



FINDINGS AND DECISION

FILE NUMBER(S): 247-25-000705-SP, 247-25-000706-V, 247-25-000707-V,
247-25-000708-LM

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: TUMALO ELEM SCHOOL DISTRICT NO. 3C
Map and Taxlot: 161231A001200
Account: 150852
Situs Address: 19835 2ND ST, BEND, OR 97703

APPLICANT: HMK Company, Steve Earle

REQUEST: Site Plan Review for a 16,366-square-foot addition to Tumalo Community School in the Tumalo Commercial District, Tumalo Residential District, and the Landscape Management Combining Zone. The proposed expansion will enlarge the kitchen and cafeteria space and provide additional classrooms. The applicant also requests a Variance to the front yard setback and a Variance to the length of vehicle parking stalls.

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

- Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)
- Chapter 18.67, Tumalo Rural Community Zoning Districts
- Chapter 18.84, Landscape Management Combining Zone (LM)
- Chapter 18.116, Supplementary Provisions
- Chapter 18.120, Exceptions
- Chapter 18.124, Site Plan Review

II. BASIC FINDINGS

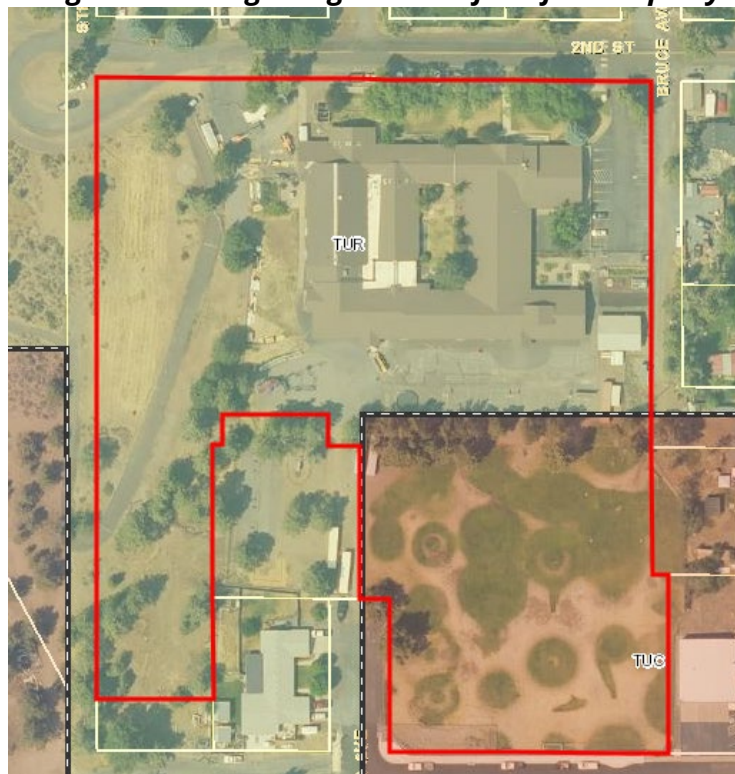
LOT OF RECORD: The subject property is a legal lot of record pursuant to Deschutes County file SP-11-9.

SITE DESCRIPTION: The submitted Burden of Proof includes the following description of the subject property:

The subject property has been a school site the early 1900s. The site currently houses the Tumalo Community School, which provides elementary education to local students from kindergarten through 5th grade, with current enrollment of approximately 260 students. The site is developed with the primary school building, accessory structures, parking areas, drive areas, and playing fields.

The subject property is irregular in shape and fronts on 2nd Street to the north, 4th Street to the south, and undeveloped right-of-way for Bruce Avenue to the east. As shown in the figure below, the property is split-zoned Tumalo Residential District (TUR) and Tumalo Commercial District (TUC). The main school building is located within the TUR Zone while accessory components such as sports fields and sheds extend into the TUC Zone.

Figure 1: Zoning Designations of Subject Property



REVIEW PERIOD: The subject application(s) were submitted on November 25, 2025. The applications were deemed incomplete on December 24, 2025, and a letter detailing the information necessary to complete review was mailed. The applications were subsequently deemed complete by the Planning Division on January 29, 2026. The 150th day on which the County must take final action on the subject applications is June 29, 2026.

PROPOSAL: The applicant proposes to expand the existing building for the Tumalo Community School. The proposal includes a 3,242-square-foot addition onto the northwest corner of the building for a cafeteria expansion and an 8,124-square-foot expansion onto the southeast portion of the building for additional classroom space. The applicant also proposes to modify the vehicle parking area to the east of the school building.

SURROUNDING LAND USES: Immediately surrounding properties are zoned Tumalo Residential District (TUR) and Tumalo Commercial District (TUC). Surrounding properties to the north and east are developed with single-unit dwellings and residential accessory structures. Neighboring properties to the south include a mix of commercial and residential development. A Deschutes County Rural Fire Protection District station is located adjacent to the subject property to the southeast. Highway 20 is located to the west of the subject property and the Deschutes River is located approximately 600 feet to the east of the property.

LAND USE HISTORY:

- SP-11-9: Site Plan Review to remove temporary modular buildings and construct an addition to the school building.
- SP-03-29: Site Plan Review to place a portable building on the property for use as classroom space.
- LL-98-62: Property line adjustment with the neighboring property to the southeast, Tax Lot 1602 on Assessor's Map 16-12-31A.
- SP-94-31: Site Plan Review to construct a building addition to expand classroom and library space.
- SP-92-104: Site Plan Review to place portable buildings on the property for use as classroom space.
- SP-89-76: Site Plan Review to construct a building addition including a classroom, hallway, and workroom.
- SP-86-18: Site Plan Review for an addition to the school building.
- V-78-26: A Variance to required setbacks, to construct a well house one foot from the property line.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice of the proposal on December 3, 2025, to several public agencies and received the following comments:

Deschutes County Assistant Building Division, Krista Appleby

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, Tarik Rawlings

I have reviewed the transmittal materials for 247-25-000705-SP, 706-V, 707-V, 708-LM for a 16,366 square-foot addition to the existing Tumalo Community School on a 7.04-acre parcel in the Tumalo Commercial District (TUC), Tumalo Residential District (TUR) and the Landscape Management (LM) and Surface Mining Impact Area (SMIA) Combining Zones located at 19835 2nd St, Bend, OR 97703 and recognized on County Assessor's Map 16-12-31A as Tax Lot 1200.

I have reviewed the applicant's Traffic Impact Analysis produced by Joe Bessman with Transight Consulting, LLC (dated October 29, 2025) and agree with its assumptions, methodology, and conclusions, centered around the anticipated impacts from an additional 112 students associated with the proposed expansion. Based on ITE Category 522 (Middle School/Junior High School), the report outlines a trip generation potential of 17 total p.m. peak hour vehicle trips and 234 weekday daily vehicle trips based on the increased number of students associated with the proposal. Staff agrees with the Level of Service analysis, existing traffic conditions summary, safety review, and the turn lane and signal warrant reviews and notes that no substantial mitigations are identified in the report. Staff agrees with the School Circulation Recommendations on page 20 of the report and recommends that the School District explore improved circulation patterns during morning arrival/afternoon dismissal hours for 2nd Street and other adjoining roadways. Based on the submitted analysis, the report complies with the relevant provisions of DCC 18.116.310 and no further analysis is required for the proposal from a traffic analysis perspective.

The northern entrance to the school takes access from 2nd Street, to the north. 2nd Street Hwy 97 is a public road maintained by Deschutes County and functionally classified as an Urban Local road. The portion of 2nd Street to the west (beginning at Wood Ave) is a public right of way not maintained by Deschutes County, otherwise known as a Local Access Road (LAR), and functionally classified as a Rural Local road. The subject property does not appear to have a valid driveway access permit and the applicant will need to obtain the appropriate driveway access permits for the subject property to comply with the driveway access requirements of DCC 17.48.210(A) and DCC 12.28.050. The proposal also includes an emergency-only vehicle drive on the southern end of the school property, connecting to Wood Ave via gravel corridor and utilizing an existing gate to limit access only to emergency vehicles. Similarly, fire access is also proposed via connection to 3rd Street, to the east, and a fire gate will be installed.

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of \$5,856 per p.m. peak hour trip. Based on the submitted analysis outlining 17 p.m. peak hour

trips generated through the proposal, the applicable SDC is \$99,552 (\$5,856 x 17). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS VALID UNTIL JUNE 30, 2026 PENDING ANY AMENDMENTS TO THE COUNTY'S CURRENT SDC RESOLUTION 2024-038. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

Deschutes County Road Department, Transportation Engineer Quinn Shubert

Following up on our phone conversation today, the Road Department does not object to the County providing the applicant with the requested setback variance.

I have reviewed the application materials for the above-referenced file number, proposing a major alteration of Tumalo School on Tax Lot 1200 in 16-12-31A. The subject property abuts 2nd Steet along the property's northern boundary, Bruce Ave along the property's eastern boundary, 4th Street along the property's southern boundary, and Wood Ave along a portion of the properties western boundary. Road Department records indicate that these roads have the following attributes where they abut the subject property:

2nd Street(East of Wood Ave)

- Road Status - County Road east of Wood Ave (Public, County Maintained)
- Surface Type - Asphalt Concrete
- Surface Width - 40 ft.
- Functional Classification - Urban Local
- Right of Way Width - 60 ft.
- Right of Way Instrument - Townsite of Laidlaw Plat (1904)

Where it abuts the subject property, Cook Ave meets the minimum local road standard given in Deschutes County Code (DCC) 12.25.190 for the Tumalo Residential District. The current drainage configuration is in violation of DCC 12.25.230, the applicant shall provide frontage improvements to address this issue pursuant to DCC 18.124.080.

2nd Street(West of Wood Ave)

- Road Status - Local Access Rd (Public User Maintained)
west of Wood Ave
- Surface Type - Asphalt Concrete
- Surface Width - 20 ft.
- Functional Classification - Rural Local
- Right of Way Width - 60 ft.
- Right of Way Instrument - Townsite of Laidlaw Plat (1904)

Where it abuts the subject property, Cook Ave meets the minimum local road standard given in Deschutes County Code (DCC) 12.25.190 for the Tumalo Residential District.

Bruce Ave

- Road Status - Local Access Rd (Public User Maintained)
- Surface Type - Aggregate/Dirt
- Surface Width - 15 ft.
- Functional Classification - Urban Local
- Right of Way Width - 30 ft.
- Right of Way Instrument - Townsite of Laidlaw Plat (1904)

Where it abuts Tax Lot 1200, Bruce Ave does not meet the minimum local road standard given in Deschutes County Code (DCC) 12.25.190 for the Tumalo Residential District, which would require a ROW width of 60 ft. and a paved asphalt cross-section of at least 20 ft. Pursuant to DCC 18.124.080, the Road Department has considered the need for improvement of Bruce Ave where it abuts Tax Lot 1200 as part of this proposed development and finds that additional frontage improvements would provide negligible system benefit relative to the development’s impact.

4th Street

- Road Status - County Road (Public, County Maintained)
- Surface Type - Asphalt Concrete with Concrete Sidewalks
- Surface Width - 38 ft.
- Functional Classification - Urban Local
- Right of Way Width - 60 ft.
- Right of Way Instrument - Townsite of Laidlaw Plat (1904)

Where it abuts the subject property, 4th Street meets the minimum local road standard given in Deschutes County Code (DCC) 12.25.190 for the Tumalo Commercial District.

Wood Ave

- Road Status - Local Access Rd (Public User Maintained)
- Surface Type - Aggregate
- Surface Width - 40 ft.
- Functional Classification - Rural Local
- Right of Way Width - 60 ft.
- Right of Way Instrument - Townsite of Laidlaw Plat (1904)

Where it abuts Tax Lot 1200, Wood Ave does not meet the minimum local road standard given in Deschutes County Code (DCC) 12.25.190 for the Tumalo Commercial District, which would require a paved asphalt cross-section of at least 20 ft. Pursuant to DCC 18.124.080, the Road Department has considered the need for improvement of Wood Ave where it abuts Tax Lot 1200 as part of this proposed development and finds that additional frontage improvements would provide negligible system benefit relative to the development’s impact.

Deschutes County Road Department requests that approval of the proposed land use be subject to the following conditions:

Prior to construction of public road improvements:

- Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and 12.25.
 - 2nd Street along the frontage to the subject property shall be designed to the minimum standard for an rural local road in the Tumalo Commercial District pursuant to 12.25.190.
 - Improvement plans shall be accompanied by a drainage report prepared in accordance with the latest edition of the Central Oregon Stormwater manual and DCC 12.25.230.
- Applicant shall obtain driveway access permits for all new or existing unpermitted driveway accesses for the subject property pursuant to DCC 12.28.050.

Prior to implementation of use:

- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48 and 12.25. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48 and 12.25.
- Applicant shall submit as-constructed improvement plans to Road Department.

The following agencies did not respond to the notice: Avion Water Company, Deschutes County Assessor, Deschutes County Onsite Wastewater Division, Oregon Department of Fish and Wildlife, and Sisters-Camp Sherman Rural Fire Protection District.

PUBLIC COMMENTS: The Planning Division mailed notice of the subject application to all property owners within 250 feet of the subject property on December 3, 2025. 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 December 2, 2025. One public comment was received from a neighboring property owner, Richard Gummus. The public comment included questions regarding the impact to the Irrigation District easement, whether there was adequate sewer capacity for the proposal, and if there were traffic concerns. To the extent this comment was directed at approval criteria, staff responds in the findings below.

III. FINDINGS & CONCLUSIONS

Title 22. Deschutes County Development Procedures Ordinance.

Chapter 22.40, Declaratory Ruling.

Section 22.40.010, Availability of Declaratory Ruling.

- A. Subject to the other provisions of DCC 22.40.010, there shall be available for the County's comprehensive plans, zoning ordinances, the subdivision and partition ordinance and DCC Title 22 a process for:**

...

- 4. Determining the validity and scope of a nonconforming use;**
- 5. Determination of other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit; and**

FINDING: The applicant is requesting a determination on the validity and scope of a nonconforming use, as described in detail below.

- B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.**

FINDING: The applicant is requesting a determination on the validity and scope of a nonconforming use, as described in detail below. Staff finds this is an instance involving a fact-specific controversy and will resolve and determine the particular rights and obligations of parties to the controversy. The applicant has not requested an advisory opinion. This proceeding is not being used as a substitute for seeking an amendment of general applicability to a legislative enactment.

- C. Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until six months after a decision in the land use action is final.**

FINDING: The applicant is requesting a determination on the validity and scope of a nonconforming use, as described in detail herein. Staff finds this application is not an appeal of a decision in a land use action or for a modification of an approval. The proposal does not include a ruling on a land use action under this criterion.

- D. The Planning Director may refuse to accept and the Hearings Officer may deny an application for a declaratory ruling if:**

- 1. The Planning Director or Hearings Officer determines that the question presented can be decided in conjunction with approving or denying a pending land use application or if in the Planning Director or Hearing Officer's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or**
- 2. The Planning Director or Hearings Officer determines that there is an enforcement case pending in district or circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file**

the request for a declaratory ruling within two weeks after being cited or served with a complaint.

The Planning Director or Hearings Officer's determination to not accept or deny an application under DCC 22.40.010 shall be the County's final decision.

FINDING: Staff finds the applicant's request for a declaratory ruling is not a question that can be decided in conjunction with some other land use application, plan amendment or zone change. In addition, there is no formal enforcement case pending in district or circuit court on this matter at this time. These criteria do not apply.

Section 22.40.020, Persons Who May Apply.

- A. *DCC 22.08.010(B) notwithstanding, the following persons may initiate a declaratory ruling under DCC 22.40:***
- 1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property.***
 - 2. In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or***
 - 3. In all cases arising under DCC 22.40.010, the Planning Director.***

FINDING: The applicant is the property owner. This criterion is met.

- B. *A request for a declaratory ruling shall be initiated by filing an application with the planning division and, except for applications initiated by the Planning Director, shall be accompanied by such fees as have been set by the Planning Division. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The applicant shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Division.***

FINDING: The applicant is requesting a determination on the validity and scope of a nonconforming use, as described in detail herein. The applicant filed the necessary declaratory ruling application and paid the required fee.

Section 22.40.030, Procedures.

Except as set forth in DCC 22.40 or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in DCC Title 22 for land use actions. Where the Planning Division is the applicant, the Planning Division shall bear the same burden that applicants generally bear in pursuing a land use action.

FINDING: The declaratory ruling application is being processed according to Title 22. The decision will be noticed and sent to all required parties. This criterion will be met.

Section 22.40.040, Effect of Declaratory Ruling.

- A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.**
- B. DCC 22.28.040 notwithstanding, and except as specifically allowed therein, parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.**
- C. Except where a declaratory ruling is made by the Board of County Commissioners, the ruling shall not constitute a policy of Deschutes County.**

FINDING: Staff finds these criteria apply to this application and limit reapplication for a declaratory ruling on the same question. This declaratory ruling does not constitute a policy of Deschutes County.

Section 22.40.050, Interpretation.

Interpretations made under DCC 22.40 shall not have the effect of amending the interpreted language. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.

FINDING: The applicant is requesting a determination on the validity and scope of a nonconforming use, as described in detail herein. No interpretation under this criterion has been requested.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)

FINDING: The subject property is located within the SMIA Zone in association with mine site(s) 488 and 370.

Section 18.56.030, Application of Provisions.

The standards set forth in DCC 18.56 shall apply in addition to those specified in DCC Title 18 for the underlying zone. If a conflict in regulations or standards occurs, the provisions of DCC 18.56 shall govern.

FINDING: The standards under DCC 18.56 are addressed in the following findings.

Section 18.56.050, Conditional Uses Permitted.

Uses permitted conditionally shall be those identified as conditional uses in the underlying

zone(s) with which the SMIA Zone is combined and shall be subject to all conditions of the underlying zone(s) as well as the conditions of the SMIA Zone.

FINDING: A school is a conditional use in the TUR District and the existing school is a lawful nonconforming use within the TUC District portion of the subject property.

Section 18.56.070. Setbacks.

A. General/Discretionary Standards:

The setbacks shall be the same as those prescribed in the underlying zone, except as follows:

- 1. No noise sensitive or dust sensitive use or building established or constructed after the designation of the SMIA Zone shall be located within 250 feet of any surface mining zone, except as provided in DCC 18.56.140;***
- 2. No noise sensitive or dust sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within one quarter mile of any existing or proposed surface mining processing or storage site, unless the applicant demonstrates that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards, and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively;***
- 3. Additional setbacks in the SMIA Zone may be required by the Planning Director or Hearings Body as part of the site plan review under DCC 18.56.100; and***
- 4. An exception to the 250-foot setback in DCC 18.56.070(A), shall be allowed pursuant to a written agreement for a lesser setback made between the owner of the noise-sensitive or dust-sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. The agreement shall be submitted at the time of site plan review or site plan modification. Upon approval, the agreement shall be notarized and recorded in the Deschutes County Official Records and shall run with the land.***

FINDING: The applicant proposes an expansion of an existing school, which is a noise and dust sensitive use pursuant to DCC 18.04.030. The existing school was established prior to the designation of the SMIA Zone.

Section 18.56.080. Use Limitations.

No dwelling units, additions to dwelling units, noise-sensitive buildings, or dust-sensitive buildings shall be erected in any SMIA Zone without first obtaining site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120.

FINDING: This decision includes SMIA Zone site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120.

Section 18.56.090. Specific Use Standards.

The following shall be subject to the criteria established in DCC 18.56.100 or DCC 18.56.110 in the SMIA Zone:

- A. New dwelling units;**
- B. Other new noise-sensitive and dust-sensitive uses or buildings;**
- C. Additions to dwelling units, in existence on the effective date of Ordinance No. 90-014, which increase the floor area of the structure by 10 percent or more;**
- D. Addition to other noise and dust sensitive uses or buildings, in existence on the effective date of Ordinance No. 90-014, which increase the lot area associated with use or floor area of the structure by 10 percent or more.**

FINDING: The proposed use is listed in this criterion and is subject to DCC 18.56.100.

Section 18.56.100. Site Plan Review and Approval Criteria.

- A. Elements of Site Plan Application. An application shall be submitted in a form prescribed by the Planning Director.**

FINDING: The applicant submitted an application sufficient to address Chapter 18.56.

- B. Site plan review and approval, pursuant to the DCC Title 22, shall be required for all development types listed under DCC 18.56.090 in the SMIA Zone prior to the commencement of any construction or use.**

FINDING: The applicant has applied for site plan review for the proposed use, which are being reviewed and processed under Title 22, Deschutes County Development Procedures Ordinance. This criterion will be met.

- C. The Planning Director or Hearings Body may grant or deny site plan approval and shall require modifications to the site plan if necessary to meet the setbacks, standards, and conditions described above.**

FINDING: This approval does not require modifications to the site plan to meet the DCC 18.56 setbacks, standards, and conditions described above.

- D. The site plan shall be approved if the Planning Director or Hearings Body finds the site plan is consistent with the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan and that the proposed development will not prevent the abutting surface mining operation from meeting the setbacks, standards, and conditions set forth in DCC 18.52.090, 18.52.110, and 18.52.140, respectively.**

FINDING: Pursuant to 18.52.160(B), the subject mine is a preexisting mine. Therefore, the standards listed in Chapter 18.52 do not apply. The proposal is consistent with the site specific ESEE analysis.

- E. Notice shall be as set forth in DCC Title 22, and in all cases notice of an SMIA site plan review shall be sent to the mine owners and/or operators whose SM-zoned site necessitated the SMIA review.**

FINDING: As set forth in DCC Title 22, notice will be sent to the mine owners and/or operators whose SM Zoned site triggered the SMIA review.

Section 18.56.110. Abbreviated SMIA Site Plan Review.

- A. An abbreviated site plan review under DCC 18.56.110 shall be required for uses or structures, as specified in DCC 18.56.090, if all of the following are met:**
 - 1. The lot or parcel is at least one-quarter mile from an SM Zone; and**
 - 2. There are at least two dwellings or other noise-sensitive or dust-sensitive uses between the lot or parcel and the SM-zoned site necessitating the review.**

FINDING: This criterion does not apply to the present application.

Section 18.56.120. Waiver of remonstrance.

As a condition of site plan approval under DCC 18.56.100 or DCC 18.56.110, the property owner shall sign and record in the Deschutes County Official Records a Waiver of Remonstrance declaring that the property owner and their successors will not now or in the future complain about the allowed surface mining activities on the surface mining site(s) necessitating the review.

FINDING: The required waiver has already been recorded for the subject property.

Section 18.56.140. Exemptions.

The following shall be exempt from the provisions of DCC 18.56:

- A. Uses in the SMIA Zone which are not within one half mile of any identified resource in the SM Zone after all reclamation has occurred.**
- B. Continuation and maintenance of a conforming or nonconforming use established prior to the effective date of Ordinance No. 90-014;**
- C. The employment of land for farm or forest use; and**
- D. Additions to noise-sensitive or dust-sensitive uses or buildings, if DCC 18.56.140(D)(1) or DCC 18.56.140(2) is met and DCC 18.56.140(D)(3) is met:**
 - 1. The use or structure existed on the effective date of Ordinance No. 90-014; or**
 - 2. The existing use was established or constructed in accordance with DCC Chapter 18.56; and**

3. ***The addition is completely screened from the surface mining site by the existing use or structure.***

FINDING: These criteria do not apply to this proposal.

Chapter 18.67, Tumalo Rural Community Zoning Districts

Section 18.67.020, Residential District (TuR)

The Tumalo Residential (TuR) District allows a mixture of housing types and densities suited to the level of available water and sewer facilities. The purpose of this district is to allow new residential development that is compatible with the rural character of the area.

- C. ***Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116, 18.124, and 18.128:***
 6. ***Public or private school.***

FINDING: The north portion of the subject property is located within the TUR District. The majority of the building expansion and associated site improvements will be located within the TUR-zoned portion of the subject property. However, the building addition on the southeast corner of the school building will be within the TUC-zoned portion of the subject property. Staff finds the existing school is a conditional use in the TUR District and the subject proposal will not change the primary use of the property.

E. *Setback Standards.*

1. ***Front Setback. The front setback shall be 20 feet for a lot line with street frontage on a local street right-of-way, 30 feet for a lot line with street frontage on a collector right-of-way, and 80 feet for a lot line with street frontage on an arterial right-of-way.***
2. ***Side Setback. A side setback shall be a minimum of five feet and the sum of the side setbacks shall be a minimum of 15 feet, subject to DCC 18.67.020(E)(4).***
3. ***Rear Setback. The minimum rear setback shall be 20 feet, subject to DCC 18.67.020(E)(4).***
4. ***Exception to Setback Standards. Any new structure requiring a building permit, on a lot or parcel abutting EFU-zoned land receiving special assessment for farm use, shall have a minimum setback of 100 feet from any shared lot line.***

FINDING: The proposed structure(s) comply with setbacks in sections (2) through (4). The applicant has requested a Variance to the front yard setback along 2nd Street for the proposed kitchen expansion on the northwest corner of the school building. In addition, the applicant proposes to dedicate a 12.5 foot strip of land to the public right-of-way for 2nd Street, which will further reduce the distance between the building and the front property line. After the proposed building

expansion and right-of-way dedication, the northwest corner of the school building will be set back 10.2 feet from the front property line.

Section 18.67.040, Commercial (TuC) District

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:

FINDING: The subject property is developed with an existing school, which was established prior to the establishment of the TUC District. As described in detail below, the portion of the school facilities that are located in the TUC District are a lawful, nonconforming use subject to DCC 18.120.

D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(10).

1. Compatibility.

a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel abutting or across a local or collector street from a lot or parcel in a residential district.

2. Traffic and Parking.

a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity, and level of service of the affected transportation facility.

b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.

FINDING: As described above, a school is not a use listed in DCC 18.67.040(C)(10). The existing school predates the establishment of the TUC District on the subject property, and is not a use listed in DCC 18.67.040(C)(10). Staff therefore finds these criteria do not apply.

Section 18.67.080, Standards for All Districts

A. Solar Setback. The setback from any north lot line shall meet the solar setback requirements in DCC 18.116.180.

FINDING: As a condition of approval, structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.

B. Building Code Setbacks. In addition to the setbacks set forth herein, any greater setbacks required by the applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

FINDING: As a condition of approval, 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.

- C. *Off-Street Parking and Loading. Off-street parking and loading shall be provided subject to the applicable provisions of DCC 18.116.***

FINDING: The applicant proposes a total of 54 vehicle parking spaces and 20 bicycle parking spaces, which meet the minimum number required by DCC 18.116. The provisions of DCC 18.116 are addressed below and the parking and loading areas are found to comply with these provisions.

- D. *Lot Coverage. Except where otherwise noted, lot coverage shall not exceed 30 percent of the total lot area.***

FINDING: Proposed and existing structures, if any, located on the subject property will not, cumulatively, cover in excess of 30 percent of the total lot area.

- E. *Height. Except where otherwise indicated, no structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.***

FINDING: The proposed building addition will have a height of 24 feet. As a condition of approval, no building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.

- F. *Rimrock Setbacks. Setbacks from the rimrock are subject to the applicable provisions of DCC 18.116.160.***

FINDING: There is no rimrock in the project vicinity.

- G. *Ordinary High Water Mark Setback. All new structures or additions to existing structures shall have a minimum setback of 100 feet from the ordinary high water mark along all streams, rivers, and lakes, or obtain a setback exception in accordance with DCC 18.120.030. For the purpose of DCC 18.67.070, decks are considered part of a structure.***

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

Section 18.67.090. Right-Of-Way Development Standards

- A. *Applicability. The standards in DCC 18.67.090 shall, in conjunction with the provisions of DCC 17.36, 17.40 and 17.48 relating to improvements in the right-of-way, apply to improvements in the right-of-way required by land use approvals. Right-of-way improvements shall be those authorized by subdivision, partition, conditional use or site plan requirements, as applicable. The standards set forth in***

DCC 18.67.090 shall govern over any conflicting standards set forth in DCC Title 17.

FINDING: The applicant proposes improvements within the right-of-way as part of the subject application, and has also agreed to dedicate additional land to the public road right-of-way. Staff therefore finds that the standards in this section apply.

- B. Road Access. For properties abutting Highway 20, when there is a choice to take access from a road other than Highway 20, no access shall be taken from Highway 20.**

FINDING: The subject property does not take access from Highway 20. Staff finds this criterion will be met.

- C. Roadways. Any roadway improvement shall conform to the applicable provisions of DCC Title 17, Table 18.67-A and the functional classification assigned to the road segment by the Comprehensive Plan for the Tumalo Rural Community.**

FINDING: As conditioned, the applicant shall submit road improvement plans to the Road Department prior to construction of any improvements to Second Street. These plans will be reviewed by the Road Department to ensure compliance with applicable sections of Title 17. Staff finds this criterion will be met.

- D. Bikeways. Required bikeway improvements shall conform to the standards set forth in DCC 17.48.140 and applicable specifications of DCC Title 17, Table 18.67-A.**

FINDING: Bikeway improvements are not required as part of the subject application and have not been proposed. Staff therefore finds this criterion does not apply.

- E. Sidewalks.**
- 1. Sidewalks shall meet the standards set forth in Table 18.67-A. Sidewalks are required only where specified in the Comprehensive Plan Map for Tumalo, Map D1 "Planned Pedestrian Improvements."**
 - 2. Sidewalks may be constructed either at the time of development or may be deferred until later through formation of a local improvement district. Applicants electing to defer sidewalk construction shall be required as a condition of approval to submit and have recorded a waiver of remonstrance signed by the land owner waiving the land owner's rights to have any objection to LID formation counted against formation of the LID.**

FINDING: The subject property currently contains a sidewalk along Second Street. Comments from the Road Department do not indicate that a sidewalk is required along Second Street where it abuts the subject property. In addition, the Comprehensive Plan Map for Tumalo does not require a sidewalk in this location. The applicant proposes to rebuild this sidewalk as part of the proposed improvements, and the Road Department's review of the road improvement plans will ensure that this sidewalk is constructed to applicable standards. Staff therefore finds that while a sidewalk is

not required along Second Street, the subject property has historically been developed with one, and the Road Department's review will ensure construction standards are adhered to as this sidewalk is rebuilt.

- F. *Drainage. Drainage facilities shall be required if necessary to meet the standard of DCC 17.48.190. Where specified in DCC Title 17, Table 18.67-A drainage shall be accomplished by swales constructed in accordance with the specifications set forth in DCC Title 17, Table 18.67-A, and the drawing set forth in DCC 17.48.***

FINDING: As described herein, issues regarding public drainage facilities on the subject property were identified during the course of this review. Comments from the Road Department indicate the existing drainage facilities do not comply with DCC 12.25.230. Staff notes the road standards of Title 17 have been moved to Title 12 since the subject application was submitted, but the applicable standards are the same. The applicant has agreed to dedicate additional land along Second Street to convey these drainage facilities back to Deschutes County and resolve this issue.

Chapter 18.84, Landscape Management Combining Zone (LM)

Section 18.84.020. Application of Provisions.

The provisions of DCC 18.84 shall apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map. The provisions of DCC 18.84 shall also apply to all areas identified as landscape management corridors in the comprehensive plan and the County Zoning Map. The distance specified above shall be measured horizontally from the center line of designated landscape management roadways or from the nearest ordinary high water mark of a designated landscape management river or stream. The limitations in DCC 18.84.20 shall not unduly restrict accepted agricultural practices.

FINDING: The Deschutes River is identified on the County Zoning Map as the landscape management feature(s). The subject property falls within the Landscape Management Combining Zone for this feature(s), therefore, the provisions of this chapter apply.

Section 18.84.050. Use Limitations.

- A. *Any new structure or substantial exterior alteration of a structure requiring a building permit or an agricultural building or equine facility within an LM Zone shall obtain site plan approval in accordance with DCC 18.84 prior to construction. As used in DCC 18.84 substantial exterior alteration consists of an alteration which exceeds 25 percent in the floor area or 25 percent of the assessed value of the structure.***
- B. *General/Discretionary Standards. Structures and/or lots or parcels which are not visible from the designated roadway, river, or stream and which are assured of remaining not visible because of vegetation, topography, or existing development***

are exempt from the provisions of DCC 18.84.080 (Design Review Standards) and DCC 18.84.090 (Setbacks). An applicant for site plan review in the LM Zone shall conform with the provisions of DCC 18.84, or may submit evidence that the proposed structure and/or lot or parcel will not be visible from the designated road, river, or stream. Structures not visible from the designated road, river, or stream must meet setback standards of the underlying zone(s).

FINDING: The proposed structure(s) require building permits. The entire subject property will remain not visible from the identified Landscape Management features due to intervening vegetation, topography, and/or existing development. This was verified by review of available aerial photography. This proposal is exempt from the provisions of DCC 18.84.080 (Design Review Standards) and DCC 18.84.090 (Setbacks) and complies with the required setbacks described in the underlying zone(s).

Section 18.84.095. Scenic waterway.

Approval of all structures in a State Scenic Waterway shall be conditioned upon receipt of approval of the Oregon Department of Parks and Recreation.

FINDING: The proposed structure(s) are not located in a State Scenic Waterway.

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 finished 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 finished grade.***

FINDING: The subject property has a required clear vision area located at the intersection of 2nd Street and Bruce Avenue. As proposed this area will 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 clear vision area shall be maintained in accordance with DCC 18.116.020(A).

- B. *A clear vision area shall consist of a triangular area on the corner of a lot or parcel at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines abutting 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: 2nd Street has a right-of-way width of 60 feet and Bruce Avenue has a right-of-way width of 30 feet. Staff therefore finds the required clear vision area consists of a triangle with a 30-foot side, a 40-foot side, and a third line connecting the two.

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.*

FINDING: As described herein, the off-street parking and loading requirements are met and, as conditioned, that property is and will be available for exclusive use as off-street parking and loading. As a condition of approval, 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:*

<i>Sq. Ft. of Floor Area</i>	<i>No. of Berths Required</i>
<i>Less than 5,000</i>	<i>0</i>
<i>5,000-30,000</i>	<i>1</i>
<i>30,000-100,000</i>	<i>2</i>
<i>100,000 and Over</i>	<i>3</i>

FINDING: No loading berth is required.

2. ***Restaurants, office buildings, hotels, motels, hospitals and institutions, schools and colleges, public buildings, recreation or entertainment facilities, and any similar use which has a gross floor area of 30,000 square feet or more shall provide off street truck loading or unloading berths subject to the following table:***

<i>Sq. Ft. of Floor Area</i>	<i>No. of Berths Required</i>
<i>Less than 30,000</i>	<i>0</i>
<i>30,000-100,000</i>	<i>1</i>
<i>100,000 and Over</i>	<i>2</i>

FINDING: After the proposed addition, the school will be 57,735 square feet in size and will require one loading berth. There is currently a loading berth located adjacent to the northwest portion of the school building and the applicant proposes to retain this loading berth. Staff finds this criterion will continue to be met.

3. ***A loading berth shall contain space 10 feet wide, 35 feet long and have a height clearance of 14 feet. Where the vehicles generally used for loading exceed these dimensions, the required length of these berths shall be increased.***

FINDING: The loading berth will comply with these dimensional standards.

4. ***If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.***

FINDING: No elimination of a loading space is proposed.

5. ***Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.***

FINDING: As a condition of approval, off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

- 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: Staff finds this criterion requires parking be provided and maintained for all uses. As a condition of approval, 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:

...

4. Places of Public Assembly

Use	Requirements
Elementary or junior high schools	1 space per 4 seats or 8 feet of bench length in auditorium or assembly room, whichever is greater, plus 1 space per employee.

FINDING: In a letter dated January 29, 2026, the applicant provided the following response regarding the number of required vehicle parking spaces:

Given that the most recent decision identifies 44 spaces that are located and defined, it is the applicant’s understanding that 52 spaces need to be accounted for with the new proposal, the 44 spaces defined spaces in SP-03-29 in addition to 8 spaces for the new teachers (52 in total). The Development Team has identified that the site (as designed) can accommodate 54 spaces, including 9 spaces along 2nd Street, 36 spaces in the eastern lot, and 9 spaces along 4th Street (not previously noted in a decision).

Staff concurs with this analysis and finds that the most recent Site Plan approval for the school identified 44 required parking spaces. The applicant does not propose to expand the size of the existing auditorium, which is the basis of the required parking calculation. However, the applicant states that the building expansion will result in eight additional school employees, which does trigger an increase in required parking. The applicant proposes to modify the existing vehicle parking areas along Second Street and to the east of the school building, and proposed new on-street parking spaces along Fourth Street to the south of the school building. Based on the parking calculation listed above, the proposed expansion will require a total of 52 parking spaces and staff therefore finds the 54 proposed spaces will comply with this criterion.

E. General Provisions. Off-Street Parking.

1. More Than One Use on One or More Lot or Parcels. In the event several uses occupy a single structure, lot, or parcel, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.

FINDING: Only one use is proposed on the subject property.

2. Joint Use of Facilities. The off-street parking requirements of two or more uses, structures, lots, or parcels 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, lots, or parcels that their operations and

parking needs do not overlap at any point of time. If the uses, structures, lots, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

FINDING: No joint use of parking facilities is proposed.

3. ***Location of Parking Facilities. Off-street parking spaces for dwelling units shall be located on the same lot or parcel with the dwelling unit. Other required parking spaces shall be located on the same lot or parcel or another lot or 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.***

FINDING: The proposed required parking spaces are located on the same parcel.

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: As a condition of approval, 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 Setback Area. Required parking and loading spaces for multi-unit dwellings or commercial and industrial uses shall not be located in a required front setback area, 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 setback area.***

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

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 abutting 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 or parcel 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: The applicant proposes new on-street parking spaces along Fourth Street, which borders the subject property to the south. Fourth Street is paved and has a defined curb where it abuts the subject property. The applicant proposes nine parallel parking spaces along Fourth Street, which requires 180 feet of curb space. Fourth Street has over 200 feet of curb space where it abuts the subject property, and staff therefore finds subsection (a) will be met.

The applicant does not propose any signs or actions to limit the general public from utilizing these on-street parking spaces. The on-street parking spaces will not exceed 30 percent of the total required parking spaces. The on-street parking spaces are not located within a required clear vision area.

F. Development and Maintenance Standards for Off-Street Parking Areas. Every lot or 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 abutting residential uses, unless effectively screened or buffered by landscaping or structures.**

FINDING: The vehicle parking area to the east of the school building will contain more than five spaces. However, neighboring properties to the east are separated from the parking area by the 30-foot right of way for Bruce Avenue. Staff therefore finds these neighboring residential uses do not abut¹ the vehicle parking area and are not subject to this criterion.

¹Per DCC 18.04.030, "Abut or abutting" means contiguous, touching, adjoining, or connected at one or more points.

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

FINDING: Abutting properties are located in the TUR District, which is a residential zone. The burden of proof states that no new exterior lighting is proposed for the vehicle parking area. Staff therefore finds this criterion will continue to be met.

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: Parking spaces are located and designed to prevent the need to back vehicles into a street or right of way other than an alley. The applicant proposes a two-way access aisle within the vehicle parking area, which will provide sufficient room for vehicles to turn around without having to back onto Second Street. The off-street parking spaces located closest to Second Street are at a 90 degree angle. This design will allow vehicles to back up directly within the parking area, without having to back vehicles into a street or right of way.

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:***

FINDING: The vehicle parking area will be paved with an asphalt surface. The application materials include elevation and drainage information prepared by a registered professional engineer. These materials demonstrate that the drainage facilities have been designed to contain the flow of water within the property.

- 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: No exception to the paving standards have been requested.

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

FINDING: The applicant proposes a two-way access aisle, which requires a minimum width of 24 feet. As illustrated on the site plan, the access aisle will be 24 feet in width. The proposed access aisles are of sufficient width for all vehicular turning and maneuvering and comply with standards for parking lot design under sub-section (G), below.

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.***

FINDING: For the purposes of this decision, staff finds a “service drive” includes any vehicle maneuvering surface that connects to a road or street, but is not abutting a parking space. The applicant proposes to modify the vehicle parking area to the east of the school and proposes minor alterations to the service drive that connects this parking area to Second Street. This service drive will continue to provide direct access to the vehicle parking area from Second Street. This design provides separation between the main vehicle parking area and the drop-off area that is located to the north of the school building along Second Street, which will help facilitate an efficient flow of traffic.

The subject property is bordered to the north and south by paved sidewalks, which are separated by a curb from the abutting road. The applicant also proposes a curb and sidewalk along the east side of the school building, which will minimize conflicts between pedestrians and moving vehicles. After the proposed development, the subject property will continue to have one service drive. Staff therefore finds the number of service drives will continue to be the minimum required to serve the anticipated traffic.

The proposed service drives are clearly marked through a curb and a different paving material than the adjacent sidewalk. No “drive-in” establishment is proposed.

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.***

FINDING: For the purposes of this decision, staff finds a “service drive” includes any vehicle maneuvering surface that connects to a road or street, but is not abutting a parking space. Staff finds “vision clearance area” became “clear vision area” in 1991 (Ord 91-038) but that this reference was not updated. For the purpose of this decision, staff uses “vision clearance area” and “clear vision area” as the equivalent.

The subject property has a required service drive clear vision area located at the intersection of the

service drive and Second Street. As proposed this area will 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).

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 abutting lot line or a street right of way.***

FINDING: Staff finds a curb or bumper rail are only needed under this criterion where needed to prevent a motor vehicle from extending over an abutting property line or a street right of way. No parking area is abutting a property line or a street right of way. In addition, the vehicle parking area to the east of the school building will be bordered by a curb, which will ensure vehicles do not extend beyond the designated parking area.

- 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 applicant has requested a Minor Variance to the required length of parking stalls for one row of vehicle parking spaces. The off-street parking area to the east of the building will contain one row of parking at 90 degrees and one row of parking spaces at zero degrees. The row of 90 degree parking spaces will be 18 feet in length, which does not comply with the 20-foot length required by the table in DCC 18.116.030(G). This Variance to the length of parking stalls is addressed under DCC 18.132.025, below. Staff finds the proposed vehicle parking spaces comply with all other design standards listed in this section.

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.**

FINDING: As noted above, the proposed use requires 52 vehicular parking spaces. Therefore, eleven bicycle parking spaces are required, of which six spaces must be sheltered. The submitted proposal includes 20 bicycle parking spaces, ten of which will be covered. Staff therefore finds the proposed bicycle parking will exceed the number that is required by this section.

- 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.**

FINDING: The applicant has not requested exceptions to the bicycle parking standards.

2. Special Minimum Standards.

- a. **Multi-Unit Dwellings. Every residential use of four or more dwelling units shall provide at least one bicycle parking space for each dwelling unit. In those instances in which the multi-unit dwelling development 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.**

FINDING: The proposed use is an expansion of a school and is therefore subject to subsection (2)(c). The expanded school building will accommodate up to 410 students and one bicycle parking space is required for every 25 students. This special minimum standard requires the applicant to provide 17 bicycle parking spaces, nine of which must be covered. As detailed above, 20 bicycle spaces, ten of which will be covered, are proposed. This criterion will be met.

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.**

FINDING: No trade off with motor vehicle parking spaces is proposed.

- 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: Bicycle parking has been calculated by the rounding up of fractional spaces and accounting for the total number of motor vehicle spaces required for the entire development.

- 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.**

FINDING: Required sheltered bicycle parking is provided by a covering that will be constructed over one row of bicycle parking.

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.**

FINDING: The school building contains multiple entrances and vehicle parking will be located to the north, east, and south of the school building. Staff therefore finds it is not possible to site the bicycle parking area closer to each entrance than the nearest vehicle parking space. However, the building entrances along Second Street are the two primary entrances to the building and face the bus drop-off area. The bicycle parking will be located approximately 40 feet from the easternmost of the two entrances, and will be located closer to the school building than the vehicle parking spaces along Second Street.

- i. Bicycle parking shall be located in areas of greatest use and convenience to bicyclist.**

FINDING: Bicycle parking facilities are located in areas of greatest use and convenience to bicyclists. The bicycle parking will be visible from the main building entrances along Second Street and will be visible to people entering the subject property from the north or east. The bicycle parking can be directly accessed from Second Street and is also easily accessible from the vehicle parking area along Bruce Avenue.

- ii. Such bicycle parking shall have direct access to both the public right of way and to the main entrance of the principal use.**

FINDING: The proposed bicycle parking area(s) 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.**

FINDING: The proposed bicycle parking area(s) will not impede or create a hazard to pedestrians. The bicycle parking will be set back from the sidewalk along Second Street, so it will not impede pedestrian traffic. A paved walkway will connect the bicycle parking area to an existing walkway that runs from north-to-south and connects the building entrance to Second Street. This design provides direct, convenient access from the bicycle parking area to the main building entrances, without blocking existing pedestrian paths.

- iv. Parking areas shall be located so as not to conflict with clear vision areas as prescribed in DCC 18.116.020.**

FINDING: The proposed bicycle parking area(s) are 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.***

FINDING: Bicycle parking facilities will be separated from motor vehicle parking and drive areas by a curb. This design will prevent vehicles from accessing or damaging the bicycle parking area.

- 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.***

FINDING: The bicycle parking area will be directly visible and obvious from Second Street and Bruce Avenue. Staff therefore finds that signage is not required.

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.***

FINDING: The bicycle parking area shown on the submitted site plan complies with these requirements.

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.*

FINDING: The bicycle parking area will have a cement surface. As a condition of approval, the bicycle parking surface shall 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.***

FINDING: The bicycle parking area offers security in the form of a stationary rack that bicycles can be locked to. The bicycle racks will be permanently anchored to the ground.

- b. *Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from abutting sidewalks or motor vehicle parking.***

FINDING: The bicycle parking area will be illuminated by exterior lighting for the school building and adjacent walkways.

- 6. *Other means that provide the above level of bicycle parking may be approved by the Hearings Body or the Planning Director.***

FINDING: No alternative means of providing bicycle parking have been proposed or approved in this decision.

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 school is a public building and has a workforce of at least 25 people. The application materials state that the special education (SPED) classroom will contain a shower and changing room that can be used by bicycle commuters. Staff finds this criterion will be met.

Chapter 18.120, Exceptions

Section 18.120.010, Nonconforming Uses.

- C. *Verification of Nonconforming Use.***
 - 1. *Subject to the procedures set forth in DCC 18.120.010 and in DCC Title 22 for processing declaratory rulings, the planning division will verify whether or not a use constitutes a valid nonconforming use in accordance with the provisions of DCC 18.120.010 and applicable state law. Verification of the existence of a nonconforming use is required prior to or concurrent with any application to alter or restore the use.***

FINDING: The requested non-conforming use verification is subject to the procedures set forth in DCC 18.120.010 and in DCC Title 22 for processing declaratory rulings.

2. ***Subject to DCC 18.120.010(F)(2), the applicant shall demonstrate all of the following:***
 - a. ***The nonconforming use was lawfully established on or before the effective date of the provisions of the zoning ordinance prohibiting the use or had proceeded so far toward lawful completion as of the date it became nonconforming that a right to complete and maintain the use would be vested;***

FINDING: DCC 18.120.010(F)(2) is discussed in detail below. Under this criterion, a non-conforming use can only exist by predating a new provision of the zoning ordinance prohibiting the use. The Burden of Proof includes the following information on the date the school was established and the subsequent establishment of the TUC Zone.

A school has existed on the site since the early 1900s, the use of the site predates all County Zoning ordinances. Through history, zoning rules have been implemented on the property, including the original Deschutes County Zoning Ordinance, a Rural Service Center Zone, and most recent the adoption of Ordinance 97-033, which imposed a TuC Zone on the property. Under the current rules, the school use on the TuC portion of the property is a non-conforming use. The proposal will slightly alter the school use on the TuC zoned area of the property. Pursuant to this section, the non-conforming use can be altered, so long as it conforms to the requirements of this section.

...The prior land use decision SP-11-9 indicates that the site has been used as a school since the early 1900s. This comment is supported by a Historic Assessment that identifies the date of construction of circa 1918, along with local media reporting in 2019 that the school is 115 years old. Furthermore, prior land use decisions identify the school site as being located between 2nd Street and 4th Street and consisting of TuR and TuC zoned land. The record documents that the school use existed on the property (and within the current TuC zone), well before any use rules existed on the site.

The subject property has gone through multiple land use approvals, which acknowledge that the existing school was established prior to the adoption of the TUC District. Staff finds these prior land use approvals demonstrate that the school was lawfully established, and the portion within the TUC District is therefore a lawful nonconforming use.

- b. ***The nonconforming use as it existed on the date it became nonconforming, considering the nature and the extent of the actual use of the property, has continued without abandonment or interruption; and***

FINDING: Land use and building permits for the subject property date back to 1978, and reference the existing Tumalo Community School. Aerial images, land use records, and building permits all

corroborate that the school use has continued on the subject property without abandonment or interruption. Specifically, these available records indicate the extent of the school use on the subject property, including that portion within the TUC District, has continued without interruption.

- c. Any alteration in the nature and extent of the nonconforming use was done in compliance with applicable zoning ordinance standards governing alterations of non-conforming uses.**

FINDING: The applicant has applied for an alteration of the non-conforming use, in compliance with applicable zoning ordinance standards governing alterations of non-conforming uses, as described herein. No other alteration in the nature and extent of the nonconforming use is documented in the record.

- 3. For purposes of determining whether an abandonment or interruption of use has occurred, the following shall apply:**
 - a. The reference period for determining whether an abandonment or interruption of a nonconforming use or an aspect thereof has occurred shall be one year.**

FINDING: The record does not indicate any abandonment or interruption in the nonconforming use or an aspect thereof has occurred.

- b. An abandonment or interruption in a use or portion thereof may arise from the complete cessation of actual use of a property for a one-year period or may arise from a change in the nature or extent of the use made of the property for a one-year period or more.**

FINDING: The record does not indicate any abandonment or interruption from cessation of the actual use of a property for a one-year period or from a change in the nature or extent of the use made of the property for a one-year period or more.

- c. An interruption or abandonment that constitutes less than full cessation of the use or a portion thereof may, in accordance with DCC 18.120.010(F)(4), result in a declaration of a continuing use, but of a lesser intensity or scope than what would have been allowable if the nature and extent of the use as of the date it became nonconforming had continued.**

FINDING: The record does not indicate any reduction in the intensity or scope of the use.

- d. Absent an approved alteration, a change in the nature of the use may result in a determination that the use has been abandoned or has ceased if there are no common elements between the activities of the previous use and the current use.**

FINDING: The record does not indicate any change in the nature of the use where there are no common elements between the activities of the previous use and the current use.

- e. *Change of ownership or occupancy shall not constitute an interruption or abandonment, provided that, absent an approved alteration, the continuing use made of the property falls within the allowed scope of use made of the property by previous owners or occupants.***

FINDING: Staff finds change of ownership or occupancy, if any, has not been found to constitute an interruption or abandonment.

- f. *Factors to be considered in determining whether there has been a change in the nature and/or extent of a use shall include, but are not limited to, consideration of the type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), the frequency of use, the hours of operation, changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.***

FINDING: The record does not indicate any abandonment or interruption in the nature and extent of the nonconforming use has occurred considering type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), the frequency of use, the hours of operation, changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.

- D. *Maintenance of a nonconforming use. Normal maintenance of a verified nonconforming use or structure shall be permitted. Maintenance does not include alterations which are subject to DCC 18.120.010(F).***

FINDING: Maintenance of existing structures associated with a nonconforming use in good repair under this criterion and ORS 215.130(5) includes incremental replacement of structural components, at least where the structure as a whole is not substantively replaced, and the installed components are similar in function to those replaced. Such incremental replacements are not alterations that require county review and approval under ORS 215.130(9) as implemented by DCC 18.120.010(F). See *Leach v. Lane County*, 45 Or LUBA 580 (2003).

Staff finds normal maintenance of the verified nonconforming use shall be permitted.

- E. *Restoration or replacement of a nonconforming use. A verified nonconforming use may be restored or replaced if all of the following criteria are met:***
 - 1. *Restoration is made necessary by fire, natural disaster, or other casualty;***
 - 2. *The nonconforming use is restored or replaced on the same location and is the same size or smaller than it was prior to the damage or destruction; and***

3. ***The restoration or replacement of the nonconforming use is commenced within one year of the damage or destruction.***

FINDING: No restoration or replacement is proposed under the current application.

F. *Alteration of a nonconforming use.*

1. ***The alteration of a nonconforming use shall be permitted when necessary to comply with any lawful requirement.***

FINDING: The proposed alteration is not necessary to comply with any lawful requirement.

2. ***Any other alteration to a nonconforming use may be permitted subject to all applicable provisions of DCC Title 18, including site plan review and upon a finding that the alteration will have no greater adverse impact on the neighborhood.***

FINDING: The alteration in this case involves a building expansion within the TUC District. The applicant proposes an expansion onto the southeast portion of the school building for expanded classroom space. Relative to the size of the existing school building, the expansion of the building within the TUC District is much smaller in size. A school has existed on the subject property since the 1920's and school facilities, such as ball fields and other outdoor areas, have historically been located within the portion of the property that is now zoned TUC. The building expansion will be enclosed, therefore noise and visual impacts on surrounding properties will be minimal while students utilize the new classroom space. The main building entrances will continue to be located within the TUR District portion of the subject property, therefore the building expansion within the TUC District will not generate significant additional pedestrian traffic in the TUC District.

Adverse impacts on surrounding properties, such as noise, dust, and vibrations, will primarily be generated during construction of the new classroom space. However, staff finds the limited duration of construction will help mitigate these impacts. The building expansion is located closest to the neighboring properties to the east, which contain dwellings, and these properties are therefore the most likely to experience any adverse impacts. The building expansion will not encroach closer towards the east property line than the existing school building. In addition, there is an existing cluster of three trees at the southeast corner of the building expansion, which the applicant proposes to retain. The south portion of the subject property currently contains approximately 1.9 acres of sports fields. Students utilizing the sports fields may be visible and audible from neighboring properties, while in contrast, students within the proposed building expansion will not be visible from neighboring properties.

Based on the existing development of the subject property, the minimal size of the building expansion within the TUC Zone, and the existing buffers from surrounding properties, staff finds the proposal will not generate significant adverse impacts on neighboring properties.

3. ***For the purposes of DCC 18.120.010(F)(2), an “alteration of a nonconforming use” shall include any change in the use of the property that would constitute a change in the nature or extent of the use of the property.***

FINDING: Staff finds the alteration, as described in detail above, includes a “change in the use of the property that would constitute a change in the nature or extent of the use of the property.”

G. Procedure.

1. ***Any application for verification of a nonconforming use or to expand, alter, restore, or replace a nonconforming use shall be processed in conformance with the applicable procedures set forth in DC 18.120.010 and the applicable procedures of DCC Title 22, the Deschutes County Uniform Development Procedures Ordinance.***

FINDING: This application for verification of a nonconforming use is being processed in conformance with the applicable procedures set forth in DC 18.120.010 and the applicable procedures of DCC Title 22, the Deschutes County Uniform Development Procedures Ordinance.

2. ***Notwithstanding DCC 22.20.010, the initial decision on an application for an alteration of a nonconforming use shall be made administratively, without a public hearing. The Planning Director may give prior notice of the pending application pursuant to DCC 22.20.020.***

FINDING: This initial decision on an application for an alteration of a nonconforming use has been made administratively, without a public hearing. Prior notice of the pending application has been provided pursuant to DCC 22.20.020

3. ***Except as allowed by DCC 18.120.010(F)(3)(a), the burden of proof shall be on a verification applicant to prove the existence, continuity, nature and extent of the use.***
 - a. ***Notwithstanding DCC 22.24.050, if an applicant demonstrates by a preponderance of the evidence that the nature and extent of the use sought to be verified is of the same nature and extent as the use of the property for the ten-year period immediately preceding the application, without interruption or abandonment, it shall be presumed that the nonconforming use, as proven, lawfully existed at the time the use became nonconforming and has continued without interruption or abandonment until the date of application.***

FINDING: DCC 22.24.050, Burden of Proof, specifies:

Throughout all local land use proceedings, the burden of proof rests on the applicant.

Staff finds this criterion modifies 22.24.050 as described in this criterion.

The existing school is referenced in land use approvals from 1978, 1986, 1989, 1992, 1994, 2005, and 2011. Aerial images, historical documents, and building permit records further demonstrate the continued use of the school on the subject property. Staff therefore find that the presumption allowed under this criterion is not required.

- b. The presumption may be rebutted by a preponderance of evidence showing that the use was unlawful prior to the time it became nonconforming, or that the use prior to the ten-year period was of a different nature or different in extent than the use, as proven, or that the use prior to the ten-year period was interrupted or abandoned. If the presumption is so rebutted, the presumption shall disappear and be of no further aid to the applicant.***

FINDING: No rebuttal of the presumption granted under section (3)(a) is included in the record.

- 4. If the proof demonstrates the continued existence of a valid non-conforming use, but of a different nature or extent than that claimed by the applicant, the Hearings Body may declare there to be a valid nonconforming use to the extent proven.***

FINDING: There is no evidence of the continued existence of a valid non-conforming use which is different in nature or extent than that claimed by the applicant.

- 5. An approval of a verification, replacement or restoration of a nonconforming use verification shall not be conditioned; an approval shall be sufficiently detailed to describe the allowed parameters of the verified use. However, an approval of an alteration of a nonconforming use may be conditioned in a manner calculated to ensure mitigation of adverse impacts so that the change has no greater adverse impact to the neighborhood.***

FINDING: The verification of the non-conforming use has not been conditioned. Conditions upon the alteration contained in this decision, if any, are calculated to ensure mitigation of adverse impacts so that the change has no greater adverse impact to the neighborhood.

- 6. After a decision has been rendered on an application for a verification of a nonconforming use (including any appeals provided for under DCC Title 22 and under state law), the applicant shall not be entitled to reapply under DCC 22.28.040 for another verification determination involving the same use of the property.***

FINDING: Staff includes this criterion as a condition of approval.

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. Multi-unit 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: 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 finds minimization of visual impacts requires preserving existing vegetative screening, designing the addition to blend with the existing school development, and clustering of structures. The submitted burden of proof includes the following response to this criterion:

As detailed on the Plan Set, the planned improvements are relatively minor, the kitchen and cafeteria additions at the northwest corner contain similar architectural elements as the existing school at a size and scale that will be smaller than the existing building; the small appendages will be dwarfed by the existing structure. Regarding middle school addition at the southeast corner, the design is similar in height to the existing structure and it enhances the design theme of the structure, adding sloped roofs, eaves, canopies, and classroom windows.

In addition to the general design of the additions, the applicant proposes to paint the entire building (existing and new) the same color and landscaping is planned around the new development areas.

Staff concurs with this analysis and finds the proposed addition will be smaller in size than the existing school building. The application materials include drawings of the proposed building addition, and staff finds the proposed design will blend harmoniously with the existing structure. The proposed addition will be 24 feet in height, which is less than the allowed height in the underlying zone.

As part of the proposal, the applicant will improve the vehicle parking area located to the east of the school building. These site improvements will bring the parking area into compliance with the provisions of DCC 18.116.030 and provide additional landscaping and screening for the parking area. There is not currently a landscaping strip separating the parking area from Bruce Avenue and the applicant proposes to install one. The application materials include a landscaping plan, which indicate this new landscaping strip will contain a row of ponderosa pine interspersed with rabbit brush. Staff finds the proposal will minimize visual impacts on neighboring residences to the east by increasing the amount of screening.

The applicant proposes expanding the existing school building, which will keep development clustered towards the north portion of the subject property and minimize disturbance to the

remainder of the site. The building addition will not extend farther east than the existing building, therefore it will not encroach closer towards neighboring residential properties along Bruce Avenue and 3rd Street. The applicant also proposes additional landscaping to screen the new addition that will extend off of the southeast portion of the existing school. The site plan indicates one ponderosa pine will be planted to the east of the classroom addition, and three honey locust will be planted to the south of the addition. There is also an existing landscaped area to the east of the addition, and the applicant proposes to retain that vegetation.

The addition onto the northwest corner of the building will extend closer to the north property line than the existing building. However, neighboring properties to the north are separated by the 60-foot right of way for 2nd Street. Two small trees will need to be removed to construct the cafeteria addition, but the majority of the existing trees along the north side of the building will be preserved. After construction, there will be ten trees along the north side of the building, which will continue to provide screening for neighboring properties to the north and vehicles traveling on 2nd Street.

The building addition will encroach closer to the west property line than the existing building. However, after the addition, the building will be set back approximately 150 feet from the west property line and this buffer of undeveloped space will minimize visual impacts. In addition, the neighboring property to the west is an undeveloped parcel owned by the school district, which is bordered on the other side by Highway 20. Based on the buffering and screening that will be retained, and the existing development of the subject property, staff finds the proposed addition will blend harmoniously with the natural environment and existing development.

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: Staff finds the landscape and existing topography will be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. No significant changes to topography are proposed. Staff finds all trees and shrubs existing on-site, not removed by necessity of the proposed development, are “preserved trees and shrubs.” As a condition of approval, all trees and shrubs existing on-site, not removed by necessity of the proposed development, shall be protected, unless lawfully changed/removed by outright uses (such as farm use) or such change/removal is approved by future land use approvals.

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: Staff finds this criterion requires demonstration the site is designed to address common safety hazards, including fire safety, and to address any site-specific natural hazards. Staff finds pedestrian, bicycle, and vehicle safety is addressed under sub-sections (E) and (K) of this section. With regard to fire safety, the applicant has been coordinating with the local fire district and has provided information on the location and flows of fire hydrants, as well as a plan to improve emergency vehicle access on the subject property.

The application materials include a Fire Code Compliance Plan, which indicates that the modified parking area, to the east of the school building, will provide sufficient room for a 40-foot-long fire truck to maneuver and will allow fire trucks to enter from either Second Street or Third Street. The proposed layout includes a new gate with a Knox pad lock that connects Third Street to the vehicle parking area, where there previously had not been vehicle access. This new gate will only be used by the fire department in the event of an emergency and will remain closed the remainder of the time. This design will allow fire apparatus closer access to the south portion of the school building and will therefore improve fire safety for the existing school building. With regard to other natural hazards, none have been identified on the site.

The applicant proposes to expand an existing school, which is a public use, and a transition is therefore required from neighboring private uses. The school building will continue to be separated from neighboring residences to the north and east by road right-of-way. The applicant proposes a new landscaping buffer between the vehicle parking area and Bruce Avenue, which will provide additional privacy for neighboring properties. A school has existed on the subject property since the 1920's and the record does not include any comments indicating neighboring properties do not have adequate privacy.

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 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.

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: Staff finds 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". Staff finds this means that such facilities must not significantly adversely impact on-site and/or neighboring proposed and existing buildings and structures.

The existing driveway access point from Second Street into the vehicle parking area has gone through multiple Site Plan reviews and has been found to comply with this criterion. There is currently an off-street parking area located to the east of the school building. The applicant

proposes to modify the configuration of this parking area, to bring it into compliance with the standards of DCC 18.116.030, and add additional spaces to the south of the existing parking area. This vehicle parking area will continue to be located adjacent to the school building and will therefore provide convenient, direct access to building entrances.

The applicant proposes to modify the parking spaces and drop-off area located to the north of the school building, along Second Street. This area will continue to have a concrete curb separating the sidewalk from the road, a striped pedestrian crossing across Second Street, and an area for vehicles to pull in so they can load and unload without obstructing the flow of traffic on Second Street. The sidewalk along the north side of the school building will connect with a six-foot-wide paved sidewalk along the east side of the building. This design will continue to give pedestrians access to the various building entrances without having to cross in front of vehicles.

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

FINDING: Staff finds engineered design and review is required to demonstrate compliance with this criterion. The application materials include a drainage plan prepared by Ashley and Vance Engineering which provides information on the volume and flow of stormwater that would be produced during the 100-year peak storm, and includes an analysis of drainage infrastructure and its capacity.

This drainage plan indicates the location of two drywells, a swale, and three rock-lined catchment basins. Based on the drainage plan and accompanying information provided by a professional engineer, staff finds the surface drainage system has been designed to prevent adverse impacts on neighboring properties and water quality. As a condition of approval, the applicant shall maintain surface drainage 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: Staff finds the vehicle parking and loading areas, propane tanks, and trash enclosure are subject to this criterion. These facilities have been designed to minimize adverse impacts on the site and neighboring properties because the small size of the propane tanks and trash enclosure will minimize any visual impacts they generate. The design of the vehicle parking and loading areas consists of at-grade asphalt paving, which will only generate visual impacts during the hours that vehicles are parked there.

These facilities have been located to minimize adverse impacts on the site and neighboring properties by locating the propane tanks and trash enclosure adjacent to the northwest corner of the school building, in the same general area as the loading berth. Locating these facilities adjacent to the school building will be less impactful than constructing a new structure in a different portion of the subject property. These facilities have been buffered or screened to minimize adverse

impacts on the site and neighboring properties by providing a six-foot-tall fence with slats around both the propane tanks and the trash enclosure. The parking and loading areas will be buffered by landscaping strips, including a new landscaping area along the east property line that will contain a mix of trees and shrubs.

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

FINDING: The applicant has not proposed above ground utility installations as a part of this project.

I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. 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 applicant has proposed exterior lighting as a part of this project. As a condition of approval, 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 Deschutes County Road Department and Deschutes County Transportation Planner were sent a request for comment on this application. Comments from the Deschutes County Road Department did not indicate any required road improvements. However, the Road Department did identify an infrastructure concern regarding public drainage facilities that are located on the subject property. The applicant has agreed to remedy this by dedicating 12.5 feet of land along the north property line to the public right-of-way. No other road improvements or infrastructure concerns were identified in the record.

Section 18.124.070. Required Minimum Standards.

A. Private outdoor areas and shared outdoor recreation areas in multi-unit dwelling, townhouse, and zero lot line dwelling developments.

- 1. Private Areas. Other than a development in the Sunriver UUC Town Center District, each ground-level dwelling unit 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 the unit residents and their guests.

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

- 2. *Shared Areas. Usable outdoor recreation space, as defined under subsections (b) and (c) below, shall be provided in the Sunriver UUC Town Center District on a district-wide basis 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 multi-unit dwelling 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-unit dwelling or townhouse that is accessible to residents or guests staying in multi-Unit dwellings or townhouse 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. 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-unit dwellings, townhouses, zero lot line dwellings, commercial developments, and industrial developments, subject to site plan approval:***
 - a. A minimum of 15 percent of the lot area shall be landscaped.***

FINDING: The lot area is 306,662 square feet and 15 percent of this area is 45,999 square feet. The submitted landscaping plan illustrates 15 percent of the lot area as landscaped. Staff notes this 15 percent landscaped area does not include landscaping required under (B)(2) to meet this area requirement.

- b. All areas subject to the final site plan and not otherwise improved shall be landscaped.**

FINDING: The area subject to the final site plan is the entire property. The submitted landscaping plan shows all areas subject to the final site plan and not otherwise improved as landscaped. Staff notes such areas are “required landscaping” for the purposes of the DCC.

- 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: Staff finds that, unlike section (B)(1), this criterion requires “defined landscaping”. Staff finds that “defined landscaping” does not have a definition in the code. Merriam-Webster’s dictionary definition of “defined”² is “to show the shape, outline, or edge of (something) very clearly”. Thus this criterion cannot be met by un-differentiated natural landscaping.

In addition to the 15 percent standard of DCC 18.124.070(B)(1)(a), the submitted application materials include landscaping area(s) of 900 square feet as required for the 36 proposed off-street parking spaces.

- 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 abutting a roadway by a landscaped strip at least 10 feet in width, and from any other abutting lot line by a landscaped strip at least five feet in width.**

FINDING: The submitted application materials include landscaping strip(s) separating parking/loading area(s) from Bruce Avenue. The plans show landscaping strip(s) abutting this road right-of-way will be at least 10 feet in width. This criterion will be met.

- 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: The submitted application materials include a landscaping strip separating parking/loading area(s) from a street. The landscaping plans include the required trees, shrubs, and ground cover at the density required in these criteria.

² <https://www.merriam-webster.com/dictionary/defined>

- 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: The submitted plan shows landscaping in a parking/loading area(s) in defined landscaped areas which are uniformly distributed throughout the parking/loading area(s).

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

FINDING: The landscaping in the parking area shall has a width of not less than five feet.

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

FINDING: As a condition of approval, the applicant shall provide for watering planting areas where such care is required.

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

FINDING: As a condition of approval, 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: No overhead utility lines exist on-site.

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: To the extent bicycle parking is required under this approval, the number and type of bicycle parking facilities are described above, under findings for DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities are indicated on the site plan submitted with this application.

- 2. *Pedestrian Access and Circulation:***

- a. *Internal pedestrian circulation shall be provided in new commercial, office, and multi-unit dwelling, townhouse, and zero lot line dwelling***

developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.

FINDING: The proposal does not include new commercial, office, or multi-unit dwelling 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-unit dwelling, public, or park use.***

FINDING: 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 paved walkways connecting the building entrances and other walkways to each other. A portion of the south property line along Fourth Street contains a sidewalk, which extends off-site to the east and connects with other properties in the TUC District where commercial or public uses are anticipated. No other walkways, sidewalks, or bikeways were identified on neighboring properties planned or used for commercial, multi-unit dwelling, public, or park use.

- c. Walkways shall be at least five feet in paved unobstructed width. Walkways which abut 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 applicant proposes five-foot-wide paved walkways throughout. Staff notes the parking spaces abutting walkways are separated by an elevated curb. Therefore, the five-foot-wide walkways abutting the vehicular spaces comply with this criterion. Per the site plan, staff finds the walkways provide a direct route to building entrances.

- 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: No driveway crossings by walkways are proposed.

- 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: Compliance with ADA standards for walkways will be addressed during building permit review. Staff includes a condition of approval to ensure compliance.

D. Commercial Development Standards:

- 1. ***New commercial buildings shall be sited at the front setback line for lots or parcels with one street frontage, and at both front setback lines for corner lots or parcels, 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 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 or parcel configuration;***
 - c. ***Topography of the lot or parcel;***
 - 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 setback 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 front 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 setbacks.**
- 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 subject school has existed prior to the effective date of DCC Title 18, and a school is now classified as a conditional use in the TUR Zone per DCC 18.67.020(C)(6). Any alteration of the structure within the TUR Zone is therefore required to conform with the provisions of DCC 18.128.

Section 18.128.015, General Standards Governing Conditional Uses.

Except for those conditional uses permitting individual single-unit 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 school expansion within the TUR Zone. Staff notes that only expanded portion of the school building is subject to this review, and not the existing school building within the TUR Zone.

- 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:

Site

The site is 7.04 acres in size and is developed with Tumalo Community School and associated facilities such as pedestrian walkways, vehicle parking areas, outdoor play areas, and sports fields. The property is large enough to accommodate the proposed building expansion while providing adequate setbacks, landscaping, and vehicle parking areas. The property has historically been used for a school and the applicant proposes to continue that use while providing additional classroom space, new vehicle parking spaces, and a cafeteria expansion.

The subject property has relatively flat topography, and the proposal will not require significant grading. In addition, the application materials demonstrate that there is room for stormwater drainage facilities within the subject property. Due to the developed nature of the subject property, expanding the school building will not require significant vegetation removal or impact any natural resources. Staff finds there is nothing about the site which would preclude locating the project in this area. For this reason, staff finds the site is suitable.

Design

The design of the use takes advantage of the existing development on the subject property. The applicant proposes to expand the parking area to the east of the school building. Expanding this existing parking area will not require significant changes to the layout of the subject property, and will require significantly less construction than building a new parking lot. Similarly, the building expansions will utilize the existing school area while providing additional space for needed facilities. The kitchen expansion will be located next to the existing kitchen and cafeteria, which will allow the existing school layout to remain. The primary building entrances along the north and east side of the school building will remain unchanged, which will preserve the existing pedestrian circulation within the property.

The design keeps impacts clustered towards the north portion of the subject property, where the existing school building is located. The south and west portions of the subject property will remain undeveloped and these large, open areas will provide a transition to neighboring uses and provide additional space for school activities. For these reasons, staff finds the design of the proposal is suitable to the site.

Operating Characteristics

The operating characteristics of the expansion will be similar to those of the existing school. The expanded classroom space will increase the number of students who come to the subject property, and will increase the faculty by eight additional teachers. The application materials state that the school has an attendance of 407 in 2010, and due to declining student enrollment the current enrollment is 260 students. The burden of proof describes the historic changes in the number of students who attended Tumalo Community School and the grades that the school offered. The proposed expansion fits within these historic trends of fluctuations in enrollment numbers and will not change the overall use of the subject property. The addition onto the southeast corner of the school building will provide modernized facilities with dedicated science classrooms and special education (SPED) classrooms.

Classes will occur within the school building and will not be noticeable from surrounding properties. In addition, outdoor play areas and sports fields will remain largely unchanged, therefore the use of these facilities is not anticipated to generate additional impacts on neighboring properties. Impacts will primarily be generated during drop-off and pick-up hours when people move between vehicles and the school entrances. The applicant provided a memorandum from a traffic engineer, who concluded that the surrounding roads have sufficient capacity to accommodate the school vehicle traffic. In addition, the limited duration of the school drop-off and pick-up hours will

minimize any impacts to surrounding properties.

The site is suitable for the use based on the existing development of the subject property and the minimal impacts to the flow of vehicle and pedestrian traffic within the subject property.

2. Adequacy of transportation access to the site; and

FINDING: Transportation access is provided to the site by Second Street as well as Fourth Street to the south. The existing school receives a significant amount of vehicle traffic during drop-off and pick-up hours, which has the potential to impact surrounding properties. The applicant provided a Transportation Impact Analysis prepared by a professional traffic engineer, which concluded that the surrounding roadway has adequate capacity to serve the school expansion.

Comments from the Deschutes County Transportation Planner did not identify any transportation infrastructure deficiencies. Comments from the Deschutes County Road Department indicate that Second Street and Fourth Street meet the minimum local road standard where they abut the subject property, but Bruce Avenue and Wood Avenue do not. However, the Road Department comments state that after a consideration of road system benefit relative to the development's impact, no improvements to Bruce Avenue or Wood Avenue are required. As discussed above, the applicant proposes to rebuild the sidewalk and drop-off area along Second Street, where it borders the school building to the north. This section of Second Street has historically been developed with a curb and sidewalk even though it is not required by Road Department standards. As conditioned, the applicant will submit road improvement plans prior to constructing any public road improvements, which will ensure coordination with the Road Department and that road construction standards are met.

Comments from other agencies and the general public did not identify any transportation infrastructure deficiencies. Staff notes that one public comment posed the question of whether there were traffic concerns, but did not cite any specific existing or anticipated impacts. Staff finds, as conditioned, the site is suitable for the proposed use based on adequacy of transportation access to the site.

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

FINDING: The site is generally flat and presents no topographical constraints on the proposed use. 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. The property is located within the service area of Bend Rural Fire District, and a fire station is located on an adjacent parcel to the southeast. The proposed building expansion will not significantly increase the risk of a fire starting on the subject property, due to the amount of existing development and structures.

Natural resource values typically include agricultural soils, forest lands, wildlife and their habitats, wetlands, and natural water features. The subject property does not contain any wetlands mapped

on a statewide or national inventory, and does not contain any floodplain. The subject property has contained a school building and associated facilities since the early 1900's and does not contain any significant wildlife habitat, and there is no evidence of agricultural soils on the property. Comments from agencies and the general public did not identify any site unsuitability due to general topography, natural hazards, or natural resource values.

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: Staff finds this this criterion requires that the proposed use must be compatible with existing and projected uses on surrounding properties. Staff finds "surrounding properties" are those that might be significantly adversely impacted by their proximity to the proposed use. Existing on surrounding properties include single-unit dwellings, a duplex, a fire station, irrigation district office, and small-scale commercial uses. Projected uses on surrounding properties are those that have received approvals or are allowed outright and are typical of development of the areas. These projected uses include single-unit dwellings, duplex, residential accessory structures, home occupations, and various commercial uses in the TUC District. Staff finds existing uses are a reasonable representation of uses allowed in the underlying zones of surrounding properties. For this reason, staff finds projected uses are likely to be similar to existing uses.

(A)(1). Site, design and operating characteristics of the use;

Staff finds 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.

The subject property is located in the TUR and TUC Districts of Tumalo, and the general surrounding area includes a mix of residential development, small-scale commercial uses, and public facilities. Noise, vibration, and dust will primarily be generated during construction, which will have a limited duration. The vehicle parking area and school bus loading area will continue to be located in close proximity to building entrances, which will minimize the noise and visual impacts that are generated as people move between vehicles and the school building. The proposed kitchen addition is 3,242 square feet and the proposed classroom addition is 8,124 square feet. In contrast, the existing school building is 41,369 square feet and is substantially larger than the proposed addition.

The proposed cafeteria expansion will be located on the northwest corner of the school building and will encroach closer to the north than the existing building. Neighboring properties to the north will continue to be separated from the subject property by Second Street, which will provide a buffer for these neighboring residences. In addition, the applicant will retain a row of mature trees that border the sidewalk along Second Street and provide visual screening of the school building. The kitchen expansion will consist of enclosed building space and will not generate significant impacts on neighboring properties, because all food preparation will be conducted indoors and therefore will not be visible from neighboring properties. A loading berth will continue to be located on the northwest corner of the school building near the kitchen and cafeteria. However, this vehicle loading berth will be used as needed for deliveries and will not generate a significant amount of vehicle

traffic. Staff therefore finds that the proposed kitchen expansion will not have significant adverse impacts on surrounding properties, even as it encroaches closer towards the north.

The applicant proposes to improve and expand the vehicle parking area located to the east of the school building. The existing parking area is immediately adjacent to Bruce Avenue and the applicant proposes a new landscaping strip between the parking area and this undeveloped road right-of-way. The new landscaping strip will include a drainage swale and a row of seven trees, in addition to interspersed shrubs. Neighboring residences to the east contain single-unit dwellings and the new landscaping will provide a buffer and visual screening for these residences. Furthermore, the proposed design will provide a greater setback between the vehicle parking spaces and neighboring properties to the east.

The applicant also proposes a classroom addition onto the southeast corner of the school building. This addition will contain enclosed classroom space and the use of this space will not generate significant noise. Neighboring properties to the east are located closest to this proposed addition and are therefore most likely to be impacted. However, the addition will not encroach closer to the east property line than the existing school building. The right-of-way for Bruce Avenue will also continue to provide a buffer of undeveloped space to minimize impacts on neighboring residences. The addition will extend closer towards the south property line than the existing school building, but will still be set back over 300 feet from this property line along Fourth Street. For these reasons, staff finds the site, design, and operating characteristics of the building addition and parking area expansion will be compatible with surrounding uses.

(A)(2). Adequacy of transportation access to the site; and

Staff finds the proposed use would be unsuitable if access to the site would significantly adversely impact existing and projected uses on surrounding properties. The applicant proposes to rebuild the vehicle loading zone along Second Street as well as the driveway access from the parking area onto Second Street. However, the location and use of these facilities will remain unchanged. Staff finds that utilizing the existing driveway access point will minimize disruption to surrounding properties, by maintaining the existing flow of traffic along Second Street.

Due to the unique operating characteristics of a school, transportation impacts are predominantly generated during school drop-off and pick-up hours. The applicant submitted a Transportation Impact Analysis that estimated the vehicle traffic that would be generated during morning drop-off, afternoon dismissal, and the peak evening commute hour. This memorandum noted that school drop-offs and pick-ups are often incorporated into existing vehicle trips, such as a parent on their way to or from work. Congestion and vehicle collision data was also provided to determine whether the surrounding roadway could safely accommodate the increased traffic generated by the school expansion. The applicant's traffic engineer provided the following conclusion:

This Transportation Impact Analysis shows that the transportation system surrounding Tumalo Community School provides adequate capacity to support the additional volume of trips associated with a middle school expansion. The area surrounding the school has a good safety performance, with no reported crashes along the 2nd Street corridor.

Comments from the Deschutes County Transportation Planner concurred with the findings of the above-quoted TIA. Based on the minimal proposed changes to the flow of traffic within the subject property, as well as the information provided in the Transportation Impact Analysis, staff finds the proposed use is suitable for the site based on transportation access.

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

Staff finds the proposed use would be unsuitable if it significantly adversely impacted off-site topography, natural hazards, or natural resource values.

Natural hazards on surrounding properties include wildfire risk as well as mapped floodplain along the Deschutes River. The proposed building expansion will not increase the risk of wildfire on surrounding properties. The applicant has indicated they have been coordinating with the Office of the State Fire Marshal on design requirements, and to ensure there is adequate space for fire trucks to access the school building. Continuing the school use on the subject property will not increase the risk of a fire in the general surrounding area.

The proposal will not require any significant grading and will not impact any off-site topographical features. The closest Flood Plain-zoned land is located approximately 540 feet east of the subject property and the intervening distance contains existing residential development. Staff therefore finds the expansion will not impact flood risk in the general surrounding area.

Natural resource values on surrounding properties include wildlife habitat and wetlands along the Deschutes River. Based on the distance to the Deschutes River and the intervening development, staff finds the school expansion will not impact mapped wetlands. The subject property has flat topography and construction will be limited to within the property, and is unlikely that sediment and construction materials will travel off-site to surrounding wetlands. The closest properties that appear to be engaged in farm use are separated from the subject property by Highway 20. Staff therefore finds the proposal is unlikely to impact agricultural soils on surrounding properties.

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 setback 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 abutting 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.

Chapter 18.132, Variances

Section 18.132.020, Authority of Hearings Body.

A variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Director or Hearings Body shall make all of the following findings:

- A. Onsite Requirements Variance.**
 - 1. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit.**

FINDING: The applicant requests a Major Variance to the front yard setback along Second Street. As part of the subject proposal, the property owner has agreed to dedicate a 12.5-foot-wide strip of land to the public right of way for Second Street. Dedicating this land will reduce the setback between the existing building and the front (north) property line along Second Street. As described below, this right of way dedication is requested by the Deschutes County Road Department to correct a longstanding issue involving public drainage facilities located within the subject property.

DCC 18.67.020(E)(1) requires a 20-foot front yard setback for structures in the TUR zone. The applicant designed the cafeteria/kitchen addition to be set back 20 feet from the north property line, however, the right of way dedication will move that property line farther south and result in a building setback of 10.3 feet.

The literal application of the ordinance would require a 20-foot front yard setback, measured from the new property line after the additional land is dedicated to the public right of way. This literal application would prevent the school building from expanding to the north. The existing kitchen facilities are located on the north side of the school building, between the cafeteria and Second Street. The applicant has requested the Variance in order to expand the kitchen while keeping it in its current location. Due to its operating characteristics, it is necessary to locate the kitchen and cafeteria next to each other. Relocating the kitchen would therefore also require relocating the cafeteria and would involve a substantial amount of demolition and building alterations.

Setbacks provide public benefit by maintaining buffers of undeveloped space, providing privacy for neighboring properties, and providing aesthetic value. The majority of the north side of the school building will continue to meet the front yard setback, and only the proposed kitchen expansion would encroach into the required setback. Properties to the north would be closest to the building expansion and are therefore the ones most likely to be adversely impacted. Neighboring properties to the north are separated from the subject property by the 60-foot right of way for Second Street. The setback encroachment would consist of enclosed building area that is utilized as kitchen space by school employees. The main entrances to the school building will remain unchanged and properties across Second Street will continue to have opportunities for privacy.

The Deschutes County Road Department and Transportation Planner were sent a request for comments. In an email dated December 9, 2025, Road Department staff indicated that they did not have any concerns with the reduced front yard setback. The subject property is developed with an existing school, which provides a public benefit to the surrounding area. In addition, the property owner's agreement to dedicate additional land to the public right of way will provide a public benefit by transferring ownership of public drainage facilities to the Road Department. For these reasons, staff finds the proposed Variance will provide a public benefit while mitigating practical difficulties that would result from a literal application of the ordinance.

- 2. *That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.***

FINDING: The historical development of the subject property as a school is a unique condition, and

the existing school predates the adoption of the TUR District. The submitted Burden of Proof includes the following explanation of the unique situation that warrants a Major Variance:

Through pre-application correspondence with the County Road Department, the applicant has been informed that the existing conditions result in a storm water issue, whereby public stormwater is accommodated on private property. In order to alleviate this undesirable condition, the County Road Department has requested that additional right-of-way be dedicated, so that existing facilities (and planned improvements) can accommodate storm drainage in the public right-of-way and not on private property. With an additional 12.5-foot right-of-way dedication (which will address the Road Department's concern and keep public drainage on public property) the building addition in the northwest corner will be located less than 20 feet from the northern front property line (at 10.23 feet). Given that the planned addition in this area is to the kitchen, it will expand the existing kitchen and it cannot be located elsewhere on the site, the improvement needs to be in this location.

Staff agrees with this assessment and finds the previous development of drainage facilities and a sidewalk on private property is a unique condition that is not general throughout the surrounding area. The subject property contains the only school that exists within the TUR District, therefore the condition is not general throughout the surrounding area. In addition, the longstanding existence of public drainage facilities on private property is a unique condition that has not been identified on surrounding properties.

- 3. That the condition was not created by the applicant. A self created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.***

FINDING: As described above, information regarding the location of drainage facilities was discovered as the applicant did research in order to put together the subject application. The location of public stormwater drainage facilities is not a self-created difficulty, since these are public facilities that were inadvertently constructed on private property instead of within the road right of way. The application materials state that the applicant designed the building expansion to be set back exactly 20 feet from the current front property line. After the needed right of way dedication was identified, the applicant was required to either apply for the subject Variance or reconfigure the layout of the school. The requested right of way dedication is not a self-created difficulty because it was identified and requested by the Road Department through consultation on the subject building expansion.

- 4. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.***

FINDING: In County file V-07-2, *Healy*, the Hearings Officer found:

...this variance approval criterion makes clear that the failure of a property owner to exercise due diligence in determining applicable restrictions constitutes a self-created difficulty.

Obtaining information on the location, ownership, and history of these stormwater drainage facilities requires a level of research and technical expertise that is not reasonably expected during the due diligence process in purchasing a property. In an email dated December 9, 2025, the Deschutes County Road Department provided the following comments:

The current drainage configuration is in violation of DCC 12.25.230, the applicant shall provide frontage improvements to address this issue pursuant to DCC 18.124.080.

Granting the requested Variance will bring the drainage facilities along Second Street into compliance with current standards, which require public facilities to be located within the right of way. The applicant has indicated that they are amenable to dedicating the additional land to the public right of way to resolve this issue. Staff finds the longstanding issue regarding the location of drainage facilities is a unique circumstance that was discovered by the applicant's engineers, and does not represent the failure of the property owner to exercise due diligence.

Section 18.132.025, Minor Variances.

A variance seeking to depart from on site requirements of DCC Title 18, such as setbacks and area requirements, by no greater than 10 percent of the required distance or area may be granted by the Planning Director or Hearings Body in conformance with DCC 18.132.025.

A. In the case of a setback or lot area variance, the applicant shall show that the approval will result in:

1. More efficient use of the site;

FINDING: The applicant has requested a Minor Variance to the required length of parking stalls. DCC 18.116.030(G) requires parking stalls to be 20 feet in length and the applicant requests a ten percent reduction in that standard, to allow for a row of parking stalls that are 18 feet in length.

The Minor Variance will provide more efficient use of the site by allowing the vehicle parking area to remain in its current location to the east of the school building. The existing parking area does not comply with the standards of DCC 18.116.030, and the applicant proposes a reconfiguration that will bring the parking area into compliance with current standards and provide additional parking spaces. The subject property is heavily developed and historically been used for Tumalo Community School. The requested Minor Variance is necessary in order to provide two rows of parking spaces to the east of the school building while complying with all other applicable standards.

2. Preservation of natural features where appropriate;

FINDING: The north and east portions of the subject property are heavily developed with school facilities including the school building, vehicle parking areas, pedestrian walkways, outdoor play areas, and sports fields. The existing parking area does not contain any significant trees or natural resources, therefore expanding the existing parking area will not impact any natural features. In addition, expanding the parking area in its current location will minimize impacts to the remainder

of the property, including undeveloped space in the south and west portions of the property. The proposed parking spaces consist of at-grade paving and will not impact any scenic views. The parking spaces will be located in an area with flat topography and will not require significant grading.

The applicant's proposal will keep development concentrated to one area of the property, as opposed to constructing a new parking area in a different portion of the subject property. Staff finds that maintaining the vehicle parking area within a previously-developed location will minimize impacts to trees, vegetation, and other natural features on the remainder of the property.

3. Adequate provision of light and privacy to abutting properties; and

FINDING: Neighboring properties to the east are separated from the vehicle parking area by a 30-foot-wide strip of undeveloped right of way for Bruce Avenue. Currently, the vehicle parking spaces go right up to the east property line of the subject property. The applicant proposes to install a 10-foot-wide landscaping strip along the east property line between the parking spaces and Bruce Avenue. This new landscaping strip will bring the parking area into compliance with DCC 18.124.070(B)(2) and provide visual screening for neighboring properties to the east.

Staff finds this proposal will add a buffer between the vehicle parking spaces and neighboring residences, which will improve privacy for surrounding properties. Without the requested Minor Variance, the applicant would not be able to fit the pedestrian walkway, parking spaces, and required landscaping to the east of the school building. Granting the Variance will allow the applicant to retain the vehicle parking area in its current location while providing additional visual screening in the form of new landscaping.

4. Preservation of topographic, vegetative and drainage features which would be adversely affected by application of the standards otherwise required by DCC Title 18.

FINDING: Application of the standards in Title 18 would prevent the applicant from keeping two rows of parking spaces within the existing location while also providing the required landscaping. As described above, this would require the applicant to construct a new off-street parking area in a different portion of the subject property. This literal application of DCC 18.67.020(E)(1) would therefore negatively impact vegetative features by requiring the conversion of undeveloped land to a new parking area. The existing parking area has existed to the east of the school building since at least 1978 and the record does not identify any topographic, vegetative, or drainage issues that would be caused by keeping the parking area in this current location.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of \$5,856 per p.m. peak hour trip. Based on the submitted analysis outlining 17 p.m. peak hour trips generated through the proposal, the applicable SDC is \$99,552 (\$5,856 x 17). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC

is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS VALID UNTIL JUNE 30, 2026 PENDING ANY AMENDMENTS TO THE COUNTY'S CURRENT SDC RESOLUTION 2024-038. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

IV. CONCLUSION

Based on the foregoing findings, staff concludes that the proposed use can comply with the applicable standards and criteria of the Deschutes County zoning ordinance if conditions of approval are met.

Other permits may be required. The property owner is responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Onsite Wastewater Division as well as any required state and federal permits.

V. DECISION

APPROVAL, subject to the following conditions of approval.

VI. 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.** The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.
- C.** No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.
- D.** Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 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.
- F.** The applicant shall maintain stormwater drainage systems in good working condition.

- G.** The clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- H.** 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.
- I.** Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
- J.** Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- K.** 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.
- L.** The service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- M.** The bicycle parking surface shall be maintained in a smooth, durable, and well-drained condition.
- N.** Prior to construction of public road improvements:
- Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and 12.25.
 - 2nd Street along the frontage to the subject property shall be designed to the minimum standard for an rural local road in the Tumalo Commercial District pursuant to 12.25.190.
 - Improvement plans shall be accompanied by a drainage report prepared in accordance with the latest edition of the Central Oregon Stormwater manual and DCC 12.25.230.
 - Applicant shall obtain driveway access permits for all new or existing unpermitted driveway accesses for the subject property pursuant to DCC 12.28.050.
- O.** Prior to initiation of use:
- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48 and 12.25. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48 and 12.25.

- Applicant shall submit as-constructed improvement plans to Road Department.
- P. All exterior lighting shall be shielded so that direct light does not project off site.
- Q. The applicant shall provide for watering planting areas where such care is required.
- R. Required landscaping shall be continuously maintained and kept alive and attractive.

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

The property owner 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



Written by: Audrey Stuart, Associate Planner



Reviewed by: Anthony Raguine, Principal Planner

Attachment(s): Site Plan

