



Community Development Department
PO Box 2460 16345 Sixth Street
La Pine, Oregon 97739
Phone: (541) 536-1432 Fax: (541) 536-1462
Email: info@lapineoregon.gov

Conditional Use Application

PLEASE NOTE: INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Fee: See Current Fee Schedule

File Number #

PROPERTY OWNER AND APPLICANT INFORMATION

Applicant Name Legend Cider, Adrienne Baumann Phone 541.840.9624 Fax

Address 55777 Wagon Master Way City Bend State OR Zip Code 97707

Email adrienne@legendcider.com

Property Owner Adam Szweras Phone Fax NH Oregon Properties LLC

Address 77 King Street W #2905 City Toronto State ON Zip Code M5K 1H1

Email

PROPERTY DESCRIPTION

Property Location (address, intersection of cross street, general area)

16481 Bluewood Place

Legal Description - T-15 R-13 Section Tax Lot(s) 221011CC00803 221011CD01090, 221011CD01002

Present Zoning Commercial (C) Total Land Area (Square Ft.) 0.42 (Acres)

Present Land Use Currently vacant. Property previously included as an edibles marijuana production facility.



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PROJECT DESCRIPTION

Describe Project (explain in detail your proposal i.e. operating characteristics, hours of operation, loading times, etc.): Legend Cider, an existing La Pine business, is moving to this location to continue their cider operations, including cider making, cider retail, tasting room/bar and food carts. The company expects to have six employees in addition to the owners. A portion of the facility will be open to the public for tastings, retail, etc.
No exterior work requiring a site plan is planned.

PROFESSIONAL SERVICES

Land Use Planner Retia Consult, LLC
Architect/Designer/Engineer Tammy Wisco, PE, AICP Phone 210.896.3432 Fax _____
Address PO Box 831 City Bend State OR Zip Code 97709
Email twisco@retiaconsult.com

FOR OFFICE USE ONLY

Date Received: _____
Rec'd By: _____
Fee Paid: _____
Receipt #: _____



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SUBMITTAL REQUIREMENTS

REQUIRED ITEMS TO BE SUBMITTED FOR CONDITIONAL USE PERMIT REVIEW.

Note: additional information may be required depending on the actual project.

- Application. The application must be completed and signed by the property owner and include information requested on the application form.
- Title report or subdivision guarantee, including legal description of property.
- Fee Paid
- Site plan, 7 copies, which must be folded individually, or in sets to 8 ½" X 11" in size, 1 reduced copy of site plan (8 ½ x 11 or 11x17)
- Burden of Proof - written statement addressing applicable conditional use criteria, and the proposed use including hours of operation, number of employees, anticipated traffic generation and so forth.
- Electronic Copy of the Site Plan and Burden of Proof on a CD.

Other information may be required depending on the individual project request.

Burden of Proof Statement Criteria. Conditional use decisions are reviewed based in part on three criteria that the applicant must address, as follows:

1. The proposed use will be consistent with the Comprehensive Plan, the zoning ordinances and other applicable ordinances and standards of the City.
2. The location, size, design, and operating characteristics of the proposed use will have minimal adverse impact on the livability, value, or approximate development of abutting properties



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and the surrounding area.

- 3. The proposed use will not exceed operational capacity of City infrastructure including sewage system, water system or the transportation system.
4. That the proposed use will not conflict with, diminish, or substantially adversely affect the character and nature of the established neighborhood in which it is located.

By signing this application, the undersigned certifies that he / she has read and understands the submittal requirements stated above. Please note: submission of false or misleading information could lead to the denial of this application request.

Owner: [Signature] Date: 11/3/2023 | 9:31 AM PDT
32A4EAB075014F6...
Signature

Applicant: [Signature] Date: [Redacted]
Signature

Please note: additional information may be required by the Planning Division prior to the application being deemed complete. Additional information may include a Fire Flow Analysis prepared by a professional engineer, and a drainage plan, also prepared by a professional engineer.

Preliminary Report

Western Title - Oregon
1777 SW Chandler Ave., Suite 100, Bend, OR 97702

File No.: WT0256105

Property Address: 16481 Bluewood Pl, La Pine, OR 97739

Introducing LiveLOOK

LiveLOOK title document delivery system is designed to provide 24/7 real-time access to all information related to a title insurance transaction.

Access title reports, exception documents, an easy-to-use summary page, and more, at your fingertips and your convenience.

[To view your new Western Title LiveLOOK report, Click Here](#)

The screenshot displays the Western Title LiveLOOK report interface. On the left is a dark blue sidebar with a white 'Western Title & Escrow' logo and a list of navigation items: SUMMARY (highlighted), REPORT, UNLID DOCUMENTS, SUPPLEMENTS, ACTION ITEMS, VESTING, LEGAL DESCRIPTION, TRACT MAP, and AIR/PLAT MAP. Below these items is contact information for Western Title - Oregon: 12345 MAIN STREET, ANYTOWN, CA 90000, and a 'VISIT WEBSITE' button. The main content area is white and titled 'SUMMARY' with a sub-header 'Escrow #: 123067' and a location pin for '12345 Main Street, Tibetown, California'. The report date is 'APRIL 2, 2018 AT 7:10 A.M.'. The summary includes: VESTING: Gen and Sute Seller, husband and wife as joint tenants; ADDRESS: 12345 Main Street, Tibetown, California; PROPERTY TYPE: Single Family Residence; FORM OF POLICY: CITIZEN 2013 Homeowners Policy of Title Insurance, AHA Loan 2006; and EXCEPTIONS: A. Property taxes, which are a lien not yet due and payable; B. Supplemental or escaped assessments if any; C. Payment of Contractual Assessment Required - HERO/RACS; 1. Water rights; 2. Provisions in a deed prohibiting the buying, selling or handling of intoxicating liquors on said Land; 3. Covenants, conditions, and restrictions; 4. Easement; 5. Deed of Trust; 6. Abstract of Judgment. The 'FILE NUMBER: LIVELOOK' and 'PLANT DATE: April 2, 2018 at 7:10 a.m.' are also visible.

Effortless, Efficient, Compliant, and Accessible



PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein Western Title & Escrow Company hereby reports that it is prepared to issue, or cause to be issued, as of the specified date, a policy or policies of title insurance describing the land and the estate or interest hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage of said policy or policies are set forth in Exhibit One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a/an Florida corporation.

Please read the exceptions shown or referred to herein and the Exceptions and Exclusions set forth in Exhibit One of this report carefully. The Exceptions and Exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

This preliminary report is for the exclusive use of the parties to the contemplated transaction, and the Company does not have any liability to any third parties nor any liability until the full premium is paid and a policy is issued. Until all necessary documents are placed of record, the Company reserves the right to amend or supplement this preliminary report.

Countersigned

A handwritten signature in black ink, appearing to read "Fred Freeman", is written over a horizontal line.

Fred Freeman



1777 SW Chandler Ave., Suite 100, Bend, OR 97702
(541)389-5751 FAX (541)330-1242

PRELIMINARY REPORT

TITLE OFFICER: Tyler Friesen
Email: titleofficersupport@westerntitle.com

ORDER NO.: WT0256105
CUSTOMER NO.: 45142307569

TO: Fidelity National Title Company
717 NE Holladay Street
Portland, OR 97232

OWNER/SELLER: NH (Oregon) Properties LLC
BUYER/BORROWER: Legend Cider Company LLC
PROPERTY ADDRESS: 16481 Bluewood Pl, La Pine, OR 97739

EFFECTIVE DATE: September 22, 2023, 05:00 PM

1. THE POLICY AND ENDORSEMENTS TO BE ISSUED AND THE RELATED CHARGES ARE:

	<u>AMOUNT</u>	<u>PREMIUM</u>
ALTA Owner's Policy 2021 Owner's Standard Proposed Insured: Legend Cider Company LLC	\$ 650,000.00	\$ 1,575.00
OTIRO Endorsement No. 110		\$ 0.00
ALTA Loan Policy 2021 Extended Lender's Proposed Insured: To be determined	\$ 625,000.00	\$ 484.00
OTIRO 209.10-06 - Restrictions, Encroachments, Minerals - Current Violations (ALTA 9.10-06)		\$ 100.00
OTIRO 222-06 - Location (ALTA 22-06)		\$ 0.00
OTIRO 208.2-06 - Commercial Environmental Protection Lien (ALTA 8.2-06)		\$ 154.00
Government Lien Search		\$ 90.00

2. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

Fee Simple

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

NH (Oregon) Properties LLC

4. THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF DESCHUTES, STATE OF OREGON, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

EXHIBIT "A"
Legal Description

Lot 4 of BLUEWOOD, recorded March 30, 1995 in Cabinet D, Page 114, Deschutes County, Oregon

TOGETHER with a parcel of land located in the Southeast Quarter of the Southwest Quarter of Section 11, Township 22 South, Range 10, East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Beginning at the Southern most corner of Lot 4 of BLUEWOOD; thence North 00°03'58" East, 60.48 feet; thence South 89°56'00" East, 35.89 feet to the Westerly line of the U.S. Highway 97; thence Southwesterly along the Westerly line of U.S. Highway 97 to the point of beginning.

AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:

GENERAL EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the Land onto adjoining land or of existing improvements located on adjoining land onto the subject Land), encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the subject Land.
5. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

SPECIFIC ITEMS AND EXCEPTIONS:

6. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2023-2024.
7. Unpaid Property Taxes are as follows:

Fiscal Year: 2022-2023
Amount: \$5,298.99, plus interest, if any
Levy Code: 1127
Account No.: [187844](#)
Map No.: 221011CC00803

Unpaid Property Taxes are as follows:

Fiscal Year: 2021-2022
Amount: \$5,166.70, plus interest, if any

Unpaid Property Taxes with partial payment are as follows:

Fiscal Year: 2020-2021
Original Amount: \$4,902.90
Unpaid Balance: \$3,268.60, plus interest, if any
Levy Code: 1127
Account No.: [187844](#)
Map No.: 221011CC00803

Unpaid Property Taxes are as follows:

Fiscal Year: 2022-2023
Amount: \$418.03, plus interest, if any
Levy Code: 1127
[Account No.:](#) [187851](#)
Map No.: 221011CD01002

Unpaid Property Taxes are as follows:

Fiscal Year: 2021-2022
Amount: \$350.31, plus interest, if any

Unpaid Property Taxes with partial payment are as follows:

Fiscal Year: 2020-2021
Original Amount: \$331.22
Unpaid Balance: \$329.22, plus interest, if any
Levy Code: 1127
[Account No.:](#) [187851](#)
Map No.: 221011CD01002

Unpaid Property Taxes are as follows:

Fiscal Year: 2022-2023
Amount: \$86.17, plus interest, if any
Levy Code: 1127
[Account No.:](#) [188887](#)
Map No.: 221011CD01090

Unpaid Property Taxes are as follows:

Fiscal Year: 2021-2022
Amount: \$84.14, plus interest, if any

Unpaid Property Taxes are as follows:

Fiscal Year: 2020-2021
Amount: \$79.87, plus interest, if any

Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

8. Regulations, levies, liens, assessments, rights of way and easements of La Pine Special Sewer District.
9. Rights of the public to any portion of the Land lying within the area commonly known as roads and highways. (Affects Tax Lot 1090)
10. The existence of roads, railroads, irrigation ditches and canals, telephone, telegraph and power transmission facilities. (Affects Tax Lot 1090)
11. Reservation of easement for electric transmission line, including the terms and provisions thereof,

Recording Date: June 20, 1962
[Recording No.:](#) [131-380](#)

12. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: La Pine Special Sewer District
Recording Date: April 28, 1988
[Recording No:](#) [162-2194](#)

13. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: La Pine Special Sewer District
Recording Date: May 9, 1988
[Recording No:](#) [163-1021](#)

14. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: Midstate Electric Cooperative, Inc.
Recording Date: March 13, 1989
[Recording No:](#) [180-680](#)

15. Easements, conditions, restrictions and notes as delineated on recorded plat.

16. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: March 17, 1995
[Recording No:](#) [368-618](#)

17. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: June 9, 1995
[Recording No:](#) [375-2146](#)

18. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: Midstate Electric Cooperative, Inc.
Recording Date: July 1, 1996
[Recording No:](#) [414-2232](#)

19. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: La Pine Special Sewer District
Recording Date: May 28, 1998
[Recording No:](#) [495-1360](#)

20. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: La Pine Special Sewer District
Recording Date: January 16, 2003
[Recording No.:](#) [2003-3503](#)

21. La Pine Urban Renewal Plan, including the terms and provisions thereof,

Recording Date: September 2, 2014
[Recording No.:](#) [2014-28987](#)

22. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$4,000,000.00
Dated: August 8, 2018
Trustor/Grantor: NH (Oregon) Properties LLC, an Oregon limited liability company
Trustee: Deschutes County Title Co.
Beneficiary: Cancor Debt Agency Inc.
Recording Date: October 24, 2018
[Recording No.:](#) [2018-42802](#)

23. A lien for the amount shown below and any other amounts due,

Amount: \$1,326.99
Claimant: City of La Pine
Against: NH Oregon Properties LLC
Recording Date: March 2, 2023
[Recording No.:](#) [2023-04631](#)

24. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$37,000.00
Dated: June 19, 2023
Trustor/Grantor: NH (Oregon) Properties LLC, an Oregon limited liability company
Trustee: Humber Capital Advisors, Inc.
Beneficiary: Linden Road Inc., an Ontario corporation, Adam Szweras, in trust for Fogler Rubinoff LLP, an Ontario limited liability partnership, Robert Wilson, and John Durfy
Recording Date: July 5, 2023
[Recording No.:](#) [2023-16309](#)
Rerecording Date: July 7, 2023
[Rerecording No.:](#) [2023-16589](#)

25. Existing leases and tenancies, if any, and any interests that may appear upon examination of such leases.

26. The Company will require an ALTA/NSPS LAND TITLE SURVEY. If the owner of the Land that is the subject of this transaction is in possession of a current ALTA/NSPS LAND TITLE SURVEY, the Company will require that said survey be submitted for review and approval; otherwise, a new survey, satisfactory to the Company, must be prepared by a licensed land surveyor and supplied to the Company prior to the close of escrow.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

27. The Company has on file a copy of the Operating Agreement for NH (Oregon) Properties LLC, dated March 23, 2017. A copy of any amendments subsequent to the date of said Operating Agreement should be furnished for review prior to closing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

The Oregon Corporation Commission records show that as of September 29, 2023, NH (Oregon) Properties LLC is an active Oregon limited liability company and is currently in good standing.

ADDITIONAL REQUIREMENTS/NOTES:

- A. Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, processing, manufacture, sale, dispensing or use of marijuana and psilocybin, the Company is not able to close or insure any transaction involving Land associated with these activities.
- B. In addition to the standard policy exceptions, the exceptions enumerated above shall appear on the final ALTA Policy unless removed prior to issuance.
- C. Note: There are no matters against the party(ies) shown below which would appear as exceptions to coverage in a title insurance product:

Parties: Legend Cider Company LLC

- D. The Company will require the following documents for review prior to the issuance of any title insurance predicated upon a conveyance or encumbrance from the entity named below.

Limited Liability Company: Legend Cider Company LLC

- a. A copy of its operating agreement, if any, and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- b. If a domestic Limited Liability Company, a copy of its Articles of Organization and all amendment thereto with the appropriate filing stamps.
- c. If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- d. A current dated certificate of good standing from the proper governmental authority of the state in which the entity was created
- e. If less than all members, or managers, as appropriate, will be executing the closing documents, furnish evidence of the authority of those signing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

The Oregon Corporation Commission records show that as of September 29, 2023, Legend Cider Company LLC is an active Oregon limited liability company and is currently in good standing.

- E. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.

- F. If requested to issue an extended coverage ALTA loan policy, the following matters must be addressed:
- a) The rights of tenants holding under unrecorded leases or tenancies
 - b) Matters disclosed by a statement as to parties in possession and as to any construction, alterations or repairs to the Land within the last 75 days. The Company must be notified in the event that any funds are to be used for construction, alterations or repairs.
 - c) Any facts which would be disclosed by an accurate survey of the Land
- G. Note: If an Owner's Title Insurance Policy is requested, the State of Oregon requires every ALTA Owner's Policy (07-01-2021) to include the OTIRO 110 Endorsement as a supplement to the definition of Insured in said Owner's Policy's Conditions to confirm coverage is the same for an Oregon Registered Domestic Partner as it is for a Spouse.
- H. THE FOLLOWING NOTICE IS REQUIRED BY STATE LAW: YOU WILL BE REVIEWING, APPROVING AND SIGNING IMPORTANT DOCUMENTS AT CLOSING. LEGAL CONSEQUENCES FOLLOW FROM THE SELECTION AND USE OF THESE DOCUMENTS. YOU MAY CONSULT AN ATTORNEY ABOUT THESE DOCUMENTS. YOU SHOULD CONSULT AN ATTORNEY IF YOU HAVE QUESTIONS OR CONCERNS ABOUT THE TRANSACTION OR ABOUT THE DOCUMENTS. IF YOU WISH TO REVIEW TRANSACTION DOCUMENTS THAT YOU HAVE NOT SEEN, PLEASE CONTACT THE ESCROW AGENT.
- I. Note: No utility search has been made or will be made for water, sewer or storm drainage charges unless the City/Service District claims them as liens (i.e. foreclosable) and reflects them on its lien docket as of the date of closing. Buyers should check with the appropriate city bureau or water service district and obtain a billing cutoff. Such charges must be adjusted outside of escrow.
- J. Note: This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances or acreage shown thereon.
- K. Note: Recording charge per document for:
Deschutes County - \$93.00 for the first page, \$5.00 for each additional page

E-recording fee is an additional \$5.00 per document

Send Recording Packages to:

Western Title & Escrow Company
Attention: Recording
1777 SW Chandler, Suite 100
Bend, OR 97702
Email: desrecording@westerntitle.com

EXHIBIT ONE
2021 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (07-01-2021)
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement on the Land;
 - iii. the subdivision of land; or
 - iv. environmental remediation or protection.
- b. any governmental forfeiture, police, regulatory, or national security power.
- c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
3. Any defect, lien, encumbrance, adverse claim, or other matter:
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or

- e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser or encumbrancer had been given for the Insured Mortgage at the Date of Policy.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business law.
5. Invalidity or unenforceability of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or Consumer Protection Law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction creating the lien of the Insured Mortgage is a:
 - a. fraudulent conveyance or fraudulent transfer;
 - b. voidable transfer under the Uniform Voidable Transactions Act; or
 - c. preferential transfer:
 - i. to the extent the Insured Mortgage is not a transfer made as a contemporaneous exchange for new value; or
 - ii. for any reason not stated in the Covered Risk 13.b
7. Any claim of a PACA-PSA Trust. Exclusion 7 does not modify or limit the coverage provided under Covered Risk 8.
8. Any lien on the Title for real estate taxes or assessments imposed by a governmental authority and created or attaching between the Date of Policy and the date of recording of the Insured Mortgage in the Public Records. Exclusion 8 does not modify or limit the coverage provided under Covered Risk 2.b. or 11.b.
9. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
5. Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.

2021 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (07-01-2021)
EXCLUSIONS FROM COVERAGE

The following matters are excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions or location of any improvement on the Land;
 - iii. the subdivision of land; or
 - iv. environmental remediation or protection;
- b. any governmental forfeiture, police, regulatory, or national security power
- c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
3. Any defect, lien, encumbrance, adverse claim, or other matter:
 - a. created, suffered, assumed or agreed to by the Insured Claimant;
 - b. not known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;

- d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 9 or 10); or
- e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser had been given for the Title at the Date of Policy.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights law, that the transaction vesting the Title as shown in Schedule A is a:
 - a. fraudulent conveyance or fraudulent transfer, or
 - b. voidable transfer under the Uniform Voidable Transactions Act; or
 - c. preferential transfer:
 - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
 - ii. for any other reason not stated in Covered Risk 9.b.
5. Any claim of a PACA-PSA Trust. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 8.
6. Any lien on the Title for real estate taxes or assessments imposed or collected by a governmental authority that becomes due and payable after the Date of Policy. Exclusion 6 does not modify or limit the coverage provided under Covered Risk 2.b.
7. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
5. Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.

EXHIBIT ONE

2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses that arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning) restricting, regulating, prohibiting or relating to
 - the occupancy, use, or enjoyment of the Land;
 - the character, dimensions or location of any improvement erected on the land;
 - the subdivision of land; or
 - environmental protection;or the effect of any violation of these laws, ordinances or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters
 - created, suffered, assumed or agreed to by the Insured Claimant;
 - not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- resulting in no loss or damage to the Insured Claimant;
 - attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
- Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with the applicable doing-business laws of the state where the Land is situated.
 - Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
 - Any claim, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - a fraudulent conveyance or fraudulent transfer, or
 - a preferential transfer for any reason not stated in the Covered Risk 13(b) of this policy.
 - Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
- Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
- Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.

2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses that arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning) restricting, regulating, prohibiting or relating to
 - the occupancy, use, or enjoyment of the Land;
 - the character, dimensions or location of any improvement erected on the land;
 - the subdivision of land; or
 - environmental protection;or the effect of any violation of these laws, ordinances or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters
 - created, suffered, assumed or agreed to by the Insured Claimant;

- not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - resulting in no loss or damage to the Insured Claimant;
 - attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- Any claim, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - a fraudulent conveyance or fraudulent transfer, or
 - a preferential transfer for any reason not stated in the Covered Risk 9 of this policy.
 - Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage.

SCHEDULE B - GENERAL EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
- Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
- Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.



Inquire before you wire!

WIRE FRAUD ALERT

This Notice is not intended to provide legal or professional advice.
If you have any questions, please consult with a lawyer.

All parties to a real estate transaction are targets for wire fraud and many have lost hundreds of thousands of dollars because they simply relied on the wire instructions received via email, without further verification. **If funds are to be wired in conjunction with this real estate transaction, we strongly recommend verbal verification of wire instructions through a known, trusted phone number prior to sending funds.**

In addition, the following non-exclusive self-protection strategies are recommended to minimize exposure to possible wire fraud.

- **NEVER RELY** on emails purporting to change wire instructions. Parties to a transaction rarely change wire instructions in the course of a transaction.
- **ALWAYS VERIFY** wire instructions, specifically the ABA routing number and account number, by calling the party who sent the instructions to you. DO NOT use the phone number provided in the email containing the instructions, use phone numbers you have called before or can otherwise verify. **Obtain the number of relevant parties to the transaction as soon as an escrow account is opened.** DO NOT send an email to verify as the email address may be incorrect or the email may be intercepted by the fraudster.
- **USE COMPLEX EMAIL PASSWORDS** that employ a combination of mixed case, numbers, and symbols. Make your passwords greater than eight (8) characters. Also, change your password often and do NOT reuse the same password for other online accounts.
- **USE MULTI-FACTOR AUTHENTICATION** for email accounts. Your email provider or IT staff may have specific instructions on how to implement this feature.

For more information on wire-fraud scams or to report an incident, please refer to the following links:

Federal Bureau of Investigation:

<http://www.fbi.gov>

Internet Crime Complaint Center:

<http://www.ic3.gov>

FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

Effective January 1, 2023

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

Collection of Personal Information

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

Collection of Browsing Information

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

Other Online Specifics

Cookies. When you visit an FNF Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

Web Beacons. We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

Do Not Track. Currently our FNF Websites do not respond to "Do Not Track" features enabled through your browser.

Links to Other Sites. FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

Use of Personal Information

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates', and others' products and services, jointly or independently.

When Information Is Disclosed

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to affiliated or nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to affiliated or nonaffiliated third parties with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

Security of Your Information

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

Choices With Your Information

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

For California Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

For Nevada Residents: We are providing this notice pursuant to state law. You may be placed on our internal Do Not Call List by calling FNF Privacy at (888) 714-2710 or by contacting us via the information set forth at the end of this Privacy Notice. For further information concerning Nevada's telephone solicitation law, you may contact: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: aginquiries@ag.state.nv.us.

For Oregon Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

For Vermont Residents: We will not disclose information about your creditworthiness to our affiliates and will not disclose your personal information, financial information, credit report, or health information to nonaffiliated third parties to market to you, other than as permitted by Vermont law, unless you authorize us to make those disclosures.

For Virginia Residents: For additional information about your Virginia privacy rights, please email privacy@fnf.com or call (888) 714-2710.

Information From Children

The FNF Websites are not intended or designed to attract persons under the age of eighteen (18). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

International Users

FNF's headquarters is located within the United States. If you reside outside the United States and choose to provide Personal Information or Browsing Information to us, please note that we may transfer that information outside of your country of residence. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection, transfer, and use of such information in accordance with this Privacy Notice.

FNF Website Services for Mortgage Loans

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice titled When Information is Disclosed, Choices with Your Information, and Accessing and Correcting Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Personal Information. FNF does not share Personal Information collected through the Service Websites, except as required or authorized by contract with the mortgage loan servicer or lender, or as required by law or in the good-faith belief that such disclosure is necessary: to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

Your Consent To This Privacy Notice; Notice Changes

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information in accordance with this Privacy Notice. We may change this Privacy Notice at any time. The Privacy Notice's effective date will show the last date changes were made. If you provide information to us following any change of the Privacy Notice, that signifies your assent to and acceptance of the changes to the Privacy Notice.

Accessing and Correcting Information; Contact Us

If you have questions or would like to correct your Personal Information, visit FNF's [Privacy Inquiry Website](#) or contact us by phone at (888) 714-2710, by email at privacy@fnf.com, or by mail to:

Fidelity National Financial, Inc.
601 Riverside Avenue,
Jacksonville, Florida 32204
Attn: Chief Privacy Officer

BEFORE THE CITY OF LA PINE PLANNING DIVISION

APPLICANT: Legend Cider, Adrienne Baumann, 55777 Wagon Master Way, Bend, OR 97707

OWNER: NH Oregon Properties LLC, Adam Szweras, 77 King St W #2905, Toronto, ON M5K 1H1

LAND USE: Retia Consult LLC, Tammy Wisco, PE, AICP, PO Box 831, Bend, OR 97709

APPLICATION: The Applicant requests approval of a zoning checklist, conditional use permit for a cidery and a mobile food unit site permit for up to two food trucks onsite with the cidery.

SUBJECT PROPERTY: The subject site is located on the east side of Bluewood Place and abutting the west side of Hwy 97. The subject property is comprised of three tax lots (221011CC00803, 221011CD01002, 221011CD01090), addressed as 16481 Bluewood Place, 51611 Hwy 97, and 51609 Hwy 97.

LIST OF EXHIBITS: EXHIBIT A: Title Report
EXHIBIT B: Site Sketch

PROJECT DESCRIPTION:

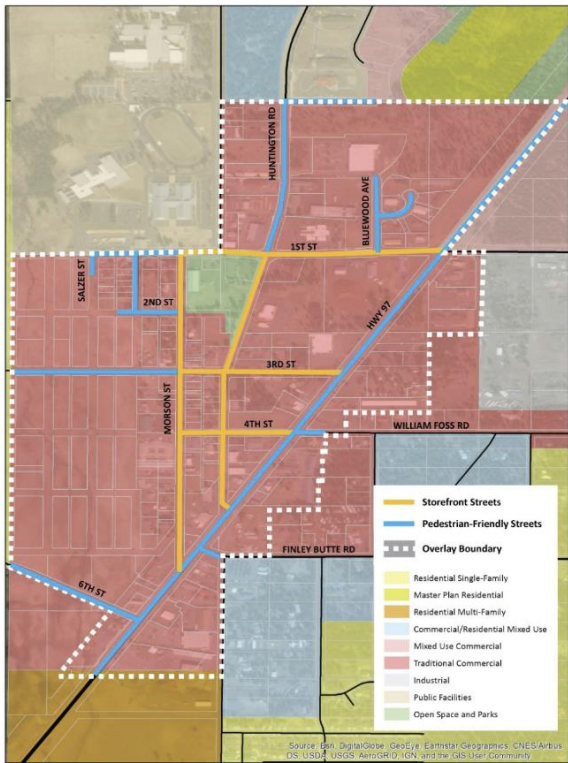
I. APPLICABLE STANDARDS AND CRITERIA:

La Pine Code Title 10 – Development Code
Chapter 15.22 Commercial and Mixed-Use Zones
Chapter 15.40 Downtown Overlay Zone
Chapter 15.108.070 Mobile Food Units
Chapter 15.308 Zoning Checklist
Chapter 15.316 Conditional Uses
Chapter 15.318 Mobile Food Unit Site Permit

II. BASIC FINDINGS:

LOCATION: The subject site is located on the east side of Bluewood Place and abutting the west side of Hwy 97. The subject property is comprised of three tax lots (221011CC00803, 221011CD01002, 221011CD01090), addressed as 16481 Bluewood Place, 51611 Hwy 97, and 51609 Hwy 97.

ZONING: The subject properties are zoned and designated traditional commercial (C) and are within the downtown overlay zone.



PROPOSAL: The Applicant requests approval of a zoning checklist, conditional use permit for a cidery and a mobile food unit site permit for up to two food trucks onsite with the cidery.

SITE DESCRIPTION: The subject properties are developed with a single structure and associated parking, paving and landscaping. The total size of the properties combined is approximately 0.42 acres and was previously utilized as a marijuana edibles processing facility under a conditional use permit but has been vacant for a few years.



SURROUNDING LAND USES: Properties to the north, west and south are also within the traditional commercial zone and are developed with commercial uses (gym, salon, dentist, auto use). A large swath of Highway 97 right of way borders the properties to the immediate east. Bluewood Place right of way is fully built, with sidewalks installed on both sides of the street.

III. **PROPOSED FINDINGS:**

Cidery Land Use Requirements

CHAPTER 15.22. COMMERCIAL AND MIXED-USE ZONES

Sec. 15.22.100. Purpose.

Chapter 15.22 regulates allowed land uses ("uses") and sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development in the commercial and mixed-use zones. The regulations of this chapter are intended to implement the city comprehensive plan.

Sec. 15.22.200. Characteristics of the commercial and mixed-use zones.

Commercial zones accommodate a mix of commercial services, retail, and civic uses, along with residential uses permitted in some circumstances. Four commercial zones provide for the full range of commercial land uses within the city. The zoning district regulations are intended to promote the orderly development and improvement of walkable commercial areas; facilitate compatibility between dissimilar land uses; provide employment opportunities in proximity, and with direct connections, to housing; and to ensure efficient use of land and public facilities.

- A. *Traditional Commercial Zone (C)*. The C zone allows the widest range of commercial uses and limits residential uses in order to preserve land for commercial needs and maintain compatibility between adjacent uses. A portion of the C zone is located in the Downtown La Pine Overlay Zone. The overlay zone restricts some uses and establishes additional design standards to facilitate the development of a pedestrian-oriented downtown area.
- B. *Commercial/Residential Mixed Use Zone (CRMX)*. The CRMX zone is intended primarily as a smaller scale, service and office commercial district, with associated residential that may consist of upper level units. A live-work design concept within the mixed-use district serves as a buffer between the C zone and residential zones. Commercial uses are allowed in the zone but are limited in order to facilitate a mixed-use development pattern.
- C. *Commercial Mixed-Use Zone (CMX)*. The CMX zone is intended to allow for a wide range of both commercial and residential uses. Unlike the CRMX zone, residential uses are not limited and are allowed to be developed on standalone sites. Some commercial uses that may not be compatible with residential uses are prohibited or limited. The CMX zone allows for flexible uses that can respond to market demand.
- D. *Neighborhood Commercial Zone (CN)*. The CN zone allows commercial uses that are intended to serve neighboring residential neighborhoods and are generally compatible with residential uses.

RESPONSE: The subject properties are within the Traditional Commercial Zone as well as within the Downtown Overlay Zone. Compliance with the applicable requirements of each of these zones is addressed below.

Sec. 15.22.300. Use regulations.

Uses may be designated as permitted, limited, conditional, or prohibited in the commercial and mixed-use zones. As noted in Table 15.22-1, a use may also be subject to special use standards of article 6.

- A. *Permitted uses (P)*. Uses allowed outright in the commercial and mixed-use zones are listed in Table 15.22-1 with a "P." In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.

 - B. *Limited uses (L)*. Uses allowed in the commercial and mixed-use zones subject to limitations are listed in Table 15.22-1 with an "L." The limitations are defined below and correspond with the footnote numbers in Table 15.22-1. In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.
 - 1. *Marijuana facilities in the C and CMX zones*. Allowed marijuana facilities in the C and CMX zone[s] are limited to marijuana testing laboratories. Marijuana production or processing uses are prohibited.
 - 2. *Mixed use development in the CRMX zone*. Non-residential uses noted with a (2) are allowed in combination with residential uses in the CRMX zone if the nonresidential uses are limited to a total of 60 percent of the gross floor area of all uses in the development. Business parks and funeral homes are prohibited nonresidential uses.
 - 3. *Wireless telecommunication facilities in the CRMX and CMX zones*. Communication antennas mounted on existing buildings, structures, or public utility transmission towers are permitted outright. Communication towers require a conditional use permit.
 - 4. *Retail sales and service in the CMX zone*. Automobile, RV, and truck sales uses require a conditional use permit. Funeral homes are prohibited. All other retail sales and service uses are permitted outright.
 - 5. *Commercial lodging in the CN zone*. Commercial lodging uses in the CN zone are limited to bed and breakfast inns.
 - 6. *Retail sales and service in the CN zone*. Automobile, RV, and truck sales and funeral homes are prohibited in the CN zone. Veterinary clinics and kennels require a conditional use permit. All other retail sales and service uses are permitted outright.
 - 7. *Parks and open areas in the CN zone*. Cemeteries require a conditional use permit in the CN zone. All other parks and open areas uses permitted outright.

 - B. *Conditional uses (CU)*. Uses which are allowed if approved through the conditional use review process are listed in Table 15.22-1 with a "CU." These uses are allowed, provided they comply with the conditional use requirements of chapter 15.316, conditional uses. Uses listed with a "CU" that also have a footnote number in the table are subject to the regulations cited in the footnote.

 - D. *Prohibited uses (N)*. Uses listed in Table 15.22-1 with an "N" are prohibited. Existing uses in categories listed as prohibited may be subject to the regulations of chapter 15.08, non-conforming uses and structures.
-

Table 15.22-1. Use Regulations in the Commercial and Mixed-Use Zones

Use Category	C	CRMX	CMX	CN	Special Use Standards
<i>Residential Use Categories</i>					
Household Living	—	—	—		—
- Single-family dwelling	CU	P	P	P	—
- Cottage cluster development	P	P	P	P	Section 15.104.050
- Townhome	CU	P	P	P	Section 15.104.020
- Duplex	P	P	P	P	Section 15.104.030
- Multi-family development	P	P	P	P	Section 15.104.040
- Manufactured dwelling	CU	P	P	P	—
- Manufactured dwelling park	P	P	P	P	Section 15.104.060
- Accessory dwelling unit	P	P	P	P	Section 15.104.010
- Residential care home	CU	P	P	P	Section 15.104.080
Group Living	—	—	—	—	—
- Room and board facility	CU	CU	CU	CU	—
- Residential care facility	P	P	P	P	Section 15.104.080
- Long-term care facility	P	CU	CU	P	—
<i>Commercial Use Categories</i>					
Campgrounds and RV parks	N	CU (2)	CU	CU	Section 15.108.020
Commercial lodging	P	L (2)	P	L (5)	—
Commercial parking	CU	L (2)	P	N	—
Commercial recreation	P	L (2)	P	P	Section 15.108.030
Eating and drinking establishments	P	L (2)	P	P	Mobile food unit sites subject to Section 15.108.070
Marijuana dispensary	P	N	P	N	Section 15.108.050
Quick vehicle servicing	P	CU	CU	N	—
Office	P	L (2)	P	P	—
Retail sales and service	P	L (2)	L/CU (4)	L/CU (6)	—
Vehicle repair	P	N	CU	N	—
Self-service storage	N	N	P	CU	—
<i>Industrial Use Categories</i>					
Artisanal and light manufacturing	CU	N	N	CU	Section 15.108.010
Automotive wrecking, salvage, and junk yards	N	N	N	N	—
Industrial service	N	N	N	N	—
General manufacturing and production	N	N	N	N	—
Marijuana facilities	L (1)	N	L (1)	N	Section 15.108.050
Wholesale sales	N	N	N	N	—
Warehouse and freight movement	N	N	N	N	—
Waste treatment and recycling	N	N	N	N	—
<i>Institutional Use Categories</i>					
Basic utilities	P	P	P	P	—
Colleges	P	L (2)	P	CU	—
Community services	P	L (2)	P	CU	—
Daycare centers	P	L (2)	P	P	—
Medical centers	CU	N	N	N	—
Parks and open areas	P	L (2)	P	L/CU (7)	—
Religious institutions	P	L (2)	P	P	—
Schools	P	L (2)	P	P	—
<i>Other Use Categories</i>					
Agriculture	N	L (2)	P	CU	Section 15.108.080
Forestry	P	L (2)	P	P	—
Mining	N	N	N	N	—
Wireless telecommunication facilities	P	L/CU (3)	L/CU (3)	C	Section 15.108.110

RESPONSE: The proposed project includes a cidery with an accessory tasting area and two mobile food units. The mobile food units are classified as an “eating and drinking establishment” and are a permitted use in the commercial zone, subject to the requirements of 15.108.070. Compliance with Section 15.108.070 is demonstrated herein.

Per the definition in LPDC 15.14.300 below, the cidery/distillery portion of the project is classified as “light manufacturing”:

“Definition. Artisanal and light manufacturing uses are involved in the fabrication, production, and distribution of goods that do not produce nor cause to be produced noise, glare, vibration, air pollution, fire hazard, or emissions, that is noxious, dangerous, or a nuisance to neighboring properties. The manufacturing activity takes place within an enclosed structure. Retail sales of goods may occur sold on-site, as well as instructional services for the public.”

Light manufacturing requires a conditional use permit. Compliance with all condition use permit requirements is demonstrated below.

Sec. 15.22.400. Development standards.

- A. *Purpose.* The development standards for commercial and mixed-use zones allow development flexibility, within parameters, that supports the intended characteristics of the specific zone. In addition, the regulations provide guidance to property owners, developers, and neighbors about the limits of what is allowed.
- B. *Development standards.* The development standards for commercial and mixed-use zones are presented in Table 15.22-2. Development standards may be modified as provided by chapter 15.320, variances. Additional standards may apply to specific zones or uses, see section 15.22.500.

Table 15.22-2. Development Standards in the Commercial and Mixed-Use Zones

<i>Standard</i>	<i>C</i>	<i>CRMX</i>	<i>CMX</i>	<i>CN</i>
Minimum lot width	None	None	None	25 feet
Minimum setbacks	—	—	—	—
- Front or street-side yard	20 feet	20 feet	20 feet	20 feet
- Side yard	None	10 feet; None for townhomes	10 feet; None for townhomes	10 feet; None for townhomes
- Rear yard	None	10 feet	10 feet	15 feet
Maximum building height	70 feet	45 feet	45 feet	45 feet
Maximum lot coverage	80%	60%	60%	50%
Minimum landscaped area	See 15.18.500 and chapter 15.82			
Minimum and maximum density	Residential and mixed-use developments are subject to the minimum and maximum density standards of the RMF zone (see section 15.18.500).			

RESPONSE: The building and site are existing and no site improvements are proposed that will affect the compliance with the development standards of Table 15.22-2. A site plan is not required as no structures are proposed to be constructed or expanded and the existing development standards of the lot will remain with this proposed project. As the subject properties are within the commercial zone, there is no minimum lot width and no minimum side or rear yard setbacks. The existing building height and lot coverage are well under the allowed maximums and the density requirements do not apply for commercial uses.

Sec. 15.22.500. Additional standards.

- A. *Corner lot frontages.* For commercial uses located on corner lots where one street is predominantly residential, and one street is predominantly commercial, any commercial structure shall front on the street that is predominantly commercial.

RESPONSE: The subject properties are do not have corner lot frontages; this section does not apply.

- B. *Landscaping standard.* Any portion of a lot developed for commercial uses which are not used for buildings, other structures, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas shall be planted and maintained with grass or other all-season groundcover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged. See additional landscaping and buffering standards in article 5.

RESPONSE: Any area that is not utilized for buildings, mobile food units, parking/loading/maneuvering areas, and sidewalks will be landscaped and maintained.

- C. *Screening requirements.*

1. *Outdoor activities.* Any business, servicing, or processing shall be conducted within a completely enclosed building, except for parking and loading facilities and for "drive-in" type establishments offering goods or services to customers waiting in parked motor vehicles.
2. *Outdoor storage.* All areas of a site containing or proposed to contain outdoor storage of materials, equipment, and vehicles, and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscurating fence, wall, landscape screen, or combination of screening methods. See additional buffering and fence standards in article 5.
3. *Outdoor merchandise display.* The outdoor display of merchandise for sale is not required to be screened from view, provided that all merchandise is located behind building setback lines unless otherwise approved by the city (e.g., to allow sidewalk sales).

RESPONSE: All processing and cidery business activities are proposed to be contained entirely within the existing structure. Mobile food units and associated activities will occur outside the building, however, that use is reviewed and approved according to LPDC 15.108.070 and 15.318, both of which are addressed below.

- D. *Vehicle access.* Access driveways and entrances shall be permitted in a number and locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired, and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access. The city may require the permit applicant to submit engineering data and/or traffic analyses to support its proposed plan of access driveways and entrances. See additional access and circulation standards in article 5.

RESPONSE: The driveway is existing, with adequate site distance. No highway traffic is affected by the site as there is no nearby highway access. As no site plan changes are

proposed and a site plan application is not required, no further analysis of the access is necessary.

- E. *Emissions.* No use shall emit any noxious, toxic, or corrosive fumes or gases nor shall it emit any offensive odors.

RESPONSE: The proposed use as a cidery is not known to emit noxious, toxic or corrosive fumes, gases or offensive odors. Legend Cider currently operates in La Pine and the City has never received a complaint for these emissions-related concerns. As such, the proposed use complies with this requirement.

- F. *Noise.* All uses shall provide necessary shielding or other protective measures against interference occasioned by mechanical equipment or uses or processes with electrical apparatus.

RESPONSE: The proposed use as a cidery is not known to have noises that necessitate shielding or protective measures against interference. Legend Cider currently operates in La Pine and the City has never received a complaint for this issue. As such, this section does not apply.

- G. *Lighting.* All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.

RESPONSE: The surrounding properties are commercial in nature, so exterior lighting will not impact residential areas. String lights will be utilized in the mobile food unit area, to provide low level ambience lighting that is not impactful to adjacent properties.

CHAPTER 15.40. DOWNTOWN OVERLAY ZONE

Sec. 15.40.010. - Purpose.

The purpose of the downtown overlay zone is to create a pedestrian-oriented downtown area that will serve as the center of commercial and civic activity in the community and as a destination for residents and visitors. Pedestrian-oriented places provide visual interest at eye-level, feel safe and comfortable for people walking, contain a variety of activities and services, are easy to navigate on foot, and provide open areas and amenities for gathering and resting. This overlay zone modifies the regulations of the underlying base zones to ensure pedestrian-oriented land uses and design. Within the overlay, streets have been designated as either "Storefront Streets" or "Pedestrian-Friendly Streets."

A. *Storefront streets.* Storefront streets prioritize the pedestrian experience. These streets provide places to walk that are not only safe and comfortable, but that also provide visually interesting and engaging experiences. This is achieved through placing buildings closer to the street, designing buildings with architectural detail, and encouraging storefront shopping.

B. *Pedestrian-friendly streets.* Pedestrian-friendly streets balance the pedestrian experience with the need to accommodate a range of development types. These streets are safe and

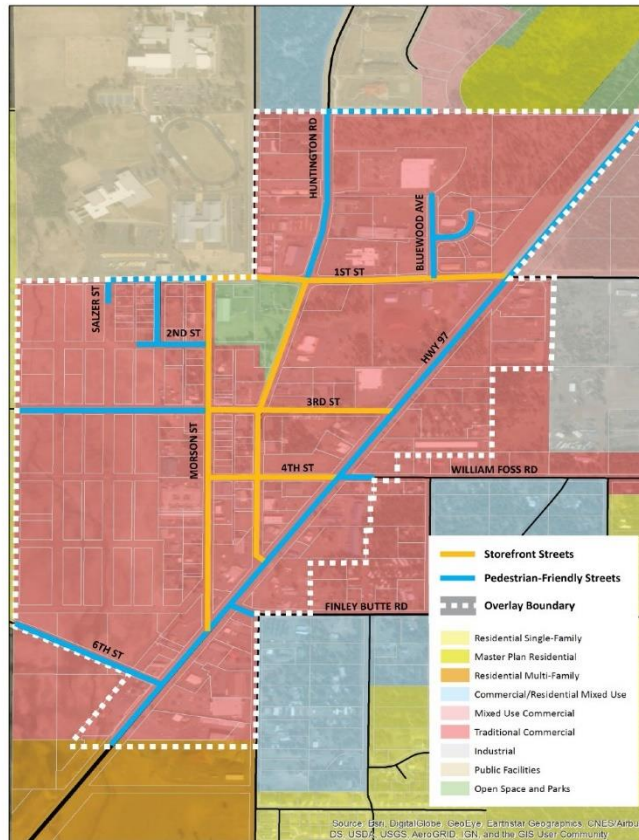
comfortable for pedestrians. Buildings are encouraged to be placed close to the street, but not required. Other standards are relaxed slightly to provide flexibility in design while maintaining a pedestrian-friendly environment.

RESPONSE: Bluewood Place is classified as a pedestrian-friendly street in the downtown overlay zone map below. The proposed mobile food units embrace the vision/purpose of the pedestrian-friendly streets to bring activities closer to the street to engage and encourage pedestrian traffic.

Sec. 15.40.020. Applicability.

- A. *Zone boundary and street designations.* The boundaries of the downtown overlay zone are depicted in Figure 15.40-1. The standards of this chapter apply to development and redevelopment on properties within this boundary. Specific standards within this chapter apply to properties abutting streets designated as storefront streets and pedestrian friendly streets, as shown on Figure 15.40-1.

Downtown Overlay Zone Map



- B. *New buildings.* The standards of this chapter apply to all buildings subject to site plan review that include over 200 square feet in floor area.
- C. *Expansions and alterations to existing nonresidential buildings.* The standards of this chapter apply to expansions and alterations to nonresidential buildings that are subject to

site plan review, in accordance with chapter 15.312. The standards are applicable as follows:

1. Expansions or additions to nonresidential buildings of over 500 square feet that are visible from a public street or public space are required to be in conformance with the standards of this chapter. The standards only apply to the expansion or addition.
 2. Expansions or additions to nonresidential buildings that front a storefront street must not increase the length of street-facing facade that does not conform to the build-to-line standard and must, to the extent feasible, reduce the area dedicated to parking and vehicular circulation between the building and the right-of-way (See Figure 15.40-2).
 3. Expansions or additions to nonresidential buildings that front a pedestrian-friendly street must, to the extent feasible, reduce the area dedicated to parking and vehicular circulation between the building and the right-of-way.
 4. Exterior alterations or remodels of existing nonresidential buildings that do not conform to the standards for ground floor windows, weather protection, and architectural design must improve compliance with these standards where possible, and at a minimum must not increase nonconformance.
- D. *Expansions and alterations to parking and vehicle circulation areas.* Expansions or alterations to existing parking and vehicle circulation areas must not increase non-conformity with the standard for location of parking areas (15.40.060.B).

RESPONSE: The proposed project includes a change of use inside an existing building, with no new buildings, no expansion of existing buildings and no expansions or alterations to parking and vehicular circulation areas. As such, the requirements of the Downtown Overlay Zone are not applicable. However, in the spirit of keeping with the purpose of the overlay zone “to create a pedestrian-oriented downtown area that will serve as the center of commercial and civic activity in the community and as a destination for residents and visitors”, the only external changes on the site include adding two mobile food units to the site, between the building and the street. The visibility of these carts will invite pedestrian traffic by creating an amenity for gathering, engaging, and resting.

CHAPTER 15.308. ZONING CHECKLIST

Sec. 15.308.010. Applicability.

A zoning checklist shall be required for any of the following (except where otherwise indicated in this Development Code):

- A. Commencing a use, changing a use or intensity of use, or extending or displacing the use of any building, structure, and/or land in the city.
- B. Construction, erection, enlargement, reconstruction, or structural alteration of any single-family dwelling (including placement of a mobile or manufactured home on a property), duplex, or accessory dwelling unit and any other structure accessory to a residential use that requires a building permit.

RESPONSE: The proposed use is a cidery and accessory tasting room within an existing structure that was previously permitted for marijuana processing. No exterior building construction or expansion is approved, so approval of a zoning checklist for a change of use is requested.

Sec. [15.308.020.] Procedure type.

Zoning checklists are subject to Type I review in accordance with the procedures in article 7. Notwithstanding anything in this chapter to the contrary, the city planning official may require site plan approval if the city planning official determines the proposal would require a greater number of parking spaces than presently provided on the site, require an upgrade in water or sewer infrastructure to serve the proposed use, or would require a new point of access.

RESPONSE: The Type I review process is acknowledged by the applicant. As a conditional use permit is also required, the zoning checklist is being submitted with the other land use applications. The City Engineer has visited the site and confirmed that the appropriate water and sewer infrastructure is in place on site and adequate to serve the proposed cidery use.

Sec. 15.308.030. Submittal requirements.

The following materials shall be submitted, provided that the city planning official may waive one or more of these requirements upon finding that the building permit application provides sufficient information:

- A. *Forms of application.* The application for a zoning checklist shall be submitted in such form as the city may prescribe and shall be accompanied by the applicable fee.
- B. *Site plan diagram.* All applications shall be accompanied by a site plan diagram. The site plan shall be drawn to a suitable scale and shall clearly and accurately show property lines, dimensions of buildings and lots, both existing and proposed, abutting streets and sidewalks, proposed uses of buildings and lots, north arrow and scale, and any other information which the city may require to make a decision. One copy shall be returned to the applicant indicating approval or disapproval; one copy shall be retained by the city.
- C. *Additional application requirements for uses specified.* An application for a use specified shall be accompanied by additional information and drawings as appropriate to demonstrate how the proposed use and the design of that use will comply with the applicable conditions, criteria, and standards specified in this Development Code and/or applicable land use approvals. If such use is a conditional use, further information and drawings may be required by the city to address compliance with any other conditions imposed by the city.

RESPONSE: All application materials for the zoning permit checklist are being submitted with the land use application package. Additionally, conditional use requirements are addressed herein.

Sec. 15.308.040. Approval criteria.

The review authority shall be governed by the criteria below as they evaluate and render a decision on a proposal.

- A. The proposed use is a permitted use in the zone in which the site is located. If the proposed use is a conditional use, a conditional use application has been submitted and approved by the city.

RESPONSE: The proposed uses are discussed above in Section 15.22 Commercial and Mixed Use Zones. In summary, the mobile food units are a permitted use and the cidery is a conditional use in the commercial zone. The criteria for the conditional uses are addressed below in Section 15.316.

B. The site provides the required number of bicycle and vehicle parking spaces.

RESPONSE:

Vehicle Parking: The parking analysis considers two use categories: light manufacturing and mobile food units. The parking requirements, per Table 15.86-1 are:

*Manufacturing and production: One space per 1,000 sq. ft. of floor area;
Mobile food units: one space per 200 sq. ft. floor area*

The future cidery is approximately 4890 square feet, resulting in five required parking spaces. The code does not include specific parking requirements for mobile food units, however, in Table 15.22-1, mobile food units are a subset of eating and drinking establishments, so the applicant is utilizing the parking ratio for restaurants and bars. As the code does not define mobile food unit parking requirements, it also does not define what areas (carts only, table areas, etc.) of a mobile food unit amenity are utilized to calculate the number of spaces required. To be overly conservative, the applicant is providing the full square footage of the area that contains the mobile food units, seating area and sidewalks to/from/between the units. This full square footage is under 600 square feet, yielding three required spaces (600/200). The combined required vehicle parking for a manufacturing facility and the proposed mobile food units is 8 spaces.

The existing site is developed with 15 existing parking spaces, in compliance with the parking requirements for the proposed uses on the site.



Bicycle Parking: Minimum bicycle parking requirements for the proposed uses, per Table 15.86-3 are:

Commercial: 2 bike spaces per primary use or 1 per 5 vehicle spaces, whichever is Greater

Industrial: 2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater

To be conservative with the bicycle space estimates, two bike spaces for each use will be installed to comply with these requirements, for a total of four bicycle spaces.

- C. The proposal complies with the standards and criteria applicable to the proposed use.

RESPONSE: The development code does not include specific standards and criteria for cideries. The mobile food unit code requirements are discussed and compliance is demonstrated herein, in Section 15.108.

- D. The proposal does not violate applicable set back or lot coverage requirements.

RESPONSE: As the subject properties are within the commercial zone, there is no minimum lot width and no minimum side or rear yard setbacks. The existing building height and lot coverage are well under the allowed maximums and the density requirements do not apply for commercial uses.

- E. The proposal complies with any applicable conditions of approval in prior land use decisions concerning the site.

RESPONSE: The previous land use decision was a conditional use permit for a marijuana processing facility in 2016 (SPR 2016-08CU). The conditions of approval for that application were general in nature, referencing the conditional use criteria that are also addressed in this application. No outstanding conditions of approval from previous land use decisions exist. As such, this criterion is met.

CHAPTER 15.316. CONDITIONAL USES

Sec. 15.316.010. Applicability.

Conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this chapter. In the case of a use listed as conditional existing prior to the effective date of this Development Code, a change in use, enlargement or alteration of such use shall conform with the provisions of a conditional use if so classified. Any new or transferred owner or assign is required to abide by the authorized permit. An application for a conditional use permit may be approved, modified, approved with conditions or denied by the city.

Sec. 15.316.020. Procedure type.

Applications for conditional use approval are subject to Type II review in accordance with the procedures in article 7 unless elevated by the city planning official to a Type III review.

Sec. 15.316.030. Submittal requirements.

Applications for conditional use approval, if not submitted concurrently with an application for site plan review, shall, at a minimum, include the materials required for a Type II review as specified in article 7 as well as a site analysis diagram (see 15.312.040.B) and a site development plan (see 15.312.040.D). An application for a conditional use permit shall also contain a narrative report or letter responding to the applicable approval criteria in section 15.316.040. The city may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Development Code.

RESPONSE: As no changes are proposed to the existing structure or site plan, an engineered site plan is not being submitted. However, in compliance with these submittal requirements, a site diagram and development plan are submitted to demonstrate the existing layout of the property. This document serves as the required narrative. No additional studies are necessary, as the use as a cidery is not associated with impacts of excessive noise, traffic, environmental issues, or natural hazards.

Sec. 15.316.040. Approval criteria.

In determining whether or not a conditional use proposal shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval:

- A. The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable overlay zone, and other provisions set forth by this Development Code that are determined applicable to the subject use.

RESPONSE: The subject site is zoned traditional commercial (C) and is within the downtown overlay zone. The requirements and associated compliance of the proposed applications with the requirements of the applicable zone and overlay zone is detailed above.

- B. That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.

RESPONSE: Legend Cider is currently operating under a license from the OLCC as a cidery on another site within the city limits. The company is currently in the process of licensing this new space with the OLCC, TTB, and Department of Agriculture.

- B. The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this Development Code.

RESPONSE: The conditional use application is requested for the processing portion of the cidery, which fits into the light manufacturing category. No specific standards, conditions or limitations are required for this use in the applicable zone or in the development code.

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- D. That no approval be granted for any use which is or [is] expected to be found to exceed resource or public facility carrying capacities, including, but not limited to, transportation water, sewer, and utility systems.

RESPONSE: The proposed use (cidery/mobile food units) is relocating into an existing structure that is currently connected to City water, sewer and transportation services that are sized to adequately to serve the property for commercial zone purposes. Nothing about the proposed use (previous usage, industry standards, etc.) suggests that it is an unusually higher utilizer of these services. The City Engineer has visited the site and confirmed that all water and sewer (including grease trap) infrastructure is available and meets code requirements. The existing utilities have been determined to be adequate for the proposed uses.

- E. For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.

RESPONSE: Legend Cider is currently operating under a license from the OLCC as a cidery on another site within the city limits. The company is currently in the process of licensing this new space with the OLCC, TTB, and Department of Agriculture. Further, the City Engineer has visited the site and confirmed that all water and sewer (including grease trap) infrastructure is available and meets code requirements.

Sec. 15.316.050. Permit and improvements assurance.

An applicant for a conditional use permit may be required to furnish the city with a performance bond or other form of assurance in an amount equal to the estimated value of required improvements and other aspects of a proposed use as deemed necessary to guarantee development in compliance with the standards and conditions set forth in the approval of a conditional use.

RESPONSE: No specific improvements are required related to the conditional use of a cidery, as all infrastructure is currently in place. As such, no performance bonds are proposed or anticipated.

Mobile Food Units Land Use Requirements

CHAPTER 15.108. SPECIAL USE STANDARDS – NON-RESIDENTIAL USES

Sec. 15.108.070. Mobile food units.

- A. *Applicability.* The following standards apply to the setup and operation of mobile food units and mobile food unit sites. Mobile food unit sites are required to obtain a permit, in accordance with chapter 15.318. The following uses are exempt from the standards of this section:

1. Locations where mobile food units are stored when not in operation; however, the storage of commercial vehicles may be subject to other requirements of this Development Code.

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2. Mobile food units and other mobile vending units that are operated as part of a city-approved event.

RESPONSE: An exemption is not requested.

B. *Mobile food unit site standards.* The following standards apply to mobile food unit sites:

1. *Zoning.* Mobile food unit sites are not permitted in residential zones, but are permitted, as restricted, within the commercial and industrial district use tables found within this Development Code.

RESPONSE: The subject property is zoned commercial and mobile food units are a permitted use in the zone, subject to the requirements of this section (15.108.070).

2. *Accessory items and structures.* Trash receptacles for customer use shall be maintained no more than ten feet from the mobile food units. Portable accessory items, such as picnic tables, are permitted. With Type II approval, new accessory structures may be constructed, as follows:
 - a. A maximum of two restroom structures, provided that the combined square footage does not exceed 200 square feet;
 - b. One trash enclosure; and
 - c. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g., decks, picnic shelters), provided that the square footage does not exceed 200 square feet per mobile vending unit and that no single structure exceeds 200 square feet.

RESPONSE: Trash receptacles for customer use are proposed within ten feet of the mobile food units, as shown on the submitted plan. As a Type I application, no accessory items or structures are proposed.

3. *Signs.* Signs are restricted to one "A-Frame" sign only which shall not exceed three feet in height and two feet wide. Signs shall not be placed in the right-of-way or off-premises.

RESPONSE: Mobile food cart unit standalone signs will not be placed in the right-of-way and will be limited to A-Frame signs as allowed.

4. *Minimum setbacks and separation distance.* All mobile food units on the site shall be located a minimum of:
 - a. Five feet from any structure or other mobile food unit;
 - b. Ten feet from any front lot line; and
 - c. Five feet from any side or rear lot line, except if such lot line abuts a residential district, the minimum setback shall be 20 feet.

RESPONSE: The proposed mobile food units will be placed in the front of the existing structure, but there is ample space available between the structure and the right-of-way to achieve the 10-foot setback to the front lot line. Additionally, the site sketch notes that the units will be at least five feet from the structure. The placement of the mobile food units at the front center of the lot provides significant distance from the

side and rear lot lines, well exceeding the minimum five-foot requirement. Minimum setbacks and separation distance will be met with the proposed layout.

5. *Screening.* If the mobile food unit site is located less than 20 feet from a residential zoning district, the residential property shall be screened from the mobile food unit site, which may be a portion of a property including the mobile food unit, seating, queuing, etc., abutting the residential zoning district and may not necessarily extend to the shared property line. Required screening:
 - a. May be provided by an existing, continuous, sight-obscuring structure, fence, or hedge;
 - b. If new, shall be a continuous, sight-obscuring vegetative screen; or if fencing is utilized as screening, shall be stained cedar or ornate metal. Chain-link fencing with slats shall not qualify as acceptable screening material; and
 - c. Shall have a minimum height of six feet.

RESPONSE: The subject property, and therefore, proposed mobile food unit site, is not located within 20 feet of a residential zoning district. As such, these screening requirements do not apply.

6. *Setback from vehicular and pedestrian use areas.* Windows and doors used for service to customers shall be located a minimum of ten feet from loading areas, driveways, on-site circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.

RESPONSE: The service windows for both mobile food units will face south and west, greater than ten feet away from the right-of-way, driveways, loading areas and parking areas. Bicycle parking will be located in the southwest corner of the lot, greater than five feet from the mobile food unit service windows, but within a convenient walk.

7. *Obstruction of vehicular and pedestrian use areas and landscape areas.* No mobile food unit or associated element, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, or walkways. Mobile vending units shall not occupy landscaping areas approved as part of a prior design review or other land use application. However, occupying existing on-site automobile parking spaces is permitted.

RESPONSE: The mobile food units will be located between the building and the street, an area currently not utilized, in order to comply with these requirements. By locating them in this area, which is between the driveways, the mobile food units and associated elements can be contained in an area that does not occupy areas for bicycle parking, pedestrian activity or vehicle loading/maneuvering. This reduces vehicle-pedestrian conflicts and creates a safer and more enjoyable area for pedestrians and customers. Further, the previous land use application (conditional use permit for a marijuana processing facility) was not conditioned upon this proposed area being used for landscaping.

8. *Surfacing.* All mobile food units shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on

existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented site plan review approval for the site.

RESPONSE: A site plan is not required for this application, as it is currently developed and no structures are being constructed or modified. As such, the parking, loading and maneuvering areas are already developed through previous site plans, however, they are hard surfaces, as required by this section. The mobile food units will be placed in front of the existing building, where customers will be able to access them from an asphalt surface.

9. *Driveway access.* No new or modified driveway access is permitted.

RESPONSE: The driveway access to Bluewood Place is existing and no changes are proposed, in compliance with this requirement.

10. *Clear vision areas.* The mobile food unit and any attachments or accessory items shall comply with the clear vision area standards of section 15.88.040.

RESPONSE: The mobile food units will be setback from the street and driveways, outside of the clear vision triangle areas and in compliance with these requirements.

11. *Lighting.* Outdoor lighting shall be required per this chapter if not already provided by an existing use.

RESPONSE: The site is already developed and includes existing lighting, however, this lighting will be upgraded to LED lighting. String lights will also be added for the food cart area, to provide ambience lighting without impacting neighbors.

12. *Utilities.* To the extent that utilities are desired by the applicant or required by applicable regulations, mobile vending units shall have self-contained utilities, or if on-site utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:

- a. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
 - i. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent on-site by each unit.
 - ii. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
- b. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
- c. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.

RESPONSE: The mobile food units will access City water and permitted electricity sources from the existing building. As allowed by this section and to the extent permitted by the Oregon Electrical and Plumbing Specialty codes, these utilities will be connected above ground. The placement of the mobile food units was designed such that these above ground connections do not cross the pedestrian travel ways. The mobile food units will be placed in close proximity to the grease traps to facilitate direct connection of the units to the trap.

13. *Sanitation facilities.* Existing restrooms within a building on the same lot shall be utilized and remain available to the public as long as the cart is open for business. For five carts or more or where no restrooms exist on the same lot, permanent restrooms shall be constructed.

RESPONSE: The existing building includes restrooms inside, which will be open and available for use by the patrons of the mobile food units. As only two mobile food units are proposed and existing bathrooms will be available, permanent restrooms are not required and the site is in compliance with this requirement.

14. *Sewage disposal.* Subsurface sewage disposal is prohibited.

RESPONSE: The existing building is connection to City sewer. No subsurface sewage disposal is proposed, in compliance with this requirement.

15. *Central pavilions.* Outdoor seating areas, which may have roofs, floors, walls, railings, etc. are permitted with a Type III mobile food unit site permit, provided that the combined square footage does not exceed 200 square feet per mobile vending unit and that no single structure exceeds 5,000 square feet in size.

RESPONSE: No central pavilions are proposed.

16. *Vendor parking.* For any mobile food unit site requiring a Type II approval, vendor parking shall be provided in addition to the off-street parking requirements of section 15.86.030 at the rate of one parking stall per mobile food unit. Vendor parking may be satisfied by the provision of off-site, shared parking agreements.

RESPONSE: This mobile food unit site requires a Type I approval, so this standard does not apply.

D. [C.] *Mobile food units.* The following standards apply to each mobile food unit on the site:

1. *Attachments.* Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile food unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile food unit.

RESPONSE: The applicant is aware of this requirement and will ensure that the mobile food units will comply by including the requirement in the mobile food unit lease.

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2. *Accessory storage.* Except as specifically allowed by subsection C, items relating to the mobile food unit shall be stored in, on, or under the unit.

RESPONSE: The applicant is aware of this requirement and will ensure that the mobile food units will comply by including the requirement in the mobile food unit lease.

3. *Interior seating or vending.* Customer seating or vending inside the mobile food unit is prohibited.

RESPONSE: Customer seating will not be permitted inside the mobile food units. This will be included as a requirement of the mobile food unit lease.

4. *Skirting.* Skirting shall be placed around the perimeter of the mobile vending unit.

RESPONSE: The applicant is aware of this requirement and will ensure that the mobile food units will comply by including the requirement in the mobile food unit lease.

5. *Other licenses required.* Besides meeting the requirements of this section, the operator of a mobile food unit must have an active city business license and must comply with the permit requirements of Deschutes County Environmental Health Department.

RESPONSE: The applicant is aware of this requirement and will ensure that the mobile food units will comply by including the requirement in the mobile food unit lease.

CHAPTER 15.318. MOBILE FOOD UNIT SITE PERMIT

Sec. 15.318.010. Purpose.

Mobile food units, which are defined in OAR 333-150-0000, can provide opportunities to enliven under-utilized parking lots, allow individual entrepreneurship at a small scale, and provide unique eating establishments for the public. The purpose of this section [chapter] is to allow for mobile food unit sites or "cart pods" where mobile food units (carts) can be parked on a long-term basis. As with temporary uses, permanent site improvements may not be required; however, the standards of this section [chapter] are intended to ensure that mobile food unit sites are conducted as lawful uses and in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

Sec. 15.318.020. Applicability.

Mobile food unit site permits are required for the setup and operation of mobile food unit sites. The following uses do not require a mobile food unit site permit:

- A. Locations where mobile food units are stored when not in operation; however, the storage of commercial vehicles may be subject to other requirements of this Development Code.

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- B. Mobile food units and other mobile vending units that are operated as part of a city-approved event.

RESPONSE: The proposed mobile food units do not meet any of the categories above. This application includes a request for approval of a mobile food unit site permit for two food units.

Sec. 15.318.030. Procedure type.

Mobile food unit site permits will be processed in accordance with the procedures in article 7 as follows:

- A. *Type I.* Up to two carts on one site with no accessory structures other than trashcans and portable accessory items, such as picnic tables, will be processed through a Type I procedure, in accordance with section 15.204.010.
- B. *Type II.* Up to four carts on one site and/or new accessory structures constructed in accordance with section 15.108.070.B.2 will be processed through a Type II procedure, in accordance with section 15.204.020.
- C. *Type III.* Five or more carts on one site and/or improvements or new accessory structures other than those permitted through Type I or Type II will be processed through a Type III procedure, in accordance with section 15.204.030. New structures greater than 200 square feet in size shall be subject to the Deschutes County Building Code.

RESPONSE: Two carts are proposed on site with no accessory structures. As such and based on feedback from the City, the Applicant understands the mobile food cart site permit application will be reviewed through a Type I process.

Sec. 15.318.040. Submittal requirements.

An application for a mobile food unit site permit shall include the following:

- A. A completed application form on a form provided by the city planning official;
- B. Information sufficient to address the special use regulations that apply to mobile food units, as specified in section [15.108.070]; and
- C. A site plan of the subject property drawn to scale and including:
 - 1. The lot lines;
 - 2. The location of existing structures;
 - 3. The proposed boundaries of the mobile food unit site. Within the boundaries of the mobile food unit site, the location of all mobile food units, seating areas, and any accessory items or structures shall be shown;
 - 4. The proposed distance between the mobile vending unit site and adjacent lot lines, as well as the proposed separation distance between units and between units and other on-site structures;
 - 5. The type and location of any proposed on-site utility connections for mobile food units;
 - 6. The location of existing loading areas, driveways, on-site circulation drives, parking lot aisles, bicycle and automobile parking spaces, and walkways;
 - 7. The orientation of service windows and doors on the mobile food units and location of queuing areas;
 - 8. The location of existing landscaping; and
 - 9. The dimensions, height, and location of proposed A-frame signs.

RESPONSE: All submittal requirements have been complied with in the submitted application package.

Sec. 15.318.050. Approval criteria.

Application for a mobile food unit site permit must satisfy the following approval criteria:

- A. The proposed mobile food unit site is designated as a permitted or conditional use in the applicable zone. If a conditional use, a conditional use application has been submitted and approved by the city.

RESPONSE: The subject property is zoned traditional commercial. Eating and drinking establishments are designated as a permitted use in Table 15.22-1, with a note that they must comply with Section 15.108.070, which is demonstrated above.

- B. The mobile food unit site meets the applicable standards of the base zone (article 3), any overlay zones (article 4), and general development standards (article 5).

RESPONSE: Compliance with the applicable requirements of the commercial zone and the downtown overlay zone is demonstrated above. A site plan is not required, so most of the standards of Article 5 are not applicable, except as completed for previous land use applications. There are no outstanding conditions of approval for the previous site plan decision that need to be complied with for the mobile food cart units. Further, the City Engineer has visited the site and confirmed that all water and sewer (including grease trap) infrastructure is installed and meets code requirements. This criterion has been met.

- C. The mobile food unit site conforms to the special use regulations of article 6, section 15.108.020 [15.108.070].

RESPONSE: Compliance with the special use regulations of Section 15.108 is demonstrated above.

- D. The mobile food unit site complies with any applicable conditions of approval in prior land use decisions concerning the site.

RESPONSE: The previous land use application approval for the subject property was for a marijuana edibles processing facility, under file number SPR 2016-08CU. The conditions of those approvals were largely related specifically to the previous use and did not specify site improvement applicable to this use. As such, this requirement is met.

Sec. 15.318.060. Conditions of approval.

The approval body may impose conditions upon the approval of a mobile food unit site permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

- A. Further limiting the hours, days, place and manner of operation;
- B. Requiring site and building design features which minimize environmental impacts such as noise, glare, and odor;
- C. Requiring additional building setbacks;
- D. Further limiting the building area and outdoor storage used by the mobile food unit site and restricting the location of the use on the site in relationship to adjoining uses;

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- E. Designating the size, number, location and design of vehicle access points;
 - F. Requiring landscaping, buffering and/or screening of the mobile food unit site from adjoining uses and establishing standards for the continued maintenance of these improvements;
 - G. Requiring storm drainage improvements, and surfacing of parking and loading areas;
 - H. Limiting or setting standards for the location and intensity of outdoor lighting;
 - I. Requiring and designating the size, height and location of fences and materials used for their construction;
 - J. Requiring the protection and preservation of existing trees, and other vegetation, water courses, slopes, wildlife habitat areas and drainage areas;
 - K. Limiting the type and number of vehicles or equipment to be parked or stored on the site;
 - L. Any other limitations which the staff considers to be necessary or desirable to make the use comply with this chapter; and
 - M. Any limitations or conditions imposed by the city's service providers, including, but not limited to, state fire marshal, La Pine Fire District and Deschutes County.

RESPONSE: The applicant acknowledges the allowances for conditions of approval, however, as the proposed mobile food units will be located within a commercial zone with commercial-use neighbors and along a pedestrian-friendly downtown street where street-level activity is expected and encouraged, additional conditions are not anticipated.

Sec. 15.318.070. Approval period and time extension.

A mobile food unit site approval is valid for four years from the date of the final written decision. If the city's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary development permits shall be obtained and maintained for the approved development. At the end of any four-year period, the applicant may apply for another four-year permit by filing a new, Type II application.

RESPONSE: The Applicant acknowledges this approval period requirement in the code.

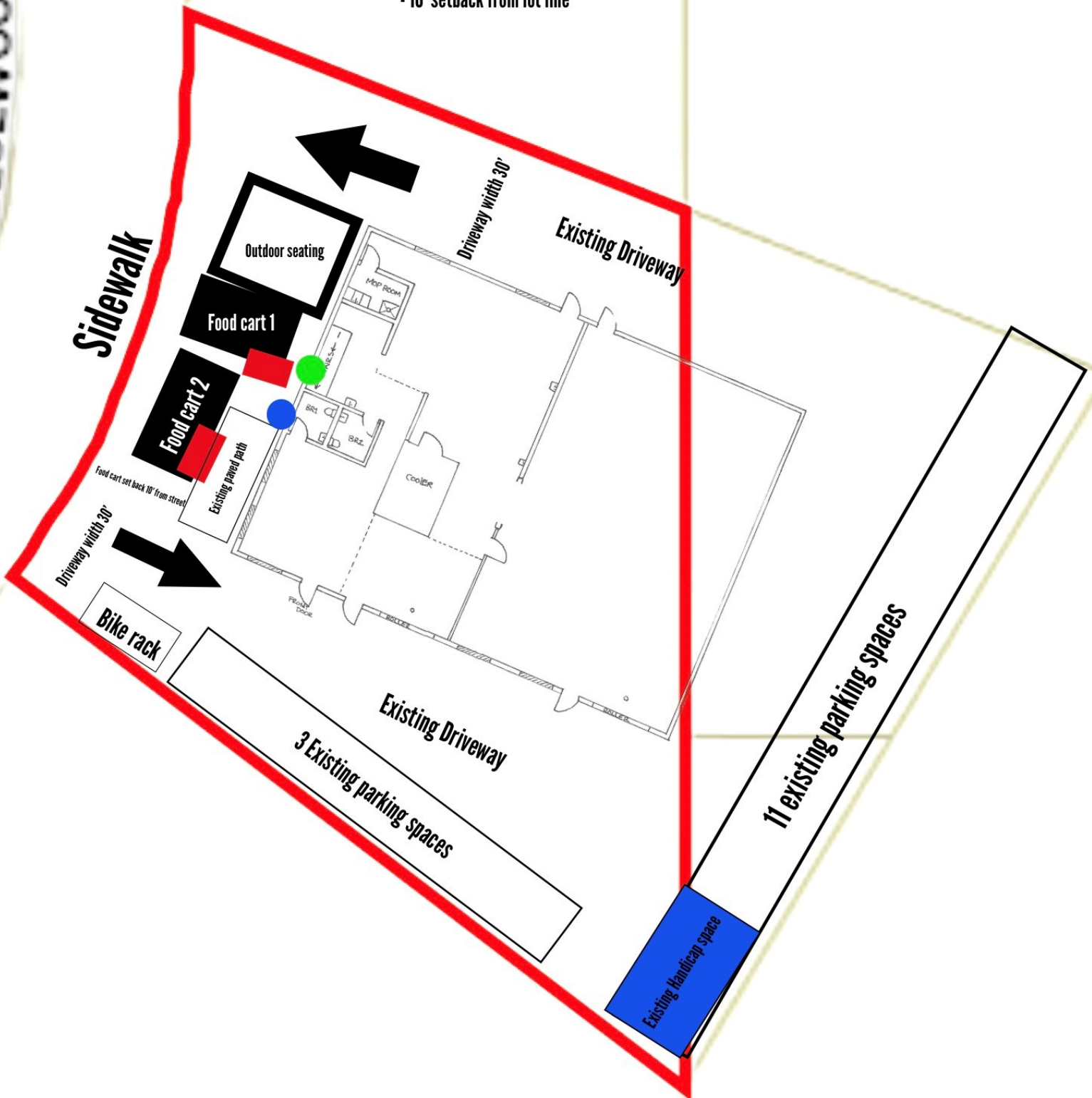
Sec. 15.318.080. Grounds for revocation.

- A. The city planning official may: Revoke a mobile food unit site permit approval if the conditions of approval have not been or are not being complied with and the mobile food unit site is otherwise being conducted in a manner contrary to this Development Code.
- B. The city planning official shall approve the use as it exists, revoke the mobile food unit site permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section [chapter] after reviewing a complaint. Complaints may be originated by the City of La Pine or the public. Complaints from the public shall clearly state the objection to the mobile food unit site, such as:
 - 1. Generation of excessive traffic;
 - 2. Generation of excessive noise or litter;
 - 3. Other offensive activities not compatible with the surrounding area.
- C. Waiting period for reapplication. When a mobile food unit site permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a mobile food unit site on the subject parcel will be considered.

RESPONSE: The Applicant acknowledges this allowance in the code, however, does not anticipate the need for revocation of the conditional use permit, as any conditions of approval are anticipated to be reasonable and implemented. Nor does the proposed use generate excessive traffic or noise/litter. Legend Cider exists in a different building in the City already and has not encountered any of these issues in its several years of operation.

BLUEWOOD

- Food carts 5' setback from building
- 10' setback from lot line



Sidewalk

Outdoor seating

Food cart 1

Food cart 2

Existing paved path

Food cart set back 10' from street

Driveway width: 30'

Bike rack

Driveway width: 30'

Existing Driveway

Existing Driveway

3 Existing parking spaces

11 existing parking spaces

Existing Handicap space