

ORDER ADOPTING FINDINGS OF FACT,)
CONCLUSIONS OF LAW, AND)
DECISION ON APPEAL #22-036-CUP)
)

ORDER 2022-03

WHEREAS, an application for a conditional use permit was submitted by Aaron and Shannon Bartley for a campground site at 53476 Arrow Gap Road, Silver Lake Oregon;

WHEREAS, the Planning Commission held a duly-noticed public hearing on August 16, 2022, and voted 5-1 to approve the application on August 16, 2022, which was mailed to the parties with standing on August 17, 2022;

WHEREAS, Martin Pernoll filed a timely appeal of the Planning Commission decision on September 2, 2022;

WHEREAS, the Lake County Board of Commissioners held duly-noticed public hearings on October 12, 2022 and November 7, 2022, to consider the appeal of the Planning Commission's decision;

WHEREAS, the Lake County Board of Commissioners heard testimony from application supporters, application opponents, consulted with staff, and carefully considered the record of proceedings before it; and

WHEREAS, the Lake County Board of Commissioners closed the public hearings and voted 3-0 to deny the appeal and affirm the decision of the Planning Commission to grant the conditional use application with specified conditions of approval;

NOW, THEREFORE, THE LAKE COUNTY BOARD OF COMMISSIONERS ORDERS AS FOLLOWS:

Section 1. Lake County hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as Exhibit A.

Section 2. Based on the evidence in the record, and the Findings of Fact and Conclusions of Law included in Exhibit A, the Board of Commissioners denies the appeal and affirms the decision of the Planning Commission on #22-036 CUP with the conditions of approval set forth in Exhibit A.

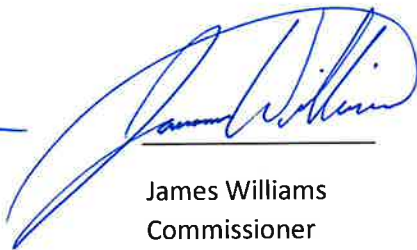
Section 3. This Order is effective immediately upon its enactment by the Board of Commissioners.

PRESENTED AND PASSED this 21 day of December, 2022

Signatures and attestation



Barry Shullanberger
Vice Chair



James Williams
Commissioner



Mark Albertson
Chair

Notice of Appeal Rights: Final action of the Board of Commissioners may be appealed to the Oregon Land Use Board of Appeals (LUBA), as provided by ORS Chapter 197. Notice of intent to appeal shall be filed within 21 days of the date of final action by the Board of Commissioners or as specified in ORS Chapter 197.805 through 197.860, and OAR 660-010-0015(1).



**LAKE COUNTY BOARD OF COMMISSIONERS
DECISION**

Agenda Date: 11/7/2022
Item Number: 1

*This report is financed in part by an Oregon Department of Land Conservation and Development
Planning Assistance Grant.*

*Lake County Planning Commission Staff Reports are considered part of the record and may be utilized for
decision making purposes.*

TITLE: APPEAL - CONDITIONAL USE PERMIT APPLICATION NO. 22-036-CUP

APPELLANT: Martin L. Pernoll
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**APPELLANT'S
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**APPLICANT /
PROPERTY
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541-576-9180 / bartleybusiness@yahoo.com

**APPLICANT'S
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DECISION: Following a review of all relevant information, the Lake County Board of Commissioners has APPROVED the Conditional Use Permit to establish a Campground as described within this document based upon the enclosed findings of fact and conclusions of law.

SUMMARY: Public Appeal Hearing concerning an appeal filed by Martin Pernoll of the Planning Commission's decision to approve the application of Aaron and Shannon Bartley to establish a private campground on a 160-acre parcel, described as T28S R15E TL701, at 53476 Arrow Gap Road, Silver Lake, Oregon; in an A-2 Agriculture Use zone, with a Comprehensive Plan Designation of A – Agriculture. A decision will be based on Articles 3 and 24 of the amended Lake County Zoning Ordinance of 1980, and ORS 215.283(2)(c) and 215.296(1) and (2), and OAR 660-033-0130 (19)(a-c), and the appeal will be reviewed in accordance with Article 30 of the amended Lake County Zoning Ordinance of 1980, and will review the criteria upon which the Conditional Use Permit was approved.

Exhibit A
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REPORT BY: Darwin Johnson, Planning Director – December 19, 2022

LEGAL NOTICES: By publication, Lake County Examiner – September 28, 2022. Individual notice to all adjacent owners and agencies – September 27, 2022 (see Attachment B, C, & D).

PUBLIC HEARING: The Lake County Planning Board of Commissioners held a public hearing on Wednesday, October 12, 2022, at 1:00pm, in the Board of Commissioners Meeting Room, 513 Center Street, Lakeview Oregon, to receive public comment and testimony on the following appealed application. At the hearing on October 12, 2022, appellant requested that the hearing on appeal be recessed or continued to a future date in order to allow appellant to review documents in the record. The Lake County Board of Commissioners granted a continuance and subsequently a 7-7-7 day process followed, including a seven day open record period, a seven day rebuttal period, and a final seven day period for final comment by the applicant. After completion of the 7-7-7 day process, the Board of Commissioners held a second hearing on Monday, November 7, 2022, at 9:00am, in the Board of Commissioners Meeting Room, 513 Center Street, Lakeview Oregon, to deliberate on this appeal.

GENERAL SITE INFORMATION:

Type	Detail	Notes:
Assessor's Account	18569	
Legal Description	T28S R15E S- TL701	
Zone Designation	A-2, Agriculture Use	
Comprehensive Plan Designation	A – Agriculture	
Parcel Size	157.3 acres	
Current Land Use	(2) Farm Dwellings	A Site Visit was conducted, and photos are included in the record and available at the hearing.
Proposed Land Use	Campground (see LCZO Article 3, Section 3.04(B)(4))	A Type II: Conditional Use Permit has been applied for and deemed complete June 9, 2022 and will be considered by the Planning Commission at the August 16, 2022 regularly scheduled meeting, held in Christmas Valley.
Special Assessment Taxation	No	Class 409 – Tract property – improved with mobile homes... (from the Basic Property Classes – Assessor's Office Worksheet)
Irrigation Rights	No	

ADJOINING PROPERTY INFORMATION:

Type	Detail	Notes:
Zone Designation	A-2, Agriculture Use	
Plan Designation	A – Agriculture	
Current Land Use	Non-Farm and Farm Dwellings, vacant lands, etc.	See Attachments B & C.

INFRASTRUCTURE AVAILABILITY:

Type	Detail	Notes:
Electrical Service	Currently Provided by	Midstate Electric
Potable Water	Currently Provided by	Wells
Public Sewer or Septic	Currently Provided by	Septic Systems
Access to Public Roadway	Arrow Gap Road (County Road 5-14)	Refer to Condition of Approval 3.

ENVIRONMENTAL ISSUES:

Type	Detail	Notes:
Wildlife Habitat	No	
Soil Classifications	Not Applicable	(Although N/A – still included as Attachment E)
Flood Plain	Zone D Panel: 410115 0775B	FEMA Flood Insurance Rate Map (FIRM) Map Index states, “Not Printed - Undetermined.” (see Attachment F)
Wetlands	Not in Wetlands	(see Attachment G)
Fire Protection	No	No Coverage Area

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

LAKE COUNTY ZONING ORDINANCE

Article 30: Administrative Provisions.

Section 30.01 Appeals. A person may appeal a decision or requirement made by the County Planning Director or other County Official to the County Planning Commission, or a person may appeal a decision of the County Planning Commission to the Board of County Commissioners, if the person:

- A. Files a notice of appeal as provided in this Article; and*
- B. Appeared or participated in the proceedings leading to the decision, either orally or in writing; and*
- C. Meets one or more of the following criteria:*
 - 1. Was entitled to right of notice and hearing prior to the decision to be reviewed; or*
 - 2. Was a person who would have had a right to notice if a hearing had been scheduled; or*
 - 3. Is aggrieved, or has interests adversely affected by the decision.*

Finding: The Lake County Board of Commissioners find that the appellant has filed an appeal, therefore meeting (A) above, having first participated in the proceedings leading to the decision by written submission to the Planning Commission, therefore meeting (B) above, and meets (C)(1) above according to appellant’s written notice of appeal.

- D. Written notice of an appeal must be filed with the County Planning Director within 15 days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirement, a copy of the decision, the grounds for appeal, and shall specifically state the following:*
 - 1. The facts that establish that the petitioner has standing; and*
 - 2. The date of the decision; and*
 - 3. The specific issues the petitioner seeks to have reviewed.*
- E. The appeal shall not be deemed complete until the required filing fee therefore is submitted with the notice to appeal.*

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Finding: The Lake County Board of Commissioners find that the appellant timely filed a notice of appeal with a written response to the decision made by the Planning Commission. The appellant had specific issues he sought to have reviewed by the Board of Commissioners. The appellant paid the required filing fee on September 2, 2022 and the appeal was deemed complete by the Planning Director on September 2, 2022, as shown on the notice of appeal.

The applicant argued that the notice of appeal was not timely filed and the appeal fee was not paid within 15 days after the decision was made. At the appeal hearing the Planning Director stated that the appellant's notice of appeal and appeal fee payment information was submitted on September 1, 2022 and the Planning Director processed the appellant's payment and noted the date of September 2 on the notice of appeal. The Lake County Board of Commissioners find that the appellant timely filed a notice of appeal with the Planning Director and paid the appeal fee on September 1, 2022.

- F. The Planning Commission or Board of County Commissioners as the case may be shall hold a public hearing on the appeals within 30 days from the date of the appeal is filed and deemed complete. A hearing on an appeal may be recessed or continued for good cause.*

Finding: The Lake County Board of Commissioners find that the Planning Director scheduled an appeal hearing before this Board on the next regularly scheduled work session meeting date of October 12, 2022. At the hearing on October 12, 2022, appellant requested that the hearing on appeal be recessed or continued to a future date in order to allow appellant to review documents in the record that appellant alleged he did not receive. The Lake County Board of Commissioners granted a continuance and subsequently a 7-7-7 day process followed, including a seven day open record period, a seven day rebuttal period, and a final seven day period for final comment by the applicant. After completion of the 7-7-7 day process, the Board of Commissioners held a second hearing on November 7, 2022 to deliberate on this appeal.

- G. The Planning Commission or Board of County Commissioners may review a lower decision or requirement upon its own motion after giving ten (10) days' notice to the parties involved in the decision or requirement, and if such review is initiated within the 15-day appeal period after the decision or requirement is made.*

Finding: The Lake County Board of Commissioners find this review was initiated by the appellant and therefore (G) above does not apply in this case.

- H. An appeal or review proceedings shall be based upon, but not limited to, the record of the decision being appealed or reviewed.*

Finding: The Lake County Board of Commissioners find that the appellant presented written submission to the Planning Commission and the reasons for the appeal are stated by the appellant in his notice of appeal which were used by the Board in making this decision on appeal. Furthermore, the decision must be based on the criteria of the proposed use as established by State law (Oregon Revised Statute – ORS), State Rule (Oregon Administrative Rule – OAR), and local Lake County Zoning Ordinance, Comprehensive Plan and Land Development Ordinances as amended. As there were prior hearings on this matter, the Board of Commissioners may elect to take testimony for and against the decision made by the Planning Commission in regards to the established ORS, OAR, and other applicable Lake County adopted Land Use Ordinances and Plans.

- I. All appeal or review proceedings shall require a public hearing by the reviewing authority. Notice of such hearing shall be published at least one time not less than ten (10) days prior to such hearing in a newspaper of general circulation in the County. In addition, individual notice shall be provided to all parties affected by the decision or requirement being reviewed. Such notice shall be mailed or otherwise delivered not less than 10 days prior to such hearing date.*

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Finding: The Lake County Board of Commissioners find that the Planning Department has published with the Lake County Examiner a notice of such hearing not less than 10 days prior to the hearing in accordance with (I) above. Individual notice was also mailed to all adjacent owners, which included both the appellant as well as the applicant and all original adjacent owners, other affected agencies, and parties of interest on September 27, 2022 in advance of the not less than 10-day requirement.

- J. *Following the hearing, the reviewing authority may uphold, overrule or modify any decision or requirement and shall set forth findings and conclusions for such decision.*
- K. *A decision or requirement of the Board of County Commissioners may be appealed as provided for by State law.*

APPEALED FOR THE FOLLOWING REASONS

- 1. *The application materially introduces urban sprawl. (as quoted from the notice of appeal)*
- 2. *The planning commission/staff report and findings as well as the planning commission approval indicates illogical approval justifications. (as quoted from the notice of appeal)*
- 3. *There is a total lack of local support. (as quoted from the notice of appeal)*
- 4. *The Planning Commission decision violates the County Comprehensive Plan and Zoning Ordinance.*
- 5. *There is no public need for the proposed campground.*
- 6. *The proposed campground is not compatible with surrounding agricultural operations and is not consistent with ORS 215.243.*
- 7. *The proposed campground will introduce noise, light, glare, and dangerous people to the area.*

Finding: The Lake County Board of Commissioners find that responses and findings to appellant's reasons for appeal are addressed under the applicable criteria below.

Article 29: Section 29.03 Decisions. All decisions made pursuant to the provisions of this Ordinance for the approval or denial of an application authorized or required pursuant hereto shall be based upon standards relied upon and considered relevant to the decision, that states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards, facts and conclusions set forth. Written notice of the decision shall be given to all parties to the proceedings within ten (10) working days thereof, unless a lesser time is specifically set forth for a specific permit decision by this Ordinance. Except as otherwise provided for in ORS 215.428, the County shall take final action on an application for a permit or zoning amendment, including resolution of appeals, within 120 days after the application is deemed complete. The 120-day period may be extended for a reasonable period of time at the request of the applicant. For an application involving a "residential facility", such time period shall not exceed 90 days as required by ORS 443.

Section 29.04 Source of Findings. The following should be included as sources of provisions/criteria and facts cited as the bases of findings:

- A. *Comprehensive Plan, Supplemental Atlas, and other ordinances and plan supplements.*
- B. *Information presented at hearings or other public discussions of related issues.*
- C. *Findings presented by the applicants.*
- D. *Various sources of physical, social, legal, economic, environmental or other applicable information.*

Finding: The following findings are a compilation of the Lake County Comprehensive Plan/Zoning Ordinance and other supplemental materials. The applicant has included supplemental information in the Conditional Use Application.

LAKE COUNTY ZONING ORDINANCE: Article 3: Agriculture Use Zone: A-2

Section 3.01: Agriculture Use Zone. The Agriculture Use Zone is intended to preserve grazing and other agricultural land, except in those areas designated by the Plan as Rural or Farm Residential, and to allow rural homesites, hobby farms and similar "not for profit" farm residences in accord with Comprehensive Plan policies and provisions for such uses.

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Finding: The Lake County Board of Commissioners find the subject property is zoned A-2, Agriculture Use with a Comprehensive Plan Designation of A – Agriculture. The criteria for which the proposed use (Campground) decision must be based are as follows:

Article 3: Section 3.04 Conditional Uses. B. Type II. Conditional Uses.

5. *Private parks, hunting and fishing preserves, campground or golf course.*

Finding: The applicant submitted a land use application for a Type II: Conditional Use Permit (CUP) and timely paid the required fee. Although the County Zoning Ordinance does not specifically define “*Private Campground*”, “*Private*” or “*Campground*”, the ordinance does define “*Recreational Vehicle Park or Park*” and “*Travel Trailer Park*” in Article 1, Section 1.03 and lists the use in Article 24:

Recreational Vehicle Park or Park. Any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. "Recreation park" includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to those areas divided into two or more lots, parcels, units or other interests for purposes of such use. Includes, but is not limited to such areas accommodating recreation or camping vehicles, tents, trailer, etc. (ORS 446.310(9))

Travel Trailer Park. A lot upon which two or more travel trailers, motor homes, or similar vehicles or devices are located, (except as used for storage purposes, or other than approved as a temporary use), regardless of whether a charge is made for such accommodations.

Finding: The Lake County Board of Commissioners find that whereas within Lake County property owners have an opportunity to request that the County allow a campground through the discretionary conditional use permit process, the Board of Commissioners is to assess the suitability of the proposal on its merits. The criteria for which the proposed campground decision must be based are as follows:

Article 24: Conditional Uses. Section 24.01 Authorization to Grant or Deny Conditional Uses. Conditional Uses listed in this Ordinance may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this Article. In the case of a use existing prior to the effective date of this Ordinance, and classified herein as a Conditional Use, a change in use, enlargement or alteration of such use shall conform to the provisions for a conditional use. An application for a Conditional Use may be approved, modified, approved with conditions or denied.

Finding: Appellant argued the Planning Commission decision violates the County Comprehensive Plan and Zoning Ordinance. Specifically, appellant argued that the proposed campground does not meet the requirements of the County Zoning Ordinance because RV parks are allowed in other zones and only campgrounds are allowed in the A-2 Zone. However, the use of RVs in campgrounds is allowed under County Zoning Ordinance as well as State law. The County has interpreted its Zoning Ordinance to allow the use of RVs in campgrounds as approved in numerous other County decisions. This fact and the County's interpretation of its Zoning Ordinance are clear from this approval and the previous campground approvals which allow RVs in approved campgrounds.

Appellant argues the Comprehensive Plan prohibits non-farm uses in areas designated for agricultural use. This argument is incorrect. All agricultural zones in Lake County provide for conditionally permitted uses. All the conditional uses are non-farm uses. These conditional uses are allowed if approved by the County. Appellant argues there is a total lack of support and no public need for the proposed campground. To support this argument, appellant relies on *Kristensen v. City of Eugene Planning Commission*, 544 P.2d 591, 24 Or. App. 131 (Or. App. 1976). Appellant correctly states that *Kristensen* held that "the applicant for a conditional use permit must bear the burden of proving that the proposed conditional use does, in fact, reasonably meet the need recognized by the zoning ordinance." However, appellant's argument fails

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to address the preceding sentence in the *Kristensen* decision which states "that the designation of a use as conditional in a zoning ordinance is sufficient proof of public need for such use." The County, in preparing its Comprehensive Plan and Zoning Ordinance, recognized that its citizens and visitors have a need for campgrounds. That is why campgrounds are a conditionally permitted use in applicable zones under the County Zoning Ordinance. The appellant notes in his second memorandum that "the Comprehensive Plan has been coordinated to accommodate the needs of all levels of government, semipublic and private agencies and citizens of the area." When the County created its Comprehensive Plan and Zoning Ordinance, it took into consideration the needs of its citizens and determined that campgrounds were needed in the County. For these reasons the County allows campgrounds as a conditional use in agricultural zones such as the A-2 Zone. Therefore, Lake County Board of Commissioners find there is adequate need for the proposed campground.

- A. General Criteria. *In determining whether or not a Conditional Use shall be approved or denied, it shall be determined that the following criteria are either met or can be met through the compliance with specific conditions.*
1. *The proposal is in compliance with the applicable Comprehensive Plan and Policies set forth thereby.*
 2. *The proposal is in compliance with the standards and requirements set forth by the applicable primary zone, any applicable Combining Zone, and the standards and conditions set forth by this Article and any other provisions of this Ordinance.*
 3. *That, for proposals requiring approvals or permits from other local, State and/or Federal agencies, evidence of such approval or permit compliance is established or can be assured prior to final approval.*
 4. *That no approval be granted for any use which is or is expected to be found to exceed resource and public service/facility carrying capacities, or for any use which is found to not be in compliance with applicable air, water, land, solid waste, or noise pollution standards.*

Finding: The Lake County Board of Commissioners find that the proposed campground use is conditionally allowed in the A-2 Zone and that campgrounds are an intended use of the A-2 Zone and the Comprehensive Plan Designation of the subject property. Conditions of Approval have been included to assure compliance of the proposal. The Board of Commissioners find that the proposed campground is in compliance with the Comprehensive Plan, as the subject property was acknowledged and zoned to allow for this type of use, and also find that the proposal is in compliance with the standards of the A-2 Zone, as the proposal is listed as a conditional use in this Zone.

A condition of approval will require that the applicant met all local, state, and federal law required by the proposed use. This condition of approval must be met by the applicant along with all other conditions of approval before the use will be allowed. The use is found to not exceed resources, capacities, or standards. No public resources will be used beyond those that are used by all in the area, (i.e.: public road, power, etc.). All applicable standards will be found for below in the General Conditions and Standards for the proposed use; thus, the Board of Commissioners find that the General Criteria for this use is met, or shall be met by the completion of included conditions of approval.

Appellant argues that the proposed campground will materially enhance urban sprawl. However, appellant does not describe how the proposed campground will enhance urban sprawl. In an effort to understand appellant's argument the Board of Commissioners looks to the definition of "urban area" provided in the Oregon Administrative Rules. As provided in OAR 660-024-0010(10), "urban area" means the land within an urban growth boundary. The Lake County Board of Commissioners find that the subject property is not within an urban growth boundary and therefore, by definition, it is not an urban area. The Board of Commissioners further find that the A-2 Zone, the zoning designation of the subject property, does not allow urban development or urban uses as appellant alleges.

The Lake County Board of Commissioners find that the proposed campground will not cause urban sprawl on the subject property or the surrounding area. The subject property is in the A-2, Agriculture Use Zone,

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which is not an urban zone and the A-2 Zone does not allow urban development. In contrast, the A-2 Zone allows campgrounds as a conditional use (LCZO 3.04(A)(6)). Campgrounds are allowed in agricultural zones such as the A-2 Zone, where the subject property is located, and therefore the proposed campground will be sited in one of the limited areas where this use is intended to be sited.

*B. General Conditions. In addition to the standards and conditions set forth in a specific Primary Zone, a Combination Zone, this Article, this Ordinance, and other applicable local, State and/or Federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the County, and to other-wise protect the general welfare and interests of the surrounding area, the County as a whole, and the general public. Such conditions **may** include, but are not limited to, the following: (**BOLD** added)*

- 1. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restrictions to minimize environmental effects such as noise, vibration, air or water pollution, glare or odor.*

Finding: The Lake County Board of Commissioners find the proposed use is allowed in the A-2 Zone and that any limitations must be reasonable so as to not eliminate the possibility of conducting said use. The Lake County Board of Commissioners find that no environmental effects will be created by the proposed use and that additional restrictions are not necessary.

- 2. Establishing special setback or other open space requirements, including increasing the required lot size or other dimensional standards.*

Finding: The Lake County Board of Commissioners find that the proposed use complies with all applicable setbacks in the A-2 Zone, which are not less than 50 feet from adjacent farm uses and practices, and that as adjacent to a public road the structural setback is no less than 45 feet from the centerline. No further setback or requirement regarding open space or change to the lot dimensions is needed. Therefore, this criterion will be met according to minimum setback standards of the A-2 Zone.

Notwithstanding the forgoing, the Board finds that the applicant has sited the campground near the approximate center of the subject property in order to limit potential adverse impacts on surrounding properties. The applicant's site plan shows that the proposed campground will meet or exceed the minimum setback standards applicable to this proposal.

- 3. Increasing street width and/or requiring improvements to public streets and other facilities, on-site and off-site, serving or required to serve the proposed use or development.*

Finding: The Lake County Board of Commissioners find that because there are existing legal access points to the adjacent county road, Arrow Gap Road, this criterion does not apply.

- 4. Limiting the height, size or location of buildings or other structures or uses.*

Finding: The Lake County Board of Commissioners find that proposed use is for a campground that will provide laundry and other associated facilities. The A-2 Zone has established limitations which will be met. The Lake County Board of Commissioners find that this criterion will be met as allowed by the A-2 Zone, not to exceed 35 feet in height and to be within the proposed site plan boundary shown on the applicant's site plan.

- 5. Designating the size, number, improvements, location and nature of vehicle access points and routes, off-street parking and loading, and assurance that use of public rights-of-way is in compliance with the regulations of the affected agency.*

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Finding: The Lake County Board of Commissioners find the subject property has existing accesses to Arrow Gap Road and no further or additional access points are needed or being requested. Therefore, no further finding is necessary.

6. *Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor lighting.*

Finding: The Lake County Board of Commissioners find that the applicant may propose signs on the property which must be in compliance with Article 22: Sign Requirements. The approval of signs would be found for in a separate review process. Therefore, no further finding regarding signs is necessary.

The appellant argued the proposed campground will introduce light and glare to the area. The applicant argued that the campground is sited to limit any potential light or glare impacts to surrounding properties. The Lake County Board of Commissioners find the appellant did not describe how the proposed campground will introduce light and glare to the area and did not present any evidence that light or glare from the campground will be detrimental to surrounding property owners, the surrounding area, or the County as a whole. The Board of Commissioners have included a condition of approval that lights shall be out from 10:00 pm until 6:00 am, except that one light can be on at the bathroom facility and office building.

7. *Requiring diking, screening, fencing, landscaping, or other improvements or facilities, including reclamation plans and assurances, deemed necessary to protect adjacent or nearby properties, and the environment, and establishing requirements, standards and assurances for the installation and maintenance thereof.*

Finding: Appellant argued the proposed campground will introduce noise to the area. The appellant did not describe how the campground will introduce noise or how such noise would have determinantal impacts on surrounding properties, the area, or the County. The Lake County Board of Commissioners find proposed campground will likely produce some noise but such noise will not have determinantal impacts on surrounding properties, the area, or the County since the campground will meet all required setbacks and will be sited a reasonable distance from surrounding uses.

Appellant argued the proposed campground will introduce dangerous people to the area. To support this argument appellant argued that an email submitted to the Planning Commission by Desiree Streeter states that Ms. Streeter talked to a landowner near an existing RV Park in Christmas Valley who allegedly keeps her gun loaded and handy because of people walking around with guns. Neither Ms. Streeter's email nor the appellant provided the name or any information of the person who allegedly made this statement. Therefore, the Board of Commissioners find the appellant's evidence of allegedly dangerous people is not credible and there is absolutely no evidence that visitors to the proposed campground will be dangerous to neighbors.

The Lake County Board of Commissioners find that no diking, screening, fencing, landscaping, or other improvements or facilities, including reclamation plans or assurances, are deemed necessary or required for the proposed use. The applicant has sited the campground near the approximate center of the subject property which provides more than ample buffer space between the campground site and surrounding properties to protect surrounding properties and the environment. Additionally, the native vegetation around the campground will protect the natural environment and limit visual impacts to surrounding properties. Requiring diking, screening, fencing, landscaping, or other improvements or facilities, including reclamation plans or assurances would be unreasonable because the large buffer area of natural vegetation found on the subject property will not be affected by this proposal. The limitations on the

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proposed use found for below will also protect adjacent or nearby properties, and all requirements of the DEQ will help assure the same.

8. *Protecting and/or preserving existing trees, other vegetation, water, scenic, historic, archaeological, unique or other natural or significant resources.*

Finding: The Lake County Board of Commissioners find that the proposed use will not have any detrimental impacts on any existing trees or other vegetation found on the subject property, as the subject property is not a forested and only a limited amount of the subject property will be devoted to the campground. The Lake County Board of Commissioners further find that the subject property does not contain water, scenic, historic, archaeological, unique or other natural or significant resources and that the proposed use will not have any detrimental impacts on these resources.

9. *Requiring any additional information or documentation deemed necessary as a part of the application for such a use in order to render a proper decision on the subject proposal as related to environmental, social, and economic or other factors.*

Finding: The Lake County Board of Commissioners find that the proposed use shall meet the applicable State regulations and the standards and conditions set forth herein. The applicant shall provide the Planning Department with all required proof of compliance to local, state, and federal law, as applicable.

10. *A requirement that the permit be reviewed on an annual or other periodical established basis.*
11. *A requirement that the permit be renewable on an annual or other periodical established basis.*
12. *A requirement that the permit not be transferable.*

Finding: The Lake County Board of Commissioners find that the proposed use need not be reviewed or renewed on an annual or periodical established basis, and that requiring such on an ongoing basis is unreasonable. The proposed use meets all applicable criteria as stated in this decision. The County retains the right to review any application as outlined in Article 31, Section 31.05, which states:

Section 31.05 ~ Revocation. *The Planning Commission or Board of County Commissioners may revoke or modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:*

- A. *A permit may be revoked on the basis of fraud, concealment, or misrepresentation by the applicant to the approving authority during the application process.*
- B. *A permit may be revoked on the basis that the use for which such permit was issued is not exercised within the time limits set forth by this Ordinance or by the approving authority.*
- C. *A permit may be revoked on the basis that the use for which the permit was granted has been suspended for one (1) year or more unless otherwise provided for in this Ordinance or in the approval of such use.*
- D. *A permit may be revoked or modified on the basis that the permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any local, State or Federal statute, code, resolution, law or regulation.*
- E. *A permit may be revoked or modified on the basis that the use for which the approval was granted is so exercised as to be detrimental to the public health, safety or general welfare, or in such a manner as to constitute a nuisance.*
- F. *The Planning Commission or Board of County Commissioners shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons and parties. Such notice shall be provided not less than ten (10) days prior to such hearing. The reviewing authority shall render its decision with ten (10) days after the conclusion of the hearing. Appeals thereof shall be as provided for in this Ordinance or as otherwise provided for by law.*

Finding: The Lake County Board of Commissioners has included conditions of approval for the proposed use within this decision. Therefore, compliance with conditions of approval will satisfy these criteria.

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Article 24: Section 24.09 Recreation Vehicle Park; Campgrounds. A Recreational Vehicle Park or Campground shall be constructed, maintained and operated in accordance with the applicable State regulations, and shall also comply with the standards and conditions set forth herein.

- A. *Plans and Specifications: An application for a RV Park or Campground shall be accompanied by development plans for such facility, drawn to scale and clearly showing the nature and extent of the work proposed and shall show in detail how conformance with applicable State regulations and the standards set forth herein will be achieved. The following information, at a minimum, shall be furnished on all such plans:*
1. *Name of the development.*
 2. *Legal description of the property and identification by Tax Lot number.*
 3. *Names of the owner and operator.*
 4. *Scale and date of plans.*
 5. *Identification of proposed and existing construction.*
 6. *General layout of the proposed development.*
 7. *Location, dimensions, layout and numbering of all RV or camping spaces and/or facilities.*
 8. *Provisions for water supply, sewer disposal, electrical services, other public utility services, and solid waste collection and disposal.*
 9. *Locations and plans for any common use facilities or areas such as shower facilities, laundry facilities, playgrounds, picnic area, recreation facilities, etc.*
 10. *Location and schematic drawings of signs.*
 11. *Copy of proposed use restrictions and other rules.*

Finding: The Lake County Board of Commissioners find that the applicant has submitted a detailed application accompanied by development plans for the proposed campground. The applicant's site plan shows that the proposed campground includes RV campsites and tent campsites, as well as interior roads to provide access throughout the campground. The campground will also include restrooms, connections to a septic system(s) permitted by the state DEQ, electrical hookups, an office, laundry, store, and other associated facilities. The Board of Commissioners find these amenities are ancillary to the proposed campground and are approved. Additional amenities, not included in the application, are not proposed at this time but could be reviewed by the Planning Department and approved in the future ministerially if accessory to the campground.

The applicant's site plan is drawn to scale and clearly shows the nature and extent of the work proposed and how the proposed campground will conform with applicable State regulations and the standards set forth in the County Zoning Ordinance. The applicant's site plan and application materials provide all the information required by the above criteria. Therefore, the Lake County Board of Commissioners find the above criteria are met.

- B. *Water supply service to each camping space is not required, but at least one water supply service shall be provided on site.*

Finding: The Lake County Board of Commissioners find that the subject property contains an existing domestic well which will be used to provide potable water for campground patrons as well as for fire protection purposes. The Board of Commissioners further find the domestic well that will serve the campground is an exempt use under ORS 537.545. The campground shall provide at least one water supply service and may provide water supply services to each camping space.

The applicant is to take all necessary steps to prevent fires and the dangers that could be caused by those staying on the property. Minimum setback from property lines of all structures shall apply and great caution shall be taken to ensure protection to neighboring properties from a possible fire started on this property. All campfire standards regarding outdoor burning shall be followed, and the property owner is reminded of the liability and risk they are assuming by having persons stay on the property. A condition of approval will require that the applicant submit a fire plan to the Silver Lake Rural Fire Protection

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District as well as the High Desert Rangeland Fire Protection Association. Therefore, the Board of Commissioners find that this standard will be met.

- C. *In lieu of individual sewer connections, at least one sewage disposal station shall be provided on site **except** as approved otherwise by the County if such facility, available for public use, is available within a reasonable distance. (BOLD added)*

Finding: The Lake County Board of Commissioners find that the applicant has proposed connections to a septic system or systems as required by the Oregon DEQ as well as a dumping station. The campground shall provide at least one sewage disposal station on site and may provide individual sewer connections to each campsite. Therefore, the Board of Commissioners find that this standard will be met on site.

- D. *All solid waste shall be stored in individual garbage containers, storage bins, or storage vehicles that have tight-fitting lids, covers or closable tops, and are durable, rust-resistant, watertight, rodent-proof and readily washable. All solid waste shall be collected for disposal at regular intervals not to exceed once every seven (7) days.*

Finding: The Lake County Board of Commissioners find that the applicant shall dispose of all solid waste and contain such materials until removed from the property. All solid waste shall be stored in individual garbage containers, storage bins, or storage vehicles that have tight-fitting lids, covers or closable tops, and are durable, rust-resistant, watertight, rodent-proof and readily washable. All solid waste shall be collected for disposal at regular intervals not to exceed once every seven days. Therefore, the Board of Commissioners find that this standard will be met.

- E. *Liquefied petroleum gas storage tanks onsite shall be approved by the appropriate agency.*

Finding: The Lake County Board of Commissioners find that the applicant shall apply for all necessary building permits and those required of the appropriate agency, including necessary permits for liquefied petroleum gas storage tanks. Therefore, the Board of Commissioners find that this standard will be met.

- F. *Eating and drinking establishments or facilities, commissaries, mobile units, vending machines, toilet-hand-washing-bathing facilities, swimming pools, spas and other such facilities shall be constructed, maintained and operated in accordance with applicable State standards and regulations.*

Finding: The Lake County Board of Commissioners find that the applicant has not proposed a food service, but has proposed other amenities and ancillary facilities. The campground may include other amenities and ancillary facilities such as an office, laundry, store, and toilet-hand-washing-bathing facilities. The Lake County Board of Commissioners find that all amenities ancillary to the campground shall be maintained and operated in accordance with applicable State standards and regulations. The applicant may submit a modification to the proposed site plan and if found to be minor in scale the Planning Director may approve such modification administratively, but if deemed of a scale and intensity that exceeds the authority of the Planning Director, it shall be reviewed by the Planning Commission after satisfying the notice requirements of Article 31 of the County Zoning Ordinance.

- G. *The owner and/or management of such facilities shall maintain all buildings, grounds, rental units, spaces and furnishings in good repair and appearance, and in clean and sanitary condition at all times.*

Finding: The Lake County Board of Commissioners find that the applicant or management of the campground shall maintain the campground facilities in compliance with this standard. Therefore, the Board of Commissioners find that this standard will be met. If in the future the County finds that the campground is out of compliance with this standard the County would use the nuisance and/or land use enforcement ordinance to bring the subject property into compliance.

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- H. *Either the owner, an operator, resident manager, or other such supervisor shall be available on the premises of such facilities at all times while it is open for use, except as approved otherwise by the County.*

Finding: The Lake County Board of Commissioners find that the owner, an operator, resident manager, or other such supervisor shall be available at the campground at all times while the campground is open for use. Therefore, the Board of Commissioners find that this standard will be met.

- I. *Each camping space shall be identified by letter, number or name, and each such space shall be large enough to accommodate the use intended, but in no case less than 30 feet in width nor less than 40 feet in length. Each camping space is limited to one camping vehicle, tent vehicle or tent.*

Finding: The Lake County Board of Commissioners find that the applicant shall identify each camping space within the campground in compliance with this standard and that each camping space shall be large enough to accommodate the intended use and in compliance with this standard. Therefore, the Board of Commissioners find that this standard will be met.

- J. *Each camping space shall maintain at least 15 feet separation between camping vehicles or tents, 10 feet from any property line, and 20 feet from any public street or road right-of-way.*

Finding: The Lake County Board of Commissioners find that the applicant's site plan demonstrates that the proposed campground will meet all distances required by this standard. Therefore, the Board of Commissioners find that this standard will be met.

- K. *No such facility shall be permitted on a lot or parcel less than one (1) acre, and, except as approved otherwise by the County, shall not exceed an overall density of 18 units per acre.*

Finding: The Lake County Board of Commissioners find the subject property is 160 acres in size, it is well above the minimum parcel size required by this standard, and the overall density will not exceed 18 units per acre. Therefore, the Board of Commissioners find that this standard will be met.

- L. *Each such facility shall have direct access to either an arterial or major collector street or road, and each access road intersecting a public street or road shall have a surface width of not less than 30 feet. Driveways within such a facility shall not be less than 20 feet in width, or 30 feet in width if parking is permitted thereon. All access roads and driveways shall be constructed to and maintained to minimum County standards. Each space in such a facility shall have direct access to a park driveway or road.*

Finding: The Lake County Board of Commissioners find the subject property has direct access to Arrow Gap Road, a county road, and the campground will include internal access roads or driveways that will provide direct access to each camping space. The Lake County Board of Commissioners find the existing road approaches on the subject property are adequate for the proposed campground use and this standard will be met.

- M. *Toilet facilities shall be provided in all such facilities in the following ratios:*

<u>Number of Spaces</u>	<u>Number of Toilets</u>
1 – 15	2
16 – 30	3
31 – 60	5
61 – 100	7

Finding: The Lake County Board of Commissioners find the applicant proposes to establish and maintain a campground on the subject property and the number of toilets shall be no less than that required by this standard or by the DEQ. Furthermore, the above standard along with the following conditions of approval will ensure the subject property does not create an undue hardship on surrounding lands. The

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proposed campground use is allowed in the A-2 Zone and the Board of Commissioners find this standard will be met.

Article 24: Section 24.19 Criteria for Nonfarm Uses, Excluding Farm Related or Accessory Uses, in an A-1 or A-2 Zone. Nonfarm uses, excluding farm related or farm accessory uses, may be approved in an A-1 or A-2 Zone upon findings that each such use:

- A. *Is compatible with farm uses described in ORS 215.203(2) and is consistent with the intent and purposes set forth in ORS 215.243;*

Finding: ORS 215.203(2)(a) defines farm use as follows:

"farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3).

Finding: The Lake County Board of Commissioners find the applicant has sited the campground in the approximate center of the subject property to provide a large buffer space between the campground and adjacent properties. Only the adjacent land to the west and north of the subject property is engaged in farm use and these lands are currently used for seasonal livestock grazing.

Appellant argued the Planning Commission erred in finding that the proposed campground is compatible with farm uses in the area and that the Planning Commission did not provide reasoning as to how the campground is compatible with such farm uses. Appellant did not provide reasoning as to how the proposed campground is not compatible with existing farm uses on surrounding properties. Appellant also argued the proposed campground presents a high possibility of crop and fence damage and livestock harassment on other private properties in the area. The Board of Commissioners find the possibility that campground patrons damage crops, fences, or harass livestock on other private properties in the area is highly unlikely. The County has approved many other campgrounds in recent years that are similarly situated in rural-agricultural areas and none of these campgrounds have been found to have patrons who damaged crops, fences, or harassed of livestock on other private properties. Additionally, the proposed campground is sited away from surrounding properties to further limit the potential of detrimental effects, such as crop and fence damage or harassment of livestock.

The adjacent land to the east and south is not engaged in "farm use," as that term is defined in ORS 215.203(2)(a). Appellant's adjacent parcel (Tax Lot 2400, Assessor's Map 28S15E) is not currently engaged in farm use and does not contain irrigated farmland, as the photographs in the record show the perimeter fences around appellant's adjacent parcel would not contain livestock if livestock were grazed on this land and the satellite images in the record show that appellant's adjacent parcel is not irrigated or farmed.

The area devoted to the campground is limited to a relatively small portion of the 160-acre property. The subject property will contain a large buffer space between the campground and adjacent properties. Only

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the adjacent properties to the west and north of the subject property are engaged in farm use. These factors limit any potential adverse impacts on farm uses occurring on surrounding properties. Therefore, the Lake County Board of Commissioners find the proposed campground is compatible with farm uses described in ORS 215.203(2), is consistent with the intent and purposes set forth in ORS 215.243, and will not adversely affect farm uses occurring on surrounding lands.

Per ORS 215.243, *the Legislative Assembly finds and declares that:*

- (1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.*
- (2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.*
- (3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.*
- (4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.*

Finding: The Lake County Board of Commissioners find the proposed campground is consistent with the intent and purposes set forth in ORS 215.243. Only a limited portion of the subject property will be devoted to the campground and open land on subject property will be conserved for potential farm use in the future. The Lake County Board of Commissioners find the subject property is not currently engaged in farm use and has not been engaged in farm use in the past.

Appellant argued that even though the subject property is not currently engaged in farm use, the subject property should be used for farm uses. The subject property does not current have any water rights and has not been irrigated in the past. Additionally, there is a water moratorium in northern Lake County, where the subject property is located, which prevents the applicant from obtaining water rights on the subject property. Therefore, the Board of Commissioners find the subject property is not suited for farm use and the proposed campground is a suitable use of the subject property.

Additionally, appellant argued that the proposed campground is not consistent with the County Zoning Ordinance, the Comprehensive Plan, and State land use laws because, in essence, the purpose of these laws is to conserve farmland. These laws are in part aimed at preserving productive farmland. However, the subject property has not been farmed or used for livestock grazing in the past, it is not used in conjunction with a larger farming or livestock operation, it is not feasible to start farming or grazing the property now, new water rights are not available, the soils are poor quality, no reasonable farmer would purchase the property and pay for the necessary irrigation or livestock infrastructure, and neither the appellant nor any other nearby landowners purchased the property when it was recently for sale. Therefore, the Board of Commissioners find, after considering the potential for growing crops and raising livestock on the subject property, that the subject property is not productive farmland.

The Board of Commissioners find the proposed campground is compatible with farm uses described in ORS 215.203(2) and is consistent with the intent and purposes set forth in ORS 215.243, and those concerns raised by appellant have been addressed through conditions of approval and the proposed campground meets the standards above.

- B. Does not interfere seriously with accepted farming practices as defined in ORS 215.203(2)(c), on adjacent lands devoted to farm use;*

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Finding: The Board of Commissioners find the proposed campground will not seriously interfere with accepted farming practices on adjacent lands devoted to farm use. The only existing farming practices occurring on adjacent lands is livestock grazing. Non-adjacent parcels to the east of the subject property are irrigated with pivot irrigation systems and used for raising hay crops. These hay farming operations are separated from the subject property by parcels not engaged in farm use and the farm uses occurring on these parcels will not be impacted by the proposed campground.

The subject property has direct access to Arrow Gap Road, a paved county road, and therefore any traffic related impacts resulting from the campground will not interfere seriously with farming practices in the area. Agricultural operations in the extended vicinity continue to operate independently of the subject property and the proposed campground will not seriously interfere with any of these agricultural operations.

The subject property contains two approved farm dwellings which are located near the proposed campground. Conditions of approval contained in this decision will ensure that safety precautions are taken to avoid disastrous and devastating fires. Having considered the size, location, terrain, etc. along with the development patterns in the area, including the previous approvals of campgrounds on similarly situated lands, the Board of Commissioners find that this criterion is met.

C. Does not materially alter the stability of the overall land use pattern of the area;

Finding: The Board of Commissioners find that the proposed campground will not materially alter the stability of the overall land use pattern of the area. The proposed campground is in a remote and rural area of the County which is well suited for a campground. The County recently found that other similarly situated campgrounds did not materially alter the stability of the overall land use pattern of the area. See County Files 19-030-CUP, 19-029-CUP, 20-009-CUP, 17-017-CUP, 17-066-CUP, 17-21-CUP, 19-053-CUP, 19-057-CUP, and 22-044-CUP. The County found in these approvals that similarly situated campgrounds did not materially alter the stability of the land use pattern of the area.

Many people currently camp near and in the vicinity of the subject property, either in or outside of approved private campgrounds or public campgrounds. Therefore, the proposed campground will enhance the availability of places to camp in the area and may reduce the number of people camping outside of approved private campgrounds and public campgrounds.

Farm related and non-farm uses are occurring in the area of the subject property. These farm and nonfarm uses area accessed by some of the same county roads and State Highways that will be used by patrons of the proposed campground. The propose campground will have little to no effect on the stability of the mixed agriculture, farm, and non-farm uses occurring in the area. The Lake County Board of Commissioners find the existing development pattern of the area, including the existing nonfarm uses, should be given great weight when determining the overall land use pattern of the area. Having done so, the Lake County Board of Commissioners find the proposed campground will not materially alter the stability of the overall land use pattern of the area.

D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract;

Finding: The Lake County Board of Commissioners find the proposed site for the campground is situated on generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract.

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The subject property has poor quality soils, no water rights, and has not been farmed or used for livestock grazing in the past.

The NRCS soils report and soils map prepared by the Planning Department and included in the record show the subject property is composed primarily (96.9%) of soil mapping unit 319, Fort Rock Bonnick complex, 0 to 2 percent slopes. This soil mapping unit has a land capability class of 6s. As stated by the NRCS in its discussion of land capability classification, class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Appellant argues that he farms his own land near the subject property and vaguely argues that the subject property is as suitable for the production of farm crops and livestock as the appellant's property. Unlike the appellant's properties that produce farm crops and have extensive pivot irrigation systems, the subject property is not irrigated and has never been farmed. Additionally, there is a water moratorium which prevents the applicant from obtaining water rights on the subject property. The Lake County Board of Commissioners find that the appellant's argument has no merit, as the subject property is not comparable to the irrigated farm land owned by appellant near the subject property.

The subject property is not currently engaged in farm use, it is not in Farm Special Tax Assessment, and has not been engaged in farm use in the past. The cost to purchase water rights, install the required irrigation infrastructure, drill an irrigation well, and prepare the subject property for farming in poor soil makes such use of the property not feasible. The subject property has also not been used for livestock grazing and does not have the required infrastructure such as livestock water sources, hay barns, or suitable fences and corrals for grazing and managing livestock. For these reasons the Lake County Board of Commissioners find the proposed site for the campground is situated upon generally unsuitable land for the production of farm crops and livestock and the Board of Commissioners find this criterion is met.

E. Complies with other applicable natural resource provisions; and

Finding: The Lake County Board of Commissioners find the proposed campground will not utilize any of the natural resources of the area beyond that of necessity of a campground. Siting standards apply, which include 50' minimum setbacks from agricultural uses, and the applicant has sited the campground in the approximate center of the subject property providing additional buffer space between the campground and nearby agricultural uses. Additionally, the campground is limited to only a portion of the subject property and the remaining open space will not be affected by this proposal. Conditions of approval will require compliance to all local, state and federal laws which are applicable to the proposed use and development of the subject property, and precautions to be taken regarding fire suppression that will limit the chances of human-caused wildfires. Therefore, the Lake County Board of Commissioners find that the proposed campground complies with all natural resource provisions.

F. Complies with such other conditions as the County considers necessary.

Finding: The Board of Commissioners has included conditions of approval for the proposed campground in this decision. Therefore, compliance with the conditions of approval will satisfy this criterion.

The following are standards found in the Oregon Administrative Rules apply to this proposal:

OAR (Oregon Administrative Rules) 660-033-0130

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(5) *Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*

- (a) *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (b) *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

Finding: There is no land devoted to forest use near the subject property and no such forest use will be affected by this proposal. As discussed in the findings above, the proposed campground will not seriously interfere with accepted farming practices on adjacent lands devoted to farm use. Agricultural operations in the extended vicinity will continue to operate independently of the subject property and the proposed campground will not force a significant change in any of these agricultural operations. Therefore, the Lake County Board of Commissioners find the proposed campground will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

As noted above, there is no land devoted to forest use near the subject property and therefore the proposed campground will not significantly increase the cost of any accepted forest practices. Many other campgrounds have been approved and developed over the years in northern Lake County, in the area of the subject property, and none of these campgrounds have been found, before or after approval, to significantly increase the cost of accepted farm practices. Having no evidence that any previously approved campgrounds have been detrimental to farm practices or have increased the cost of farm practices, and having seen multiple campgrounds approved and established in the area of the subject property, it is clear to the Board of Commissioners that the proposed campground will not significantly increase the cost of accepted farm practices on surrounding lands.

The Lake County Board of Commissioners find there is a need for the proposed campground and it has been well received in the area and will serve as a benefit to the community. The Board of Commissioners has considered this application and found the applicant has meet the criteria and definitions of a campground both from the County and State definitions and intent of the use in this zone.

- (19)(a) *Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.*
- (b) *Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.*
- (c) *Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.*

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Finding: The Lake County Board of Commissioners find the proposed use meets the criteria and standards above. The proposed campground is not within three miles of an urban growth boundary, and is established on a site and is contiguous to land with outdoor natural amenities that are accessible for recreational use by the occupants of the campground, such as the open space on the subject property and the natural amenities on contiguous federal lands. The Board of Commissioners find no separate metered sewer, water, or electric hook-ups are allowed, but as typical in all County campgrounds those services are allowed as part of the joint system development and are not considered separate but combined in one system with branches to each space as required by the County Zoning Ordinance, which is most demanding and restrictive.

The proposed use is a conditionally permitted use listed in the acknowledged County Zoning Ordinance and Comprehensive Plan and has been a use approved by the County many times since the adoption of the Zoning Ordinance. It is not reasonable to require the County to review the log books of those staying at a particular campground as a paying guest of that facility. It would make no difference if the same persons stayed year-round or multiple persons stayed in the facility keeping it full year-round, therefore, the proposed use is allowed, and it is determined to not be clear and objectionable to include the 30-day requirement.

CONDITIONS OF APPROVAL:

1. The approved development shall comply with all local, state, and federal regulations.
2. The use shall commence with significant evidence of development and/or investment activity no later than one (1) year from the date this decision becomes final or the Conditional Use Permit (CUP) will expire, unless an extension is granted by the Lake County Planning Department not to exceed a period of twelve (12) months. The applicant or authorized representative must file the request prior to expiration of the original development approval date. The County is under no obligation to approve the extension but will consider the matter based upon extenuating circumstances. Upon expiration of the CUP, a new land use application would be required.
3. It shall be the responsibility of the applicant to demonstrate to the County that the subject property has legal access to the public roadway, including working with the County Road Department on Safe Approach.
4. It is a condition of approval that extreme caution is followed during ground disturbing activities, and that the applicant follow the recommendations of the State Historic Preservation Office (SHPO) within the State Parks and Recreation Department if cultural material is discovered. The county shall be made aware of the findings by the applicant/owner after contact has been made to the SHPO.
5. It is a condition of approval that lights shall be out from 10:00 pm until 6:00 am, except that one light can be on at the bathroom facility and office building.
6. A fire plan shall be submitted and acceptable to the Silver Lake Rural Fire Protection District as well as the High Desert Rangeland Fire Protection Association.
7. Retail sales shall be limited to campground use and those basic necessities for visiting campers.
8. Maps shall be posted and made available to those camping at this facility of private and public lands and recreational areas in the area.
9. The use is approved for development of the amended site plan submitted at the hearing and included in this approval document.

BOARD OF COMMISSIONERS ACTION:

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Following a review of all relevant information, the Board of Commissioners has **Approved** the Conditional Use Permit for the establishment of a Private Campground based upon the enclosed Findings of Fact, Attachments*, Exhibits* and testimony submitted at the hearings and conclusions of law.

BOARD OF COMMISSIONERS VOTE RESULT:

BOARD OF COMMISSIONERS	POSITION & TERM	MOTION	YES	NO	ABSTAIN
Mark Albertson – <i>Chair</i>	3 – 12/31/2022		X		
James Williams – <i>Commissioner</i>	2 – 12/31/2022		X		
Barry Shullanberger – <i>Vice-Chair</i>	1 – 12/31/2024		X		

SIGNATURE:

Upon the vote of quorum at the Board of Commissioners, the Conditional Use Permit is hereby **Approved** this 21 day of December, 2022 based upon the Findings of Fact, Attachments, Exhibits and testimony submitted at the hearings and conclusions of law associated with this land use application.

(original signed)

Mark Albertson
Board of Commissioners Chair

APPEAL PROCEDURE:

Any party aggrieved by the decision of the Lake County Board of Commissioners may exercise the right to appeal if they provided input or evidence into the record concerning this land use application, and if filed within 15 days from the mailing of the Notice of Decision. Please refer to Section 30.01 of the Lake County Zoning Ordinance for details, or contact the Planning Dept.

APPLICATION & ATTACHMENTS* (*Complete Record in the File):

Original Application and Record:

- * Attachment A: Type II: CUP Application with Site Plan and Proposal
- * Attachment B: Adjacent Owners & Agencies Notified List – Staff prepared list
- * Attachment C: Adjacent Owners Map – Staff prepared map showing those w/i 750'
- * Attachment D: Notice to Adjacent Owners & Agencies – sent 7/26/2022
- * Attachment E: Soils Map and Report
- * Attachment F: FEMA Map – Zone D – Undetermined – Panel Not Printed 410115-0775B
- * Attachment G: Wetlands Map – None
- * Attachment H: Water Master comments and response by Applicant – 27 July 2022
- * Attachment I: Fire Marshal comments – 1 August 2022
- * Attachment J: Comments from Desiree Streeter – 4 August 2022
- * Attachment K: Email requesting the Application and Criteria from Martin L. Pernoll – 7 August 2022
- * Attachment L: Site Visit Photos – taken 8 August 2022
- * Attachment M: Letter of Opposition from Pernoll – 12 August 2022
- * Attachment N: Letter of Opposition from Jackson – 15 August 2022
- * Attachment O: Google Earth Map of the area to be developed – staff provided to PC from site plan 16 August 2022
- * Attachment P: Letter of Opposition submitted at the hearing by Emery's – 16 August 2022
- * Attachment Q1: Letter from Applicant submitted and read at the hearing – 16 August 2022
- * Attachment Q2: Amended (and Adopted) Site Plan Map submitted by the applicant at the hearing – 16 August 2022
- * Attachment Q3: Picture of Hay Shed Glare submitted by the applicant at the hearing – 16 August 2022
- * Attachment Q4: Picture of Ownership of Jackson's RV Park submitted by applicant at the hearing – 16 August 2022
- Staff Report: Prepared August 8, 2022
- Findings: Staff Report Amended and Adopted by the Planning Commission as meeting the criteria at hearing
- Audio of the Hearing: August 16, 2022
- Minutes: Not available before the appeal hearing.

Exhibit A
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Appeal Record 22-036-APPEAL:

Attachment A: Notice of Appeal form – received 2 September 2022, with payment and attached reasons.
Notice of Appeal form (pages 1-2)
Letter of Authorization to use Credit Card to pay for appeal fee (page 3)
Letter dated 22 August 2022 further explaining reasons for the appeal (pages 4-6)
Letter dated 12 August 2022 submitted during PC review (same as Attachment M) (pages 7-10)
Payment Receipt of Appeal Fee through Intellipay – dated 2 September 2022 (page 11)
Attachment B: Notice of Hearing to the papers – emailed 22 September 2022
Attachment C: Adjacent Owners, agencies and parties of interest
Attachment D: Notice of Hearing to adjacent owners, agencies, and parties of interest – 27 September 2022
Attachment E: Notified who, where, when and how – 27 September 2022
Attachment F: Email from Desiree Streeter – 28 September 2022
Attachment G: Email from Rand Campbell (Applicant's Legal Counsel) – 6 October 2022
Attachment G: Letter from Rand Campbell from email – 6 October 2022
Attachment H: Email from Rand Campbell – 10 October 2022
Attachment H: Letter from Rand Campbell from email – Appeal Hearing Record Submittal – 10 Oct 2022
Staff Memorandum – 12 Oct 2022 (Summarizing Appeal Process and List of Items in the Record)

Submittals During the Open Record Period:

Attachment I: Email with Memorandum in Support of Appeal – 12 Oct 2022
Attachment J: Applicant's open record submittal email with exhibits – 21 Oct 2022
Attachment K: Appellant's email RE 7-7-7 Record Open until and Second Memorandum – 22 Oct 2022
Attachment L: Applicant's Final Legal Arguments
All Board of Commissioners Agendas, Minutes, Audio pertaining to this decision as noted above.

PARTIES OF INTEREST:

Jeremy Giffin, District 11 Watermaster, Jeremy.T.GIFFIN@water.oregon.gov
Jeremy Wadkins, Deputy State Fire Marshal, Jeremy.Wadkins@osp.oregon.gov
Desiree Streeter, ds.believe.it@gmail.com, 62211 Hwy 31, Silver Lake, Oregon 97638
Martin L. Pernoll, Pernoll Ranch LLC, martinpernoll@gmail.com, 54056 Highway 31, Summer Lake, Oregon 97640
Tim & Robbie Jackson, Silver Lake RV Park, timj966@gmail.com,
Carl Shumway, PO Box 3, Christmas Valley, Oregon 97641
Shawn Lavallee, 57209 Freemont St, Silver Lake, Oregon 97638
Tim & Robbie Jackson, PO Box 60, Silver Lake, Oregon 97638
Marie Leehman, 50615 Highway 31, Summer Lake, Oregon 97640
Rolan O'Leary, 52808 Duncan Road, Silver Lake, Oregon 97638
Keith Little, PO Box 25, Silver Lake, Oregon 97638
Mark & Debbie Williams, PO Box 894, Christmas Valley, Oregon 97641
Thomas O'Leary, PO Box 69, Silver Lake, Oregon 97638
Louisa Hamachek, PO Box 1066, Christmas Valley, Oregon 97641

Exhibit A

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Attachment Q.2: Amended (and Adopted) Site Plan Map – 16 August 2022

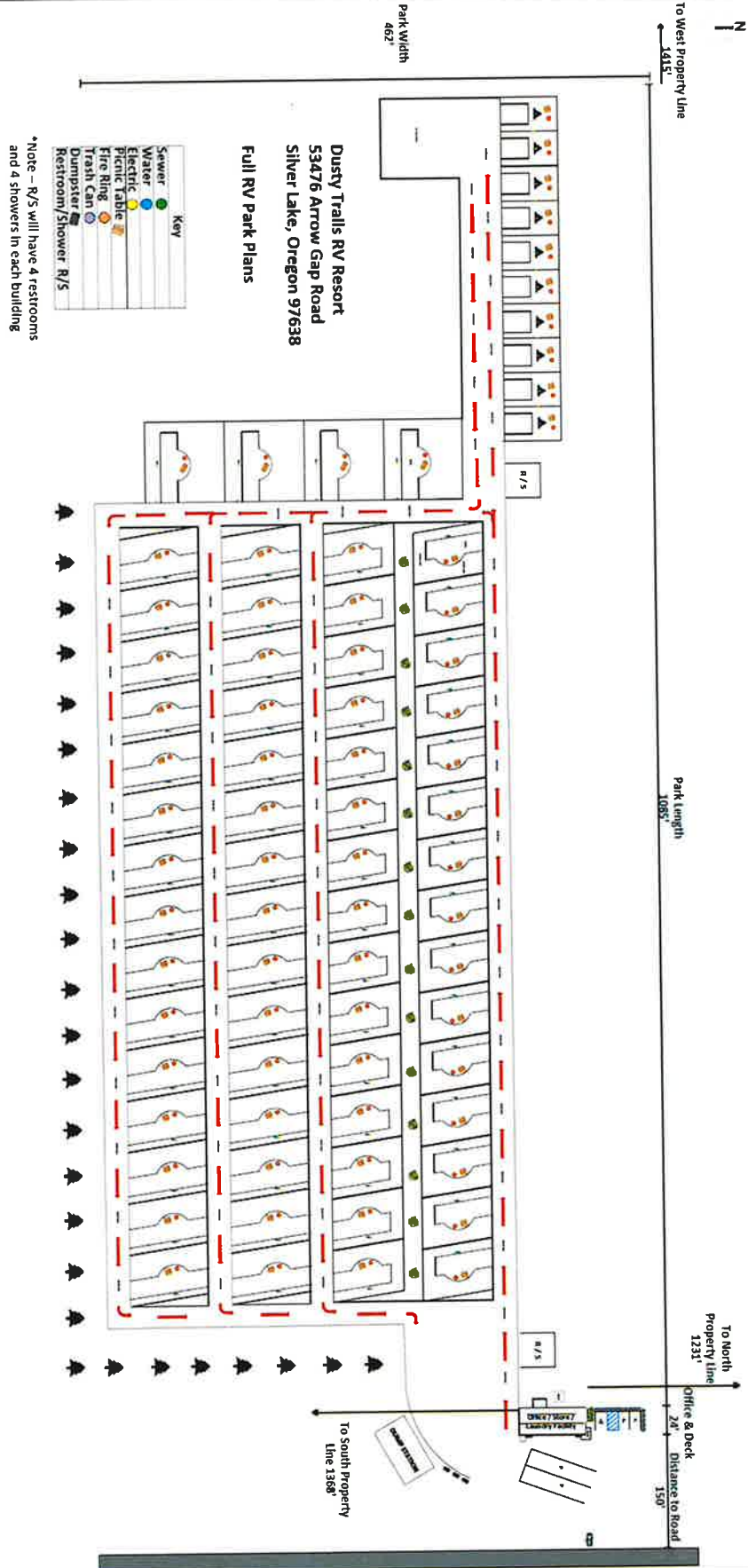


Exhibit A
 Lake County Board of Commissioners
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Attachment C: Adjacent Owners Map – Staff prepared map depicting properties within 750’

