



City of Merrill Recorder's Office

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July 5, 2024

Re: File # 07-2024; General Review Application Land Use District Map Change/Zone Change

Proposed City of Merrill Verify Zoning by Rezoning

The Merrill Planning Committee received an application to verify commercial zoning by rezoning the City of Merrill Property located on Tax Lot 4110-00200-01100, north of 950 W. Front Street Merrill, OR 97633, along Highway 39 on June 13, 2024.

The proposal is to verify commercial zoning by rezoning the Land Use Decision for Planning 2020-06; Stukel Mountain Ranch Planned Unit Development Plan and Agreement Preliminary Plat and Zone Change due to the following errors:

- In 2020, a proposal was made to develop Tax Lot # 4110-00200-01101. The site was previously zoned Highway Commercial (C2), and was proposed to be converted into a mixed use development containing a hotel, commercial buildings, and a residential area (RI). A zone change was approved, processed and acknowledged by DLCD; however, the zone change was not submitted to Klamath County, and thereby not recognized.
- The Legal Description was erroneous. The verbiage used to describe the zone change was ambiguous and confusing as the description referred to the solar farm 17 acres that were irrelevant to the project. Tax Lot # 4110-00200-01101 was incorrect. The correct Tax Lot # should have read 4110-00200-01100.

The project that proposed the zone change to Tax Lot # 4110-00200-01101 has contractually expired, and the City of Merrill desires to rezone the erroneous zone change for future commercial development compatible with the City of Merrill Comprehensive Plan: 2.3.220 Highway Commercial Zone, C-2 Development Standards. The development standards in Table 2.3.200 apply to new structures, buildings, and development, and major remodels, in the C-2 Zone.

The Planning Committee met on July 1, 2024, and reviewed the application and proposed zone change. A motion was made for File # 07-2024; General Review Application Land Use District Map Change/Zone Change to move forward to be heard before the Planning Committee and City Council.

We invite you to attend an evidentiary public hearing and decision scheduled for Monday, August 05, 2024, at 5:30 PM before the Planning Commission. A second hearing is scheduled for Wednesday, August 14, 2024, at 6:00 PM before the City Council located at 301 E. Second Street Merrill, OR 97633

On August 14, 2024, the City of Merrill will hold a public hearing regarding the adoption of Ordinance Number 2065. The City of Merrill has determined that adoption of this ordinance will not affect the permissible uses of your property, and other properties in the affected zone, except for the property owned by the City of Merrill.

Ordinance Number 2065 is available for inspection at 301 E. Second Street, Merrill, OR 97633.

For additional information concerning Ordinance Number 2065 and/or File # 07-2024; General Review Application Land Use District Map Change/Zone Change you may call the City Clerk/Planning Secretary Kari Northcutt at 541-798-5808 Monday through Friday 8 AM to 4 PM.

The purpose of the meetings is to receive public comment. These are public meetings where deliberation of the Planning Commission and City Council will take place. Any person may appear at the meeting and discuss the proposed project. Public written and/or oral testimony is welcomed and may be submitted to the Records Office at P.O. Box 487 Merrill, OR 97633 or via email at clerk@cityofmerrill.org, and/or by attending the meetings.

Notice to mortgagee, lien holder, vendor, or seller: The Merrill Developmental Code requires that if you receive notice it shall be promptly forwarded to the purchaser.

Respectfully,


Dawn Trotman-Planning Commission Chairman

April 5, 2024

City Clerk Report
Findings of Fact

Rezoning of Commercial Property with DLCD discussion.

In 2020 a proposal was made to develop this site to the northwest of the Les Schaub facility along Highway 39, Tax Lot 4110-00200-01101 (5.12 acres). After LP The number and title of the application was Planning 2020-06; Stukel Mountain Ranch Planned Unit Development Plan and Agreement Preliminary Plat and Zone Change Submittal. The site, previously zoned commercial (C2), was proposed to be made into mixed use development containing a hotel, commercial buildings, and a residential area (RI).

City Clerk Northcutt contacted DLCD to find out what direction the City should go. City Recorder Hernandez and City Clerk Northcutt met with Angie Brewer, AICP Central Oregon Regional Representative via zoom meeting on April 4, 2024.

Ms. Brewer said that the notice is confusing because of the additional wording referring to the 17 acres from the Solar Farm. City Clerk Northcutt stated in the documents it reads that the City was deeded 5.12 acres of Solar Farm's 17 acres of commercial property; however, Solar Farm acres were not included in the zone change. Only 3 acres of the 5.12 acres facing north were to be rezoned for residential use.

A public hearing was held August 11, 2020, in regard to the zone change. The zone change was approved and processed with DLCD and acknowledged; however, the zone change was not made properly through the county therefore the GIS Map does not reflect the approved change. A portion of the Hearing is below:

On August 11, 2020, the Merrill Planning Commission held a hearing in regards to the Stukel Mountain Ranch Planned Unit Development and Agreement Preliminary Plat and Zone Change to consider recovering a portion of the 17 acres rezoned from residential to commercial for the Solar Farm.

Commissioner Carleton reiterated the purpose of the meeting is the rezoning of Merr Commercial Property on the north-side from commercial to residential to allow housi Commissioner Trotman stated the understanding of allowability to make a zone chang as the property was previously rezoned for the solar project; therefore, the property being reverted to original zoning as residential that had been zoned commercial for th solar project. The solar project is not all City ground. The intent of the Planning Commission is to revert the deeded property to City of Merrill to residential for clarification.

Chairman Hicks stated the concern of the City of Merrill was the loss of commercial frontage to Highway 39 due to the lack of commercial property. A zone change for residential behind commercial frontage would be acceptable.

On August 11, 2020, the Merrill City Council held a hearing in regards to the Stukel Mountain Ranch Planned Unit Development and Agreement Preliminary Plat and Zone Change to consider recovering a portion of the 17 acres rezoned from residential to commercial for the Solar Farm at the recommendation of the Planning Commission.

After meeting with Ms. Brewer, it was determined that there are several things that make this zone change unclear and not documented properly. It would be in the best interest of the City to follow the DLCD guidelines to have this issue resolved and documented correctly.

Errors list below:

- No Ordinance or Resolution in place
- Legal Description was unclear
 - 17 acres did not pertain to the zone change
 - Error in Tax Lot # 4110-00200-01101 listed in the Notice. Per GIS Map the Correct Tax Lot # 4110-00200-01100. Land Partition took place in 2020.
- Maps never changed to reflect the zone change in Tax Lot # 4110-00200-01100

Ms. Brewer suggested that the City clarify the zoning by rezoning. The cleanest approach to go is to arrange another hearing with the Planning Commission and City Council. The office will submit the PAPA form to DLCD online and verify zoning by rezoning the land use decision. DLCD requires 35 days' notice before the first hearing.

The errors were presented to the City Council and desires to return property back to commercial as the contract with the buyer expired in March 2024.

DLCD Representative:

Angie Brewer, AICP

Central Oregon Regional Representative | Community Services Division

Oregon Department of Land Conservation and Development

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