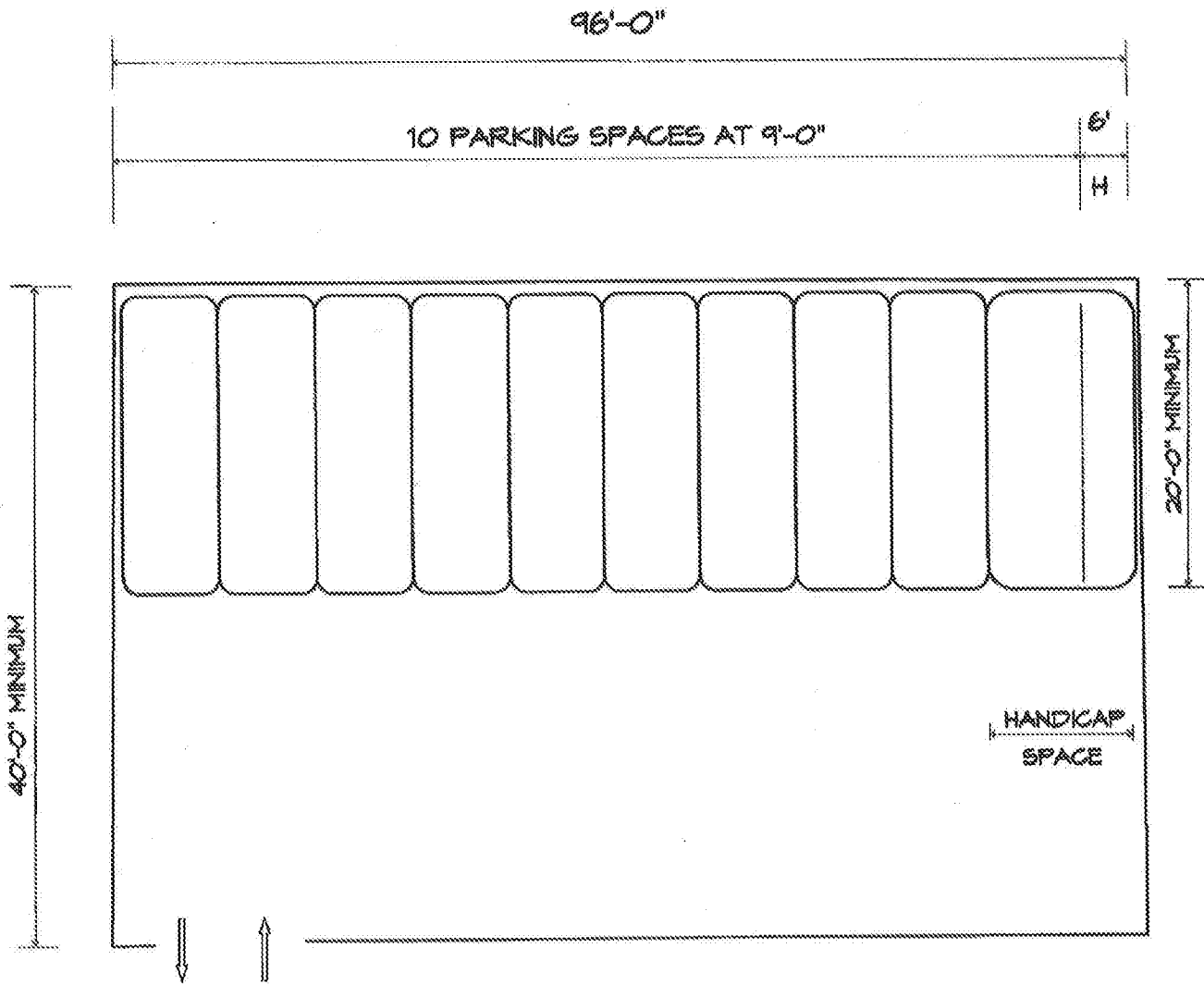
<b>OWNER: REDMOND ROD AND GUN CLUB</b>		<b>DATE: 05/12/2018</b>
<b>TITLE: SKEET/SPORTING CLAYS RANGE PARKING LOT</b>		
<b>SCALE: AS SHOWN WITH DIMENSIONS</b>	<b>DRAWN BY: SR</b>	<b>APPROVED BY:</b>



OWNER: REDMOND ROD AND GUN CLUB		DATE: 05/12/2018
TITLE: CONBOY ACTION RANGE PARKING LOT		
SCALE: AS SHOWN WITH DIMENSIONS	DRAWN BY: SR	APPROVED BY:



<b>OWNER: REDMOND ROD AND GUN CLUB</b>		<b>DATE: 08/12/2018</b>
<b>TITLE: RIFLE &amp; PISTOL PARKING LOT</b>		
<b>SCALE: AS SHOWN WITH DIMENSIONS</b>	<b>DRAWN BY: SR</b>	<b>APPROVED BY:</b>

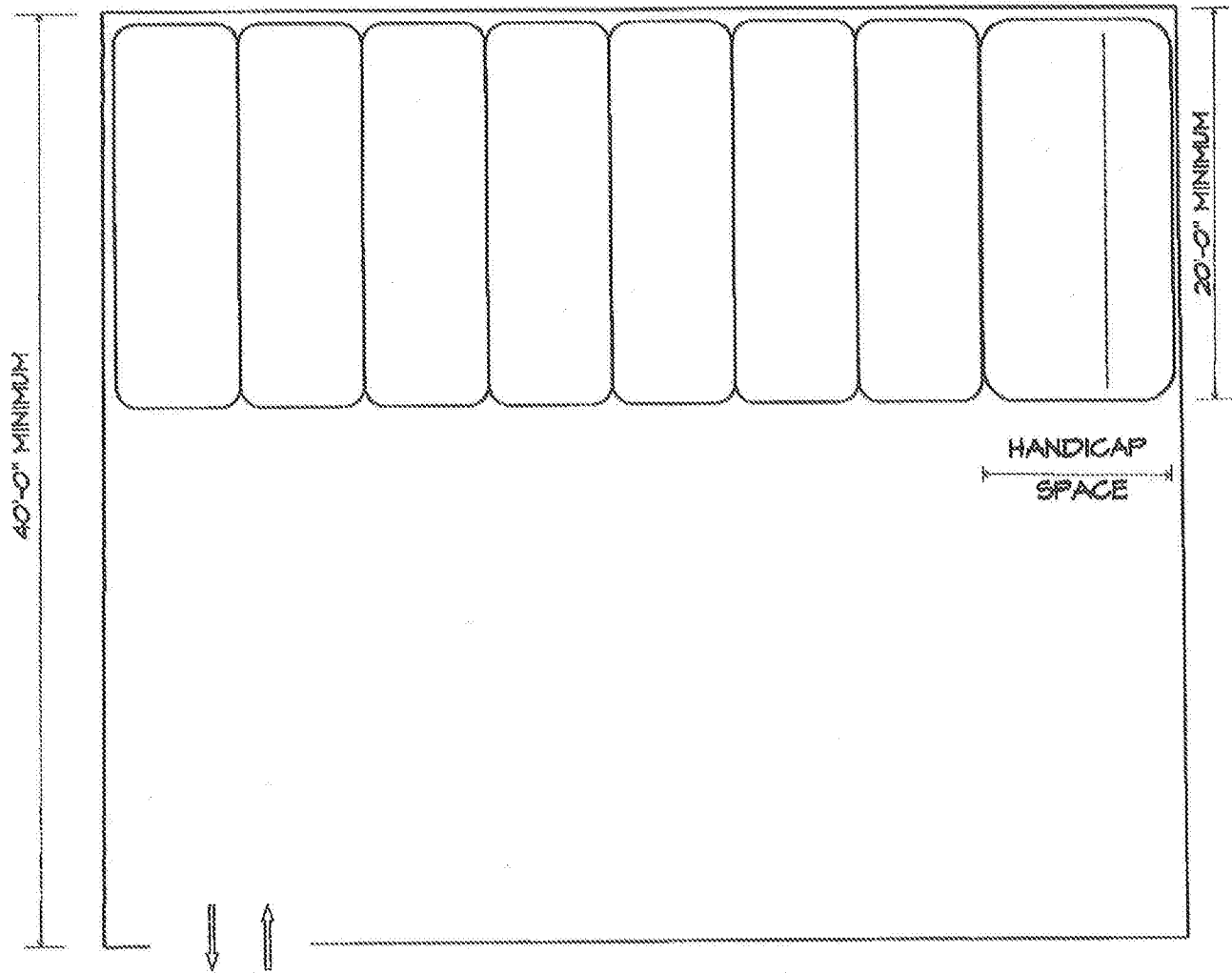
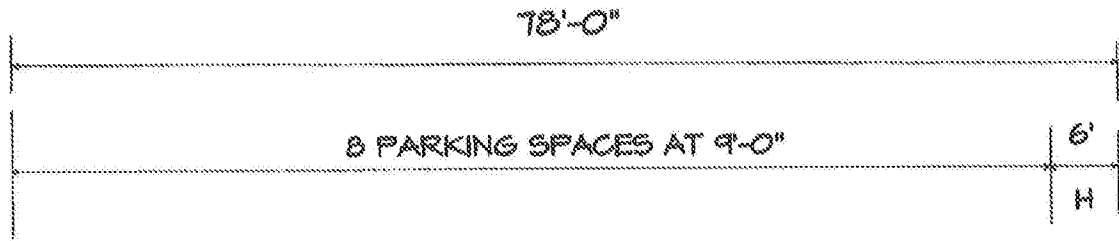




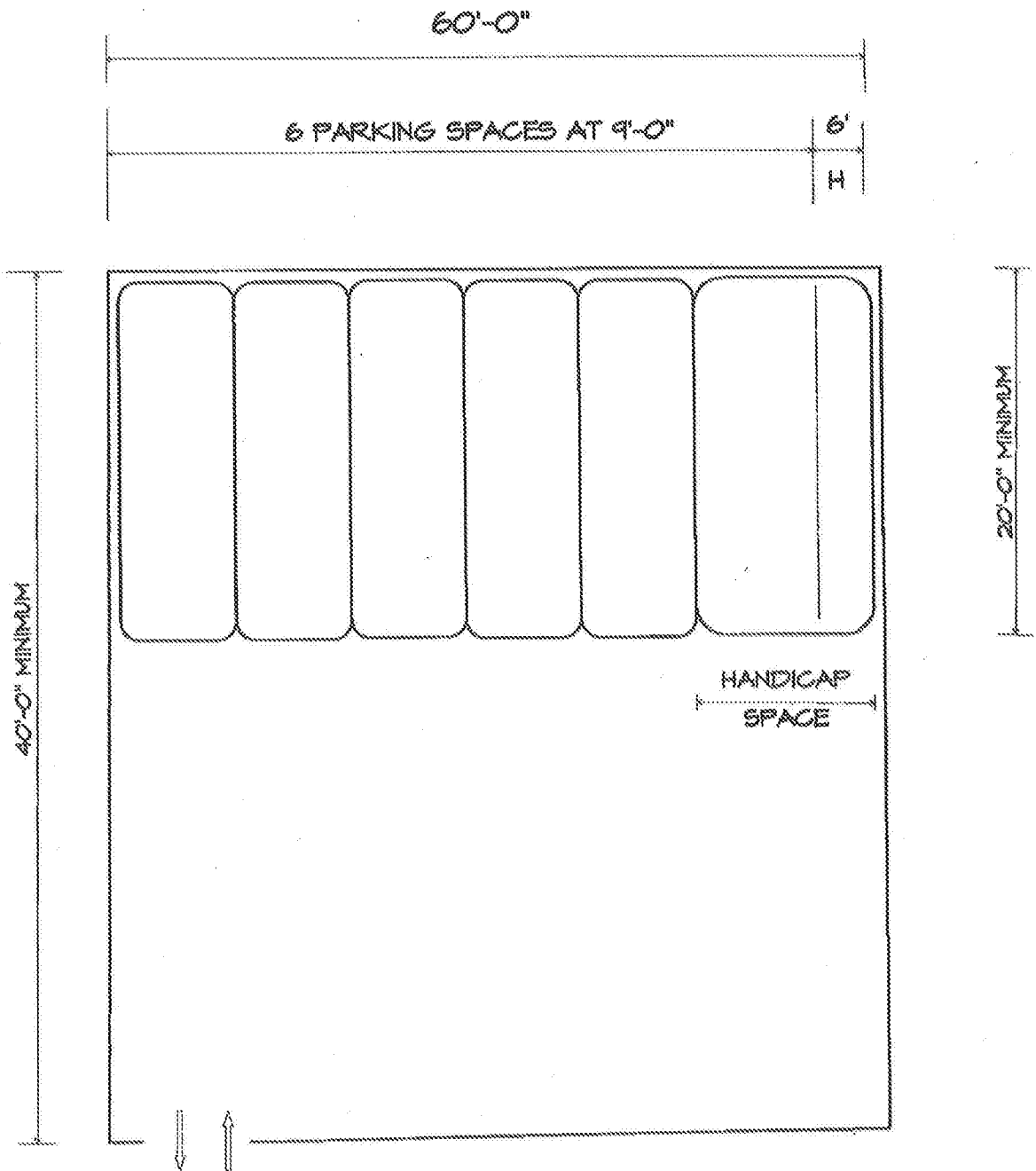




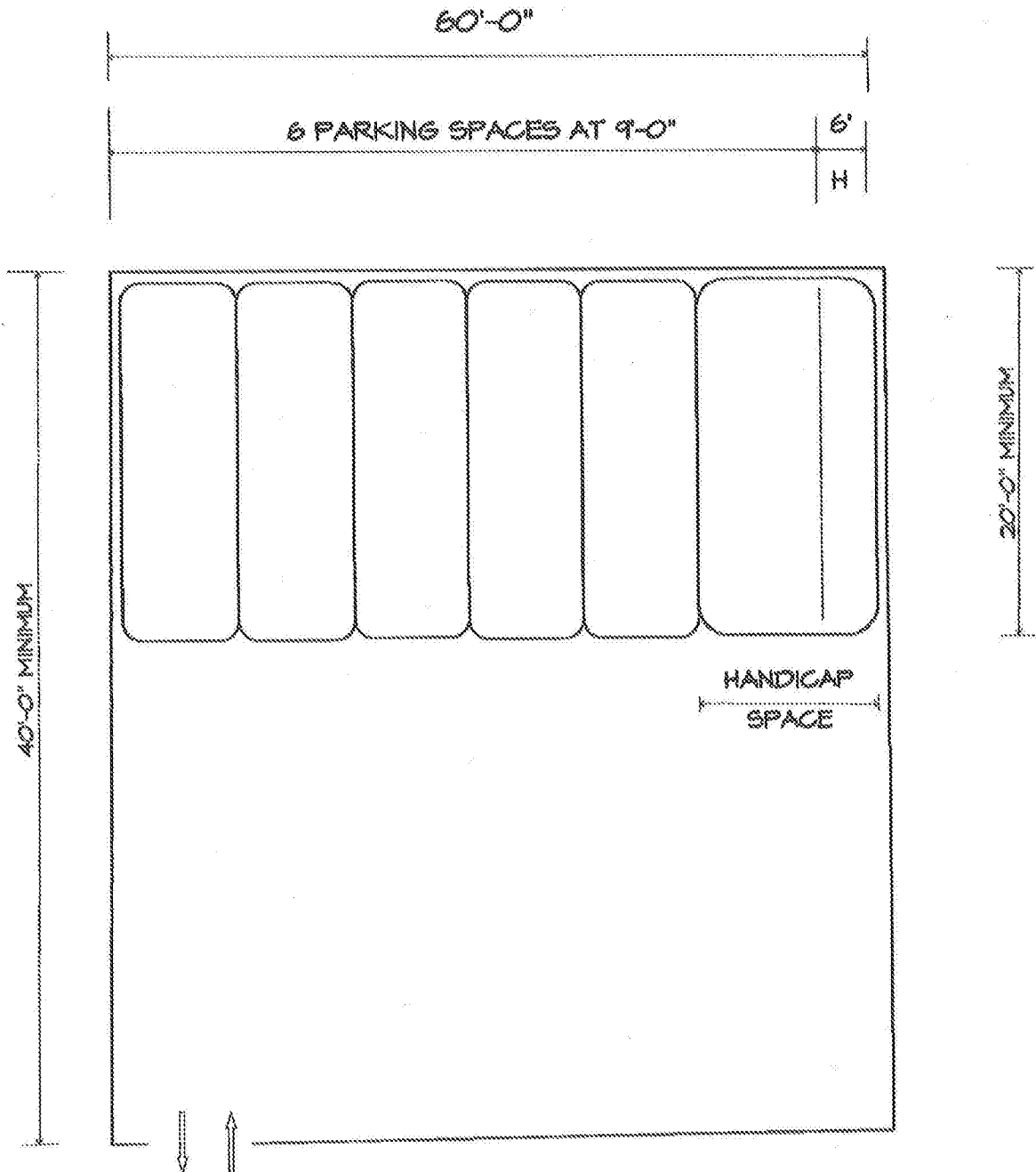
OWNER: REDMOND ROD AND GUN CLUB		DATE: 08/12/2018
TITLE: TRAP RANGE PARKING LOT		
SCALE: AS SHOWN WITH DIMENSIONS	DRAWN BY: SR	APPROVED BY:



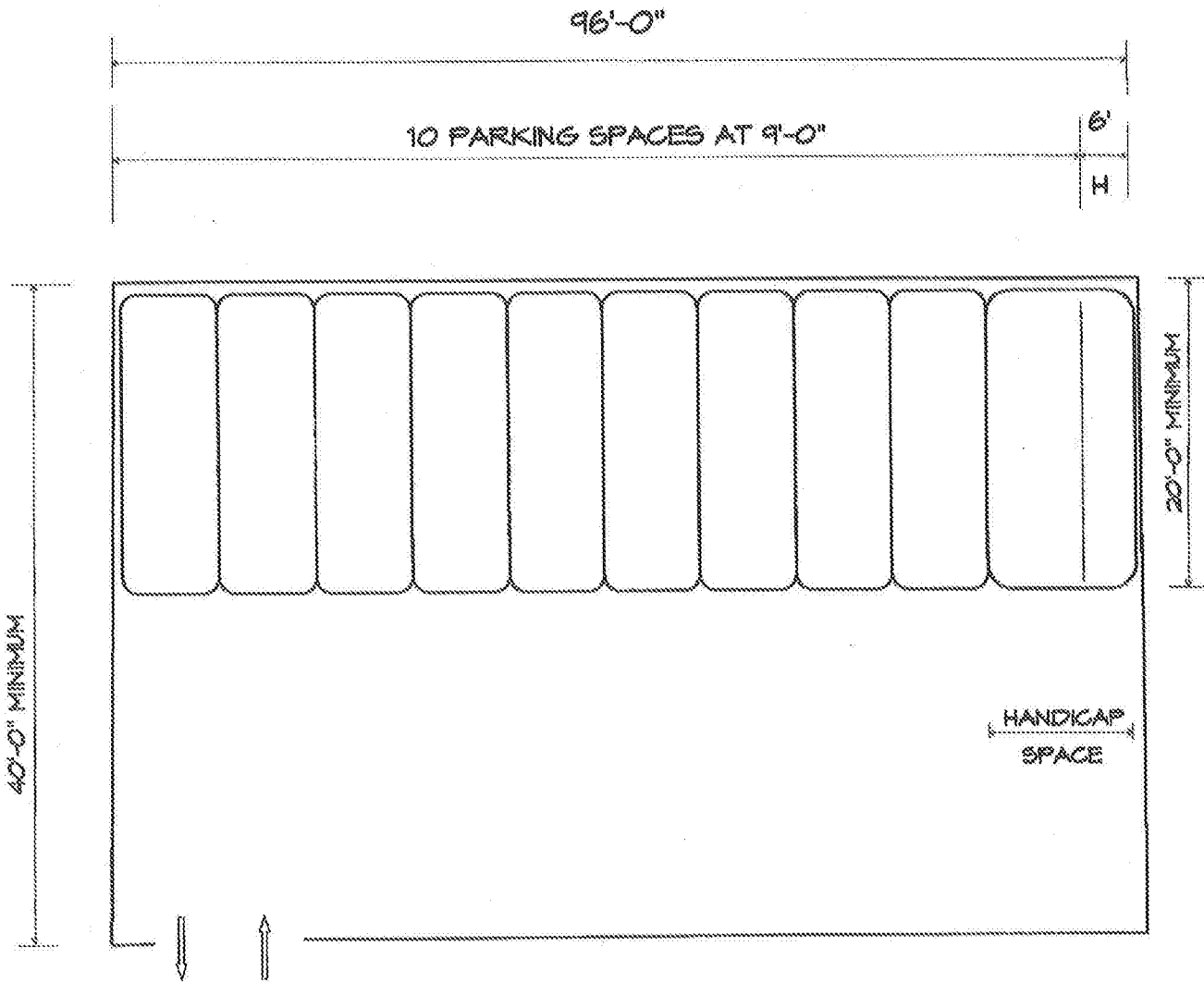
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TITLE: SKEET/SPORTING CLAYS RANGE PARKING LOT		
SCALE: AS SHOWN WITH DIMENSIONS	DRAWN BY: SR	APPROVED BY:



OWNER: REDMOND ROD AND GUN CLUB		DATE: 05/13/2015
TITLE: COYBOY ACTION RANGE PARKING LOT		
SCALE: AS SHOWN WITH DIMENSIONS	DRAWN BY: SR	APPROVED BY:



<b>OWNER: REDMOND ROD AND GUN CLUB</b>		<b>DATE: 08/12/2018</b>
<b>TITLE: RIFLE &amp; PISTOL PARKING LOT</b>		
<b>SCALE: AS SHOWN WITH DIMENSIONS</b>	<b>DRAWN BY: SR</b>	<b>APPROVED BY:</b>



Return to:  
Nathaniel Miller, Associate Planner  
Community Development Department  
117 NW Lafayette, P.O. Box 6005  
Bend, Oregon 97708-6005

*Space Reserved for Recorder's Use*

### **DECLARATION OF ANTICIPATED NOISE**

As a condition of the grant of development approval pursuant to DCC 18.80, the undersigned, Redmond Rod & Gun Club, hereinafter referred to as Grantor, hereby covenants and agrees that it shall not, by reason of its ownership or occupation of the following described real property, protest or bring suit or action against the Redmond Municipal Airport or Deschutes County, for aviation-related noise, including property damage or personal injury from said noise connected when such activities conform to:

1. Airport activities lawfully conducted in connection with a pre-existing airport, as that term is defined in DCC 18.80.022(B), at the described airport; or
2. Airport activities that might be lawfully conducted in the future at the described airport under County or State permits or exemptions.

The real property of Grantor subject to this covenant and agreement is situated in Deschutes County, State of Oregon, and described as set forth in that certain Bargain and Sale Deed dated December 23, 2019, as recorded in the Official Records of Deschutes County as instrument number 2020-01226.

Grantor acknowledges that by virtue of such grant, it has no remaining rights to complain or protest about the protected activities described above.

This Declaration of Anticipated Noise runs with the land and is binding upon the heirs, successors and assigns of the undersigned's interest in the described real property or any persons acquiring through the undersigned an interest in the described real property.

Deschutes County requires the execution of this covenant and agreement by the Grantor as a prerequisite to Deschutes County approving a partition, subdivision or issuing a building permit for Grantor's development of the above-described real property, which real property is located within the noise impact boundary of the Redmond Municipal Airport. This Declaration is executed for the protection and benefit of the Redmond Municipal Airport and Deschutes County's interest in said airport, and to prevent development in adjacent lands to said airport which will interfere with the continued operation existent and development of said airport.

***Signature page to follow***





Return to:  
Nathaniel Miller, Associate Planner  
Community Development Department  
117 NW Lafayette, P.O. Box 6005  
Bend, Oregon 97708-6005

*Space Reserved for Recorder's Use*

## **CONDITIONS OF APPROVAL AGREEMENT**

THIS AGREEMENT, made and entered into by and between Deschutes County, a political subdivision of the State of Oregon, ("County"), and Redmond Rod & Gun Club ("Developer"), owner/s of certain real property described as Map No. 16-13-12, Tax Lot 101 and Map No. 16-13-00, Tax Lot 700, Deschutes County, Oregon, as set forth in that certain Bargain and Sale Deed dated December 23, 2019, as recorded in the Official Records of Deschutes County as instrument number 2020-01226.

### WITNESSETH:

WHEREAS County has granted approval of a land use permit 247-22-000517-MC, 518-SP, 961-MA ("Permit") for the Real Property upon the condition that Developer construct and maintain certain requirements as specified therein; now, therefore,

IT IS HEREBY AGREED, by and between the parties, for and in consideration of the mutual covenants and agreements herein, as a condition precedent to the granting of final approval or occupancy, as follows:

**Scope of Agreement.** This Agreement affects the Real Property described above. This Agreement shall cover those improvements and requirements described in the section of this Agreement entitled "Conditions of Final Approval." Nothing in this Agreement shall require Developer to construct any improvements under the Permit, but if Developer undertakes the construction of buildings or structures, the division of real property or otherwise exercises the Permit, Developer shall be required to complete and maintain all improvements, as defined herein, in accordance with applicable County Ordinances and the Permit.

**Definition of Improvement.** As used herein, "improvement" means any private or public facility or service such as roadways, bike paths, access ways, pedestrian walkways, landscape areas, sewage collection and disposal systems, water systems, lighting systems, parking lots, cable utilities, circulation areas, outdoor storage areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut-and-fill areas, buffering and screening measures, street furniture, drainage facilities, or other similar improvements as approved and required in the Permit.

**Definition of Permanent Maintenance.** As used herein, "permanent maintenance" generally means maintenance of the structures, improvements, and landscaping that are the subject of this Agreement in a manner that will keep such structures, improvements, and landscaping in good repair or good condition and in a condition that is not a hazard to public safety. With respect to landscaping, Developer's obligations shall include, without limitation, continued irrigation of landscaping and, where applicable, pruning of landscaping to guarantee required sight distances and to otherwise protect against hazardous conditions. With respect to drainage facilities, Developer's obligations shall include, without limitation, periodic cleaning of drainage ponds, drywells, or other drainage facilities of obstructions or silt that would limit the performance or effectiveness of drainage facilities. With respect to improvements, such as pavement and sidewalks, Developer's obligations shall include, without limitation, maintenance of the impervious nature of impervious surfaces, maintenance of evenness of surfaces so that such surfaces are not hazardous to the operation of vehicles or use by pedestrians.

**Construction and Permanent Maintenance.** If Developer is required under the Permit to construct improvements of any kind or to install landscaping or plantings and Developer elects to proceed with development under the permit, Developer agrees: (1) to undertake the construction and landscaping required under the land use permit, as more specifically set forth in the conditions set out herein and in the land use permit; and, (2) in the event that this Agreement and the Permit do not expire as set forth herein, to the permanent maintenance of required landscaping and improvements.

**Enforcement.** This Agreement shall be enforceable against any person bound by this Agreement in possession of or having fee title to the property. If any party bound by this Agreement defaults on the obligations set forth herein, the County shall be entitled to enforce this Agreement in equity. The prevailing party at trial or on appeal in any enforcement action shall be entitled to reasonable attorney fees and costs. This provision shall not limit County's rights to use other means provided by law, including but not limited to issuing a civil citation, to enforce the conditions of the Permit.

**Authority of Signatories.** By their signatures, all signatories to this Agreement signing in a representative capacity certify that they are authorized to sign on behalf of and bind their respective principals.

**Expiration.** This Agreement and the Permit shall expire on its expiration date or by the revocation of the Permit or by the explicit release by the County from this Agreement granted as part of an approval for a change of use of the Real Property. Additionally, this Agreement and the Permit shall automatically expire upon the foreclosure of any prior encumbrance upon the Real Property which results in the extinguishment of this Agreement.

**No Partnership.** County is not, by virtue of this Agreement, a partner or joint venture of Developer in connection with activities carried on under this Agreement, and shall have no obligation with respect to Developer's debts or any other liabilities of each and every nature, and is not a guarantor of the Developer, the project, or the work to be performed.

**Limitations.** Should this Agreement violate any constitutional or statutory provision, it shall be void.

**Persons Bound by Agreement.** The original of this Agreement shall be recorded with the Deschutes County Clerk and shall run with the land. It is the intent of the parties that the provisions of this Agreement shall be binding upon the parties, the parties' successors, heirs, executors, administrators, and assigns, or any other parties deriving any right, title or interest or use in or to the Real Property, including any person who holds such interests as security for the payment on any obligation, including the Mortgagee or other secured party in actual possession of the Real Property by foreclosure or otherwise or any person taking title from such security holder.

**Conditions of Final Approval.** The following are the required conditions of final approval for the Permit:

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** Previous Approvals  
At all times, the property owner shall continue to meet the conditions of approval for the use as outlined in the previous decisions. The conditions of approval for CU-09-17/SP-09-11 and 247-15-000263-CU/264-SP remain in effect.
- C.** Club Operations and Permitting  
The property owner shall obtain any necessary permits from the Deschutes County Building Division, Deschutes County Environmental Health, and Environmental Soils Division.
- D.** Conditions of Approval for Previous Land Use Decisions  
***Prior to the issuance of Building Permits,*** the property owner shall satisfy the outstanding conditions of approval listed above and as outlined in land use decisions CU-09-17/ SP-09-11 and 247-15-000263-CU/ 247-15-000264-SP. This includes the following:
  - Completing and recording a Declaration of Anticipated Noise
  - Completing and recording a Conditions of Approval Agreement

- E.**     Signs for the Club  
All signs on the property for the Redmond Rod and Gun Club shall comply with Deschutes County Sign Code, Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.
- F.**     Building Height  
No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.
- G.**     General Setbacks  
All buildings or structures shall meet the setback standards as outlined in DCC 18.16.070 (A – C).
- H.**     Solar Setbacks  
All buildings or structures shall meet the solar setback requirements in DCC 18.116.180.
- I.**     Building and Structural Code Setbacks  
All buildings or structures shall comply with any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- J.**     Lighting in the Airport Safety Combining Zone  
No Club development shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- K.**     Glare Producing Materials in the Airport Safety Combining Zone  
No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.
- L.**     Club Parking Construction  
Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- M.**     Club Parking Availability  
Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.

- N.** Lighting for Club off-street parking  
Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.
- O.** Graveled Surface for Standing and Maneuvering of Vehicles  
***Prior to the initiation of use,*** the property owner shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the various shooting disciplines and facilities. At all times, the graveled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.
- P.** Clear Vision Areas  
***Prior to the initiation of use or the issuance of building permits,*** the property owner shall submit a revised site plan depicting the clear vision areas at each intersection of service drives. Clear vision areas, shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height. As a condition of approval, the service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- Q.** Club Site Operations, Safety, and Environmental Stewardship  
The property owner shall employ and, at all times, follow the ongoing recommendations and *Best Management Practices* as outlined in the entirety of the submitted AKS Reports related to any site design, safety protocols, environmental stewardship, and maintenance. These include:
- AKS Ballistics Study, dated May 31, 2022
  - AKS Revised Environmental Stewardship Plan, dated June 5, 2022
- R.** Confirmation of AKS Reports for Club Operations on Tax Lot 700  
***Prior to the initiation of use or issuance of building permits,*** the property owner shall provide the Planning Division with either:
- A letter from AKS confirming the continued applicability and accuracy of Ballistics Study and the Revised Environmental Stewardship Plan with the movement of the Club to Tax Lot 700. This letter from AKS shall include the most recent version of the site plan. Or,
  - A revised Ballistics Report and Environmental Stewardship Plan that acknowledges the consolidation of Club facilities to Tax Lot 700 with updated analysis specific to the changes requested. These revised reports from AKS shall include the most recent version of the site plan.

- S.** Club Fire Safety  
***Prior to the initiation of use or issuance of building permits***, the property owner shall submit written documentation to the Planning Division from the Redmond Fire Department confirming that the applicant has met all water supply and fire suppression standards.
- T.** ADA Requirements for the Club  
The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.
- U.** Storm Water and Surface Drainage Systems  
1) The property owner shall, ***prior to initiation of use and/or issuance of building permits***, provide a statement from a licensed professional engineer that the “surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality” and  
  
2) The property owner shall maintain any such systems in good working condition.
- V.** Exterior Lighting  
All exterior lighting shall be shielded so that direct light does not project off site.
- W.** Emergency Transportation Access  
***Prior to the initiation of use or the issuance of building permits***, the property owner shall submit to the Planning Division correspondence from Redmond Fire & Rescue stating approval of the access to the property and service drives within the property to accommodate their emergency vehicles. This receipt of approval shall include a copy of the most current and accurate version of the site plan.
- X.** ADA Requirements for the Club  
The property owner shall obtain any necessary permits from the Deschutes County Building Division who administers ADA regulations. The proposed use will comply with all ADA requirements as prescribed by the Building Division.

***Signature Page to Follow***

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

DESCHUTES COUNTY COMMUNITY  
DEVELOPMENT DEPARTMENT

\_\_\_\_\_  
Peter Gutowsky, Director

STATE OF OREGON            )  
  ) ss.  
COUNTY OF DESCHUTES    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public, personally appeared Peter Gutowsky, Director of the Deschutes County Community Development Department, who executed the foregoing document on behalf of Deschutes County, Oregon.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

DEVELOPER

\_\_\_\_\_  
Redmond Rod & Gun Club

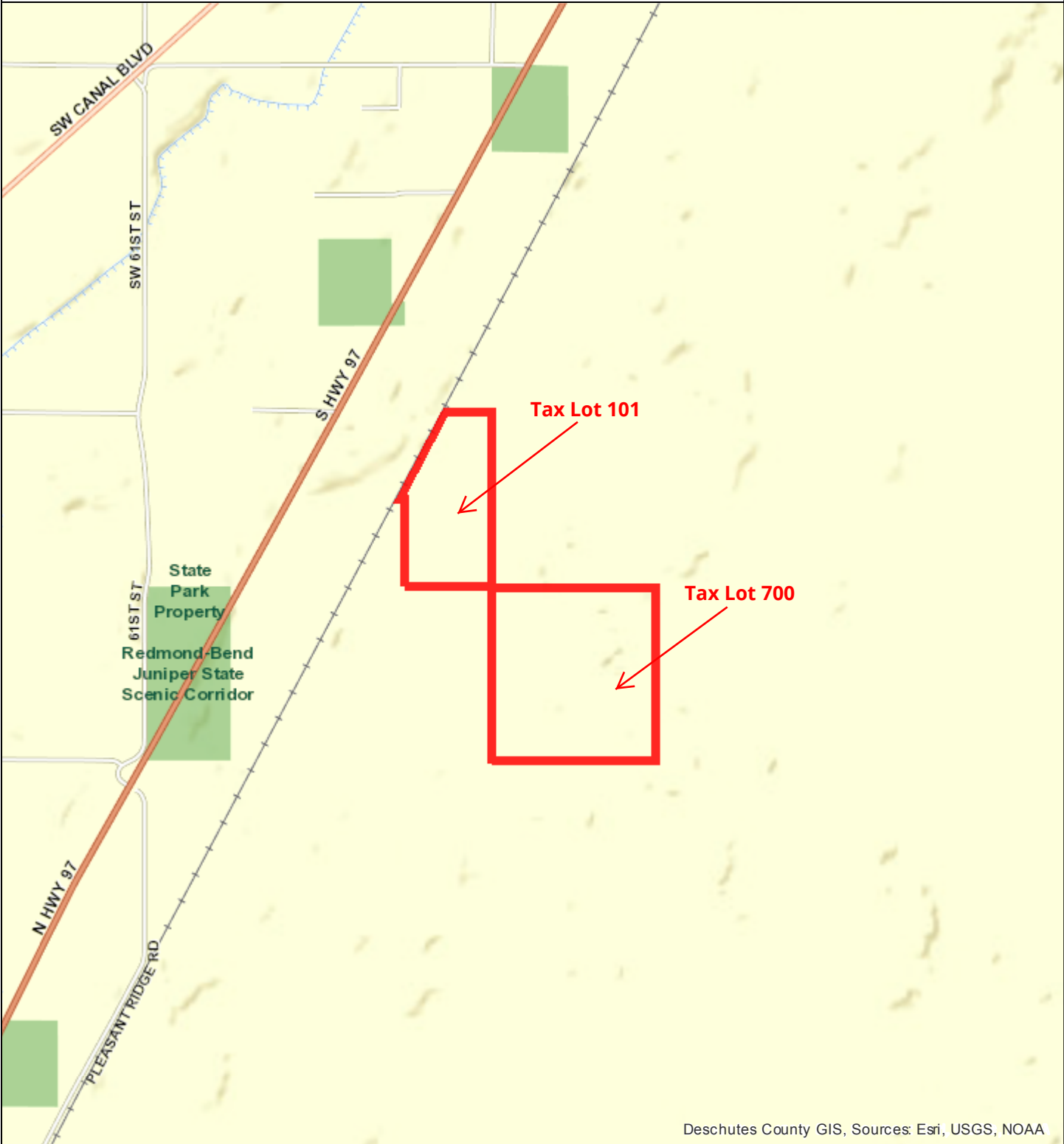
STATE OF OREGON            )  
  ) ss.  
COUNTY OF DESCHUTES    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person/s described in the above document, who acknowledged to me that she/he/they executed the same freely and voluntarily.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

# File: 247-22-000517-MC, 22-518-SP, 22-916-MA

9020 & 65600 Highway 97



Deschutes County GIS, Sources: Esri, USGS, NOAA



Date: 7/6/2022

