



## MEMORANDUM

**TO:** Deschutes County Board of County Commissioners

**FROM:** Haleigh King, AICP, Associate Planner

**DATE:** August 2, 2023

**RE:** Work Session: Deschutes County Land Use File Nos. 247-23-000162-CU, 23-516-A: Secondary Accessory Farm Dwelling

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The Board of County Commissioners (Board) will conduct a Work Session on August 7, 2023, in preparation for a Public Hearing on August 9, 2023, to consider a request for a secondary accessory farm dwelling. The applications and appeals are identified as file nos. 247-23-000162-CU, 23-516-A. The subject property is located approximately 1.4 miles north of Tumalo, between Cline Falls Road and Gerking Market Road. The property is addressed at 19825 Connarn Road, and is further identified on County Assessor's Map 16-12-19 as tax lot 501. A location map is included as **Attachment E**.

### I. BACKGROUND

The subject 9.70-acre property is currently in farm use consisting primarily of lavender plant production and pasture grasses. The subject property is located approximately 1.4 miles north of Tumalo, between Cline Falls Road and Gerking Market Road. The property is addressed as 19825 Connarn Road, and is further identified on County Assessor's Map 16-12-19 as tax lot 501. The subject property is zoned Multiple Use Agricultural (MUA10) and is within the Airport Safety (AS) Combining Zone.

The Applicant, Tumalo Lavender Property, LLC, has requested a Conditional Use Permit to establish a secondary accessory farm dwelling using an existing manufactured home. The secondary accessory farm dwelling is proposed in an existing, Class A manufactured home located on the southeast side of the property. The manufactured home was previously permitted as a Temporary Medical Hardship Dwelling in 2010 and again in 2015. In the southern portion of the property, the property is developed with a stick-built single-family dwelling that is within the larger agricultural structure and was permitted in 2005 which allowed the central portion of an existing barn to be converted into the primary residence.

Staff referred the Conditional Use Permit application to a public hearing due to a number of interpretative questions. A public hearing before a Hearings Officer was held on May 16, 2023. The Hearings Officer issued a denial on June 14, 2023. Ms. Olson (the Applicant) filed a timely appeal of the Hearings Officer's denial on June 26, 2023. In a Consideration to Hear on July 12, 2023, the Board agreed to hear the appeal limited *de novo* in a Public Hearing.

## **II. HEARINGS OFFICER DECISION**

The Deschutes County Hearings Officer rendered a decision denying the Applicant's request for a Conditional Use Permit for the secondary accessory farm dwelling on the grounds that:

- The Hearings Officer interpreted DCC 18.116.070 (A)(1) to require Class A manufactured homes (with exceptions for CH zoned property and also R-1 and SM zones which allow caretaker's residences) to be used as "primary dwellings." The Hearings Officer concluded that the Applicant's proposed use of a Class A manufactured home does not satisfy the requirements of DCC 18.116.070.
- The Hearings Officer found that all relevant approval criteria were met by the applicant in this case, except for DCC 18.116.070. On the basis that the application did not meet the requirements of DCC 18.116.070 the application was denied.

## **III. APPEAL FROM APPLICANT (247-23-000516-A)**

The Applicant (Tumalo Lavender LLC) submitted a timely appeal of the Hearings Officer's decision on June 26, 2023. The Applicant requested the Board conduct a limited *de novo* Public Hearing to review the following issues:

- Interpretation of DCC 18.116.070 (Hearing Officer's Decision pages 10-13)
- Application of that interpretation to DCC 18.32.030(G) (Hearing Officer's Decision pages 20-23)
- Application of DCC 18.116.070 to subject application (Hearing Officer's Decision pages 32-33)

## **IV. 150-DAY LAND USE CLOCK**

The application for 247-23-000162-CU was considered complete and the 150-day clock started on April 6, 2023. At the time the Hearings Officer decision was issued, the 150<sup>th</sup> day was September 17, 2023. However, the applicant initiated a toll from July 14, 2023 to August 9, 2023 which extended the clock by 27 days.

The 150<sup>th</sup> day on which the County must take final action on this application is October 14, 2023.

## V. RECORD

The record for File No. 247-23-000162-CU and the Notices of Appeal for Appeal No. 247-23-000516-A are as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/247-23-000162-CU>

## VI. NEXT STEPS

Based on the feedback received from the Board at the Work Session, Staff will prepare for the upcoming Public Hearing.

### ATTACHMENT(S):

**Attachment A** – 2023-06-14 Hearing Officer Decision 23-162-CU

**Attachment B** – 2023-06-26 Notice of Appeal

**Attachment C** – Deschutes County Code Sections 18.116.050 and 18.116.070

**Attachment D** – Board Order No 2023-029 to hear appeal limited *de novo*

**Attachment E** – Location Map