

CITY OF MILTON-FREEWATER  
PLANNING COMMISSION MINUTES  
August 5, 2019

*The Planning Commission of the City of Milton-Freewater met for an informal pre-meeting study session at 6:30 pm on August 5, 2019 for the purpose of discussing questions on agenda items.*

*Those present were Commissioners Frank Millar, Wes Koklich, Lupe Contreras, Myra Sherwin, Mary Ward, and Chair Nathan Lyon.*

*Staff present included City Planner Laurel Sweeney and Planning Assistant Lisa Wasson.*

*Citizens that were present are as follows: Shane McKibben, William Murdoch, John Murdoch, Barry Weis, Casey Humbert, Damon Humbert, Joe Sullivan, and Van Voorhies.*

*No members of the press were present.*

*No action was taken.*

*The study session adjourned at 6:59 pm.*

The Planning Commission meeting was called to order on Monday, August 5, 2019 in the Albee Room of the City Library, 8 SW 8<sup>th</sup> Avenue Milton-Freewater, OR 97862 at 7:00 p.m. by Chair Lyon.

Commissioners Present: Chair Nathan Lyon, Commissioners Frank Millar, Wes Koklich, Lupe Contreras, Myra Sherwin, Mary Ward, and Carlotta Richardson were present.

Staff Present: City Manager Linda Hall, City Planner Laurel Sweeney and Planning Assistant Lisa Wasson.

Citizens Present: Shane McKibben – 756 Wauna Vista Drive Walla Walla; William Murdoch – 1011 Boyer Ave Walla Walla; John Murdoch – 1644 Old Milton Hwy Walla Walla; Barry Weis, 84112 Eastside Road; Casey Humbert – 52810 Akes Ln; Damon Humbert – 52810 Akes Ln; Joe Sullivan – 150 Keys Rd Yakima, WA 98901; Van Voories – 46 Meadowlark Ln Touchet, WA 99360; Paul Seaquist – 684 College.

The minutes of the April 1, 2019 meeting were approved as written.

Citizen Concerns: None shared.

The hearing was then opened for the consideration of the request from Freewater Cider Company for a conditional use permit to allow outdoor seating located at their facility at 525 N Elizabeth.

The rules for a public hearing were read by Chair Lyon. No members of the Commission abstained or disclosed ex parte contact. No audience member objected to any commissioners' right to participate in the public hearing. City Planner Laurel Sweeney stated that the notice of the hearing was published as required by law. No written comments have been received.

City Planner Laurel Sweeney provided the staff report, which is printed below.

### I. SITE DESCRIPTION

The subject property is located on the west side of Elizabeth Street, just north of 5<sup>th</sup> Ave. The zoning on the property is I-M (Industrial Manufacturing). The site is bordered to the north by railroad right-of-way, to the west is I-M zoned property, south is R-3 and across the street to the east is a combination of R-3 and C-2.

### II. BACKGROUND

The applicant has owned the property for a number of years and has been producing cider at the location. The applicant proposes approximately 2500 square feet of area designated for outdoor seating which would add additional options for their customers. In addition to the outdoor seating, the applicant anticipates the option for a food truck(s). The Site Plan review committee reviewed the application and did not have any comments.

### III. CODE PROVISIONS

10-9-6 GENERAL CRITERIA (CONDITIONAL USE PERMITS)  
10-7-7(E) RESTAURANT WITH OUTDOOR SERVICE

10-9-6: A conditional use permit may be granted after development of findings which show that the following general criteria, and any specific standards applicable to the proposed use, have been met. This section will apply unless excluded from consideration for specific uses in Section 10-9-7.

- (A) The proposal has properly addressed traffic flow on the subject parcel, and interaction with public streets adjacent to the property as regards width and pavement type sufficient to carry the quantity and kind of traffic generated by the use.

Findings: The subject property is located on an improved City street that has two curb cuts into the property from Elizabeth St. The property surrounding the business is paved. The business also has off street parking available. The impact of outdoor

seating would not be of a sufficient amount to have a large enough impact on the adjoining streets to become a problem for traffic issues.

- (B) The subject parcel is of sufficient size and shape to permit proper operation of the use including necessary landscaping to buffer parking and any anticipated expansion.

Findings: Vehicular traffic flow on the subject property will not be affected by the proposed outdoor seating. There is sufficient space beyond the area proposed for outside seating for access and vehicular movement around the site. Although no landscaping is required the applicant may provide planter boxes to help screen the parking area and to enhance the customer's experience. No expansion beyond the 2500 square feet is anticipated by applicant at this time.

- (C) The overall design and operation of the use such that it is reasonably compatible with the livability or appropriate development of adjacent property and the neighborhood as regards public safety, traffic, noise, hours of operation and health and safety.

Findings: Although the zoning on adjacent parcels ranges from R-3 to C-2 to Industrial, there is sufficient open space that will buffer the outdoor seating. Outdoor lighting may be planned, but is limited to patio lights. It appears traffic would not increase enough to have a negative impact.

#### 10-9-7(E) RESTAURANT WITH OUTDOOR SERVICE

1. All required parking shall be paved.

Findings: The parking lot is paved, so this section has been met.

2. Lighting shall be directed away from adjacent property.

Findings: No pole lighting is planned for the area so this section has been met.

3. The property shall be fenced on the sides and rear.

Findings: The limits of the outdoor seating will be defined by the applicant, either by planters or possibly a fence.

4. The premises shall be kept free of litter. Accumulation of litter on the premises or surrounding property shall be violation of the conditional use permit.

Findings: Staff does not foresee any issue whatsoever with litter on the property, but if an issue arises it can be addressed at that time.

#### GENERAL COMMENT

It appears that all issues have been addressed in this case. The proposed use would bring additional vibrancy and tourism options to Milton-Freewater.

#### STAFF RECOMMENDATION

Staff recommends allowing the conditional use permit.

The applicant was then invited to speak.

William Murdoch of Freewater Cider Company, 525 N Elizabeth, introduced himself. He stated that he, his brother, and one other partner own Freewater Cider Company. He said that Freewater Cider's goal is to create an outdoor space to draw tourism and visitors to the Oregon side of the Walla Walla Valley. Freewater Cider would like to expand their space to accommodate up to a tour bus. They currently have a very small space for tasting and would like to increase their capacity.

All those in support of the application were invited to speak. No one testified. All those in opposition of the application were invited to speak. No one testified.

Chair Lyon asked if the commissioners had any questions. The commissioners did not have any questions.

The Public Hearing was declared closed.

Commissioner Millar made a motion to accept the proposal as stated in the Staff Report and to adopt the findings. The motion was seconded by Commissioner Sherwin and all commissioners voted in favor. Motion carried 7-0.

The Public Hearing was then opened for the consideration of the request from Legacy Land Development for a preliminary subdivision plat for a 24.01 acre parcel, located east and south of Key Boulevard, to be subdivided into 41 lots in the first phase and 33 lots in the second phase.

The rules for the Public Hearing remained the same as for the last hearing. No members of the Commission abstained or disclosed ex parte contact. No audience member objected to any commissioners' right to participate in the public hearing. City Planner Laurel Sweeney stated that the notice of the hearing was published as required by law. No written comments have been received.

City Planner Sweeney provided the staff report, which is printed below.

#### I. SITE DESCRIPTION

The subject property is located on the east side of Key Boulevard in the South Hill area of town. It is within the City limits and is zoned Residential Mixed Use (RM). The site slopes to the east and has views of the mountains. The surrounding properties are zoned RM to the north, Business Park (BP) to the west, and R-3 Residential to the east, which is outside City Limits but within the Urban Growth Boundary. All adjacent properties are currently undeveloped.

## II. BACKGROUND

The subject property is zoned RM (Residential Mixed Use). The minimum lot area that the zoning code identifies for the RM zone is 5,000 square feet. The smallest lot that is proposed in Key Boulevard Estates is 6,885 square feet, with the majority of the lots being 9,000 square feet or larger.

The Site Plan Review/ Technical Review Committee met to review the preliminary plat. Their comments are contained in the attached meeting notes and incorporated herein.

During a phone meeting with Legacy Land Development representative, Barry Weis on July 30, 2019, all of the conditions within the Technical Review Committee minutes were agreed upon and will be addressed and included as part of the final plat submittals.

## III. CODE PROVISIONS

### 11-7-1 INFORMATION REQUIRED ON LAND DEVELOPMENT PLANS

### 11-3-6 DEVELOPMENT REVIEW CRITERIA

### PRELIMINARY PLAT - APPLICABLE CODE PROVISIONS

#### 11-7-1: Information Required on Land Development Plans:

Findings: The information required under this Chapter is contained either on the preliminary plat itself or the documents submitted with the plat, and therefore meets this requirement.

#### 11-3-6: Development Review Criteria:

In conducting a public hearing for review of any development proposal subject to Level III procedure (Section 11-13-4), the Planning Commission shall review the proposal for conformance with the following items:

(1) Reports from members of the Technical Review Committee and such other agencies as have responded to the factors listed in Section 11-3-5 of this Chapter, which are as follows: (A) Preliminary plat requirements; (B) Conformance to zoning and Comprehensive Plan provisions with particular emphasis on the Public Facilities Plan; (C) Quantity and quality of existing or proposed water supply, adequacy of the existing or proposed sewage disposal system to support the projected population; or in the event that sub-surface sewage disposal is proposed for any of the parcels of the

development, the capability of the soil for the proper long term support of such a system or systems; (D) Relationship to existing road network; and (E) Avoidance or remedy of possible adverse effects on the development by natural hazards. Land which is found to be technically unsuitable for development due to flooding, steep slopes, rock formations or other features likely to be harmful to the safety and general health of the future residents, shall not be developed for building purposes unless adequate methods for overcoming these conditions are submitted by an appropriate state licensed engineer and approved by all agencies which regulate the technical unsuitability; (F) Recognition and remedy of unusual conditions of the property involved such as high water table, slope, bedrock, or other topographic or geologic conditions which might limit the capability to build on the land using ordinary and reasonable construction techniques.

Findings: The Site Plan Review/Technical Review Committee, after their recommendations were agreed to be complied with, found that the factors and requirements of Section 11-3-5 would be met. See report of the Committee's meeting attached hereto and incorporated herein.

(2) Tentative Subdivision Plan presentation as prescribed by Chapter 7 of this Title. (See attached checklist for items required to be on plan).

Findings: The preliminary plat is in conformance with Chapter 7 and satisfies this requirement.

(3) Statement to accompany Tentative Plan as required by Chapter 7.

Findings: All of the requirements of Chapter 7 relating to the preliminary plat have been satisfied.

(4) Public comments received by the Planning Department which relate only to the compliance of the proposal with items 1 through 3 of this subsection and the review factors of Section 11-3-5. Comments which do not address these items will not be considered in reaching a decision on the proposal.

Findings: Any correspondence or documents received by the Planning Department will be submitted for the Planning Commission's consideration at the time of the hearing.

#### GENERAL COMMENT

The proposed subdivision will provide for additional housing opportunities within the City. In response to the Site Plan Review/Technical Review Committee comments, the applicant has made some changes to their preliminary plat. The revisions include a wider street section as requested by Staff and the inclusion of fire hydrants. Details that will be addressed prior to final plat include a storm water master plan and a geotechnical report for a portion of the site.

## STAFF RECOMMENDATION

Staff recommends approving the preliminary plat with the conditions recommended by the Site Plan Review/Technical Review Committee.

The applicant was then invited to speak.

Barry Weis, 84112 Eastside Road, managing member of Legacy Land Development introduced himself and stated that they are excited to be at the meeting. Mr. Weis said that, while they are at the meeting to speak about the residential portion of their project, they also have commercial property for sale across from the proposed residential site. He stated that they want to bring jobs to Milton-Freewater. In regards to the concerns brought up by the Site Plan Review Committee, he said he feels that they have addressed the concerns. Mr. Weis stated that their project is on beautiful view property, however when they considered their design, they also looked at access, emergency evacuation routes, and other factors. He restated that the view is important and that it is the crown jewel of Milton-Freewater. Mr. Weis went on to say that Joe Sullivan with Lexar Homes is in the audience tonight and that Lexar Homes will be their principal builder. He stated that they chose Lexar Homes because Legacy felt they were the strongest candidates and that structurally they were the right volume builder. Mr. Weis moved on to introduce another partner, Casey Humbert. Mr. Weis said that Mr. Humbert can answer any questions in regards to structure and fill. Lastly, Mr. Weis introduced Shane McKibben, another partner.

Van Voories, engineer for the applicant, 46 Meadowlark Ln Touchet, WA, Apellation Engineering, then spoke. He stated that Key Boulevard is going to be serving about 170 acres, so in time Key Boulevard will be a very busy street. One of the considerations of a busy street, Mr. Voories said, is to minimize residential access to it. They have achieved this by limiting the access to confined areas so that cars will not be pulling out into Key Boulevard. Mr. Voories then stated that Key Boulevard is narrow and that the City has asked for 36 feet from back of curb to back of curb. He suggested to the City that they consider a three lane road with no parking for Key Boulevard to maintain its viability so that the left turns can be made without stopping traffic and by not having parking on the road there will be more visibility for cars pulling out. Mr. Voories went on to say that they designed the plat with all loop roads and that there are no cul-de-sacs or dead ends. He stated that there are many clear ways to exit the subdivision and that will help with emergency services. Mr. Voories went on to say that extra depth has been added to the lots on the east side of the property, where the site slopes and where they will be filling. He stated that there will be a tremendous opportunity for decks and daylight basements for homes on the east side of the property. Mr. Voories then clarified that the contour lines on the map are five feet. Mr. Voories went on to say that they have outstanding abilities for utilities and that the City has done a wonderful job in providing utilities on South Hill. He went on to say that he has three different profiles for the streets shown on the preliminary plat – one for Key Boulevard, the second for a fairly flat profile, and the third for a steep profile. On the slopes, he would like to put two feet across, but instead of a crown he would like about two feet of fall across the street. He stated that

in typical subdivisions the curbs are level all the way across, but by moderately sloping all the way across the street, he feels that the streets will fit the lay of the land better. Mr. Voories stated that he has done this before and it has worked well. In regards to the fill, Mr. Voories said that they will very serious about testing for compaction and moisture content. When these lots are done, he said that they want to provide safety, excellent compaction, and they do not want settlement issues. He stated that there will be a lot of testing during the fill process. Mr. Voories went on to talk about the drainage areas for swales. In regards to concerns about drainage and erosion, he encouraged the audience to drive up to Basket Mountain Road and look at the ditch on the west side and see how little erosion there is there. Mr. Voories then asked if there were any questions for him.

Commissioner Myra Sherwin asked if there will be any parking on Key Boulevard. Mr. Voories responded with his suggestion that in the street there is 34 feet of width – three 11 foot lanes and a fraction left. Mr. Voories stated that the viability and free flowing nature of the road needs to be maintained because Key Boulevard is going to get busy. Commissioner Sherwin asked where the visitors of the residents' will park. Mr. Voories responded by saying that there will be a parking lane in front of every house. Commissioner Frank Millar asked if it was the intention of the owners to have access to the industrial part of the project from Key Boulevard. Mr. Voories said he thought that there would be limited accesses from the industrial portion to Key Boulevard, possibly as many as two because they are fairly large acreages. He also mentioned that there is a possibility of a frontage road.

Mr. Weis responded to the question. He stated that he has spoken with the Oregon Department of Transportation (ODOT) and they agreed to give Legacy another entrance because Legacy said that they would put a frontage road next to Highway 11. Mr. Weis said that ODOT loved the idea of a frontage road and that a frontage road would keep a lot of truck traffic off of Key Boulevard.

Van Voories stated that an advantage of having east to west oriented streets is that they can put up a screening fence to minimize noise that is coming off of Highway 11 and Key Boulevard.

Commissioner Mary Ward asked if the only access into the subdivision from the highway was from Sykes Boulevard. Mr. Voories stated that there will be a second point of access later and that ODOT has said that Legacy Land Development can have a second access. He added that Highway 11 is a limited access highway so ODOT does not allow many points of access. At this time, there will be one point of access into the subdivision from the highway. Mr. Voories added that in the future there will be a second access and probably acceleration and deceleration lanes.

City Planner Laurel Sweeney added that there is a second access to the subdivision via South Main/ Basket Mountain Road, which joins into Key Boulevard.



Mr. Weis added that there is one additional access that could be used for emergencies that is currently an undeveloped, rock road, which the City uses to service their water tower. Chair Nathan Lyon asked if that road is going to be kept open as an access road for residents of the proposed subdivision. Mr. Weis said that, yes that is part of the original design. Mr. Voories stated that farm equipment is currently parked there and that there is decent access, however there is a ditch by the water tower that cannot be crossed. City Planner Sweeney clarified that it is a dirt road. Chair Lyon said he understands but was wondering if Legacy is planning on developing the road in the future. Mr. Weis said that the consideration right now is to bring the road through but that is also where the frontage road access road will be. Mr. Weis stated that as development moves up the hill, the next access will be near the water tower. He added that the point of access is also a possible frontage road and that ODOT likes the idea of a frontage road running the full length to the water tower, next to Highway 11.

Commissioner Millar asked when the applicant anticipates the geotechnical report to be completed. Mr. Weis stated that they will discuss the geotechnical report with City Planner Sweeney upon approval and get the report scheduled. He added that Casey Humbert can address how the geotechnical report works and how it is done, as well as any concerns.

City Planner Sweeney added that after preliminary plat approval there is a lot of work that has to happen before final plat approval, such as grading, the storm water plan, and the geotechnical report. Ms. Sweeney stated that these items would not add additional time and that they occur concurrently with the preparation of the final plat. Van Voories added that their emphasis on the geotechnical study will be the compaction and the buildability of the lots. He stated that there are very steep slopes on the site, but there is no evidence of landslides or unstable ground. Mr. Voories added that he had concerns about rock in the ground, but they have done some soil exploration and were pleased to find that there is a lot of soil on the site.

Commissioner Ward asked if the applicant has a general timeline that they are considering for starting construction. Mr. Weis said that once their final plat is approved, they would like to start putting utilities in, begin construction, and have some pavement laid by this fall. He stated that the February snow storm pushed their timeline back because they couldn't get their survey done in the timeline that they wanted.

Joe Sullivan, 150 Keys Rd Yakima, WA 98901, one of the owners of Lexar Homes introduced himself. He began by saying that the Legacy Land Development group really cares about the community of Milton-Freewater and in every meeting between Lexar Homes and Legacy, Legacy has spoken about what they want to do for Milton-Freewater. Mr. Sullivan went on to say that there has been some concern about the view lots, but that Lexar Homes likes the site plan and thinks that it is going to be a great community. He said that even the interior lots will have views to the east of the Blue Mountains. Mr. Sullivan stated that he and his business partner have been building homes since 2005. They have communities in Yakima and the Tri-Cities and they will build on land that is about an hour and a half drive from Yakima and the Tri-Cities. Lexar

Homes also builds spec homes. Mr. Sullivan stated that Lexar Homes has about 40 floor plans that can be modified and that they have a design that can fit on any lot on the site plan. He went on to say that Lexar Homes has built many homes on the Washington side of the Walla Walla Valley and he sees this as a great opportunity to expand into Oregon. Mr. Sullivan then asked if there were any questions for him.

Chair Lyon asked if all of the homes that Lexar Homes will be building are single story and if they will be building any two story homes. Mr. Sullivan said that all of the homes that Lexar will be building are single story. He added that any Covenants, Conditions, and Restrictions (CCR's) will be put in by the developing committee. Mr. Sullivan stated that Lexar Homes has two story homes but that they like single story homes.

Commissioner Ward asked how much the homes will be sold for. Mr. Sullivan said he guessed that the homes would start in the high \$280,000's. He added that the entry level homes would have about 1,500 square feet with a two car garage. Mr. Sullivan then passed out exterior photos and floor plans to the Planning Commission of a development that was recently completed with homes ranging from 1,500 square feet to 2,200 square feet.

Mr. Sullivan said he wanted to emphasize that the Legacy Land Development group is very committed to the Milton-Freewater community. He stated that he often sees out of town developers come to an area to work on a project and the community often ends up with a project that they are not proud of.

Mr. Weis asked Mr. Sullivan to address Lexar Home's building methods. Mr. Sullivan stated that Lexar Homes are site built on a concrete foundation with 6 inch foundation walls and 2 x 6 exterior framing. Lexar Homes uses R-21, blown in blanket insulation that gets blown in around all of the crevices and then they seal the homes. Mr. Sullivan added that air is often felt coming through electrical switches during a wind storm and that Lexar Homes is trying to reduce that. Energy efficiency is important to Lexar Homes and they use triple pane windows, R-41 insulation in the attic, and heat pump water heaters that are programmable.

Commissioner Millar stated that he attended the open house for Key Boulevard Estates. He said it was his understanding that there will not be a homeowner's association but that there will be some Covenants. Commissioner Millar asked if the applicant could speak to that. Mr. Weis stated that a realtor will help them write the Covenants. He added that there are some Covenants in place for the original design that they are going to follow. Mr. Weis then stated that he thinks there are too many issues with Homeowner's Associations. Mr. Sullivan added that when setting up CCR's, the goal is to protect the community while making the CCR's not so restrictive that they are exclusive. He stated that in 55 and older communities, Lexar Homes has added specific color palettes as part of the CCR's. Mr. Sullivan stated that restrictions on RV's being parked in front yards and broken down cars parked on the street are examples of typical CCR's. Overall, he stated, the goal is to keep the community tidy. Barry Weis added that the Key Boulevard Estates property is the crown jewel of Milton-Freewater

and they want it to look good. Mr. Weis stated that there are often high winds on the site and they believe Lexar Homes will withstand the wind. They chose Lexar Homes because of their double wall construction.

Casey Humbert, 52810 Akes Ln, with Eastern Oregon Contracting introduced himself. He asked if there were any questions for him. Chair Lyon asked how much fill will be brought to the site. Mr. Humbert said that there would be about 6 feet of fill to get to the bottom of the soil and then 4 feet of coverage. He stated that he has been in his line of work for 35 years and that they do everything to ODOT standards. Mr. Humbert said he partners with Eric Howard with A Plus in Kennewick, WA. He continued by saying they will get the soil densities and compaction that they need, everything will be to ODOT standards, and proctored to 95% or better. Mr. Humbert said that the soil on the site is perfect because it is a Walla Walla silt sandy loam that is good for compaction. He also stated that there is rock in the ground. Chair Lyon asked if Mr. Humbert is going to haul in fill from elsewhere. Mr. Humbert said no, that they will equal the lots out in the first phase. He added that the Legacy Land Development group chose Lexar Homes because they have high quality homes. He said Lexar Homes are a little expensive but they are working towards keeping the lot prices down.

Chair Lyon invited all those in support of the application to speak. No one testified. Chair Lyon invited all those in opposition of the application to speak. No one testified.

Chair Lyon asked if the commissioners had any questions.

The Public Hearing was declared closed.

Commissioner Millar made a motion to accept the proposal as stated in the Staff Report and to adopt the findings. The motion was seconded by Commissioner Sherwin and all present voted in favor. Motion carried 7-0.

City Planner Sweeney presented the Administrative Actions of the Planning Department. Ms. Sweeney stated that construction on the elevator at City Hall has started. She added that the Planning Department has received many business license applications recently, particularly food truck applications. The Planning Department has had 11 building permits for new homes in the last year. Ms. Sweeney stated that the City recently sent out Requests for Proposals and Requests for Qualifications for a shared wine production facility and tasting room and received good responses. In the next month a recommendation on which consultants are to be hired will move on to City Council. Lastly, Ms. Sweeney stated that Lisa Wasson, Planning Assistant will be leaving her position in about a month and most likely before the next Planning Commission meeting. City Manager Hall commented from the audience that Ms. Wasson would be missed.

The meeting was adjourned at 7:57pm.