



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.linncountyor.gov

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m., January 2, 2024. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Ashley and Sean Hogan

LANDOWNER: Alesha and Joseph Jess

FILE NUMBER/TYPE OF REQUEST: PD24-0318; a conditional use permit application for a temporary hardship dwelling, pursuant to Linn County Code (LCC) Section 928.325(B)(2).

LOCATION OF PROPERTY: The property is located at 41645 Powell Lane, approximately 0.2 miles east of the intersection of Powell Lane and Berlin Road and approximately 6.5 miles east of the city of Lebanon. (T12S, R01W, Section 25, Tax Lot 01500).

PLAN DESIGNATION/ZONE DESIGNATION: Agricultural Resource / Exclusive Farm Use (EFU)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: A conditional use permit application for to qualify an existing building as a temporary hardship dwelling on a 12.54-acre property. The hardship dwelling is for Rebecca and Scott Furman, the daughter and son-in-law of qualifying person Ashley Hogan, and the family friends of qualifying person Alesha Jess. Ashley Hogan is currently residing with property owners Alesha and Joseph Jess in the primary dwelling on the property. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria for the temporary hardship dwelling (attached) so that the Department may make a final land use decision.

COMMENTS:

BY AGENCY (IF ANY) DATE

ADDRESS:

STAFF CONTACT PERSON: Julia Fox; (541)967-3816, ext. 2366 or jfox@co.linn.or.us

Table with 4 columns: Linn County, State of Oregon, and Other. Rows include various departments like Sheriff, Assessor, GIS, DEQ, ODOT/OSHD, etc.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Sections 933.310(B), 933.800(A), and 932.880(B) of the Linn County Land Development Code contain the decision criteria specified for use with this application.

933.310 RRZ conditional uses; generally

(B) *Decision criteria.*

- (1) The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system and an adequate supply of potable water.
- (2) The development will not be located within a mapped geologic hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements.
- (3) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.
- (4) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (5) If in the forest area of the F/F or in the FCM zoning districts, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- (6) The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of nearby property. The proposed use will be reviewed with respect to scale, bulk, coverage, density, the availability of necessary public facilities and utilities, traffic generation, road capacity and safety and to other related impacts of the proposal.
- (7) If in the forest area of the F/F or in the FCM zoning districts, a written statement recorded with the deed or written contract with the county is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for the following uses.
 - (a) parks and campgrounds;
 - (b) reservoirs and impoundments;
 - (c) medical hardship dwellings;
 - (d) home occupations; and
 - (e) private accommodations for fishing.

933.800 Medical hardship dwellings

- (A) An application for a medical hardship dwelling shall be reviewed and decided pursuant to the procedures established in LCC Chapter 921 (Land Development Administration Code) and to the applicable decision criteria of subsections (A) to (D) of this section.
 - (1) Approval from the EHP for connection of the medical hardship dwelling to the sewage treatment system serving the existing residence or a statement from the EHP saying that such connection is not feasible and recommending a possible alternative.
 - (2) A written statement required by LCC 932.880 (B) (2); or
 - (3) The documentation required in LCC 932.880 (B) (3).
 - (4) Where a zoning district permits, one medical hardship dwelling may be established on an authorized unit of land, if the criteria and requirements of this subsection and the applicable provisions of subsections (B) to (D) are met through a Type IIA review.
 - (a) the medical hardship dwelling must be:
 - (i) used in conjunction with an existing dwelling;

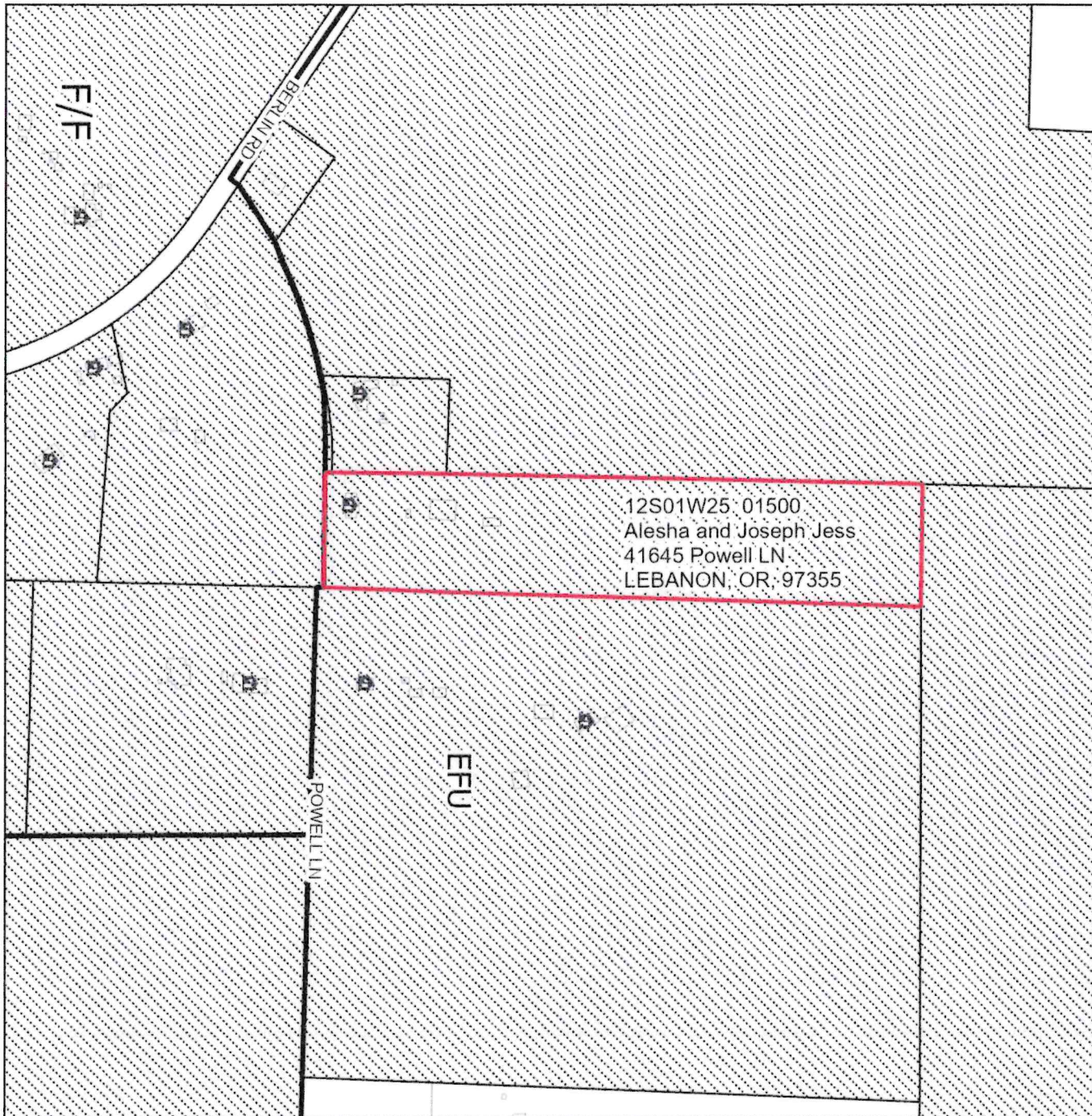
- (ii) used as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident; and
- (iii) the provisions of LCC 932.860 to 932.895 are met.
- (5) In the RRZ: the requirements and decision criteria set forth in LCC 933.310 are met.
- (6) In the RDZ, the decision criteria set forth in LCC 933.220 are met.
- (7) In the UGAZ, the decision criteria of LCC 933.260 are met.
 - (B) *Park trailer.* If the applicant is seeking approval of a park trailer as the medical hardship dwelling, the application must meet the criteria in subsection (A) and in this subsection.
 - (1) Park trailers unlike other recreational vehicles, are required by the *Specialty Code* to be leveled, blocked and connected to services.
 - (2) Placement permits and other development permits for park trailers will be issued only for authorized units of land for which a single family residence is authorized and for which a medical hardship dwelling conditional use permit exists and for which a septic system permit has been issued.
 - (3) Placement of a park trailer shall conform to the applicable zoning district.

932.880 Application content

- (B) *Application requirements.*
 - (1) Approval from the EHP for connection of the medical hardship dwelling to the sewage treatment system serving the existing residence or a statement from the EHP saying that such connection is not feasible and recommending a possible alternative; and
 - (2) A written statement from a licensed, Oregon physician on that physician's letterhead that a medical condition exists and that the afflicted person needs daily supervision, care or assistance. The physician's statement shall be an original, not a copy, and shall give the medical reasons for the need; a mere preference or desire is insufficient justification; or
 - (3) Documentation satisfactory to the Director that the qualifying person is 65 years of age or older.
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
 4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
 5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
 6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
 7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.



- Subject Property
- Notice Area
- Zoning Boundaries
- Taxlots

12S01W25 01500
Alesha and Joseph Jess
41645 Powell LN
LEBANON, OR, 97355
12.54 acres

