



**Crook County
Community Development**
300 NE 3rd Street, Prineville, OR 97754
(541) 447-3211
plan@co.crook.or.us

**ADDENDUM
STAFF REPORT - CONDITIONAL USE – PRIVATE AIRSTRIP**

March 18, 2020

APPLICATION: **217-20-000116-PLNG**

PROPERTY OWNER: **Melvin (Russ) & Kristy Cooper**
9395 SE Paulina Hwy
Prineville, OR 97754

PROPERTY: T15 S, R17 E, tax lot 810 9395 SE Paulina Hwy

During the March 11, 2020, Public Hearing for Crook County File number 217-20-000116-PLNG Conditional Use Cooper Private Airstrip, the Planning Commission requested clarification for the following issues:

- (1) Is an agricultural use required for an airstrip to be located on resource land?
- (2) Is guest use allowed in a resource zone?
- (3) Can staff work with the Oregon Department of Fish and Wildlife to provide a more objective standard?

Issues (1) and (2) are addressed by reviewing the Conditional use application for consistency with Crook County Code, Oregon Revised Statutes, and the Oregon Administrative Rules.

Criteria for Personal Use Airstrip – Crook County Code

18.08 Definitions

“Personal use airport” means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

18.16.015 Use Standards

(12) A personal use airport, as used in this section, prohibits aircraft other than those owned or controlled by the owner of the airstrip.

Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances.

A personal use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

Oregon Revised Statutes 215.283(2)(h)

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.

A personal-use airport, as used in this section, means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.

Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances.

A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

Oregon Administrative Rules (OAR) 660-033-130(7)
Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.

Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances.

A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

Response to Planning Commission's request for clarification of issues (1) and (2)

Assistant County Counsel John Eisler reviewed the State Statutes and our code regarding the agricultural use with a personal use airport and replied with the following comments:

“Thus, a personal use airport is a permitted use in an EFU zone if it is intended to be (1) used by the owner, or (2) invited guests (on an infrequent basis and under the control of the owner), or (3) commercial aviation activities *only if* connected to ag operations.” This position was affirmed by the Land Use Board of Appeals (LUBA) in 1986 & 1988.

Mrs. Cooper testified that the property is currently in farm use with an industrial hemp seed grow operation along with other organic herbs for tea. Mr. Cooper testified that they would be willing to fence off the airstrip to allow for seasonal grazing.

Staff reviewed “guest use” as asked by the Planning Commission and found that guest use on an infrequent and occasional basis, by invited guests would include aircraft controlled by the owner of

the airstrip (invited). Invitation of guests would be under the control of the airstrip owner, otherwise no use of the airstrip by general public would be allowed, other than in an emergency. The letter from Oregon Department of Aviation also addresses the use of airstrip in "Restrictions and Recommendations", "2. Usage limited to owner. Prior permission from owner required for all others except for situations of aircraft emergencies.". This restriction is reflected in proposed Condition of Approval 1.

Comment Clarification from Oregon Department of Fish and Wildlife

The Oregon Department of Fish and Wildlife representative Greg Jackle provided the following comment on the application regarding use of the property: "Limit use of the airstrip from December 1 – April 30, depending on the severity of winter use of airstrip can commence in early April. Mule deer, Pronghorn, and elk use the area"

An email from Mr. Jackle clarifying the comments provided the following:

"My intent was to follow guidance similar to the neighboring rock quarry.... If the winter is open like this one, we can sign off on a waiver to allow for use of the airstrip. The Coopers were in here when they had me sign off on the CUP and said they did not plan to use the airstrip in the winter or if it was wet. I guess we can use the language for the neighbors rock quarry and they can get an annual waiver if the winter is mild like this one. I also wanted to make them aware that deer, elk and antelope utilize the area in larger numbers during winter months."

Staff recommends modifying the staff report finding for 18.160.030(110 regarding "Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.: to include the following language:

"The proposed site is within General Deer Winter Range and Antelope Winter Range. ODFW recommended restrictions on winter operations as a mitigation measure. Specifically, no use of the airstrip between December 1st through April 30th. The applicant and the ODFW may mutually agree that the severity of the winter allows for an exception to this closure. If winter conditions are mild, the applicant can work with ODFW to receive a waiver to commence utilization of the airstrip earlier than April 30th."

Condition of Approval #4 could be modified to reflect the above language. This condition would be consistent with that allowed for neighboring property and would be more specific than the condition that was included in the original staff report.

Respectfully Submitted,



Katie McDonald
Planner, Crook County Community Development