

November 20, 2023

Mr. Franz Goebel

Wallowa County Director of Planning

101 S River Street #105

Enterprise, Oregon 97828

Mr. Goebel:

This letter is a formal request by Frontage Road property owners, to appeal the decision approving Lot Line Adjustment (LLA) LLA-23-01 issued on March 6, 2023 by the Wallowa County Planning Department. The Parent Parcel is identified as Tax Lot 1300 and the Acquiring Parcel as Tax Lot 300, T1N R42E S11.

Wallowa County Land Use Development Ordinance (WCLDO) 7.020 states that an adversely affected party has the right to appeal such a decision. We were made aware of the LLA during a November 13, 2023 visit to the Planning Department office and subsequently requested all associated documents. Based on this timeline, our request for appeal is within 21 days of the date “we knew or should have known” of the land use decision.

We own single family residences and small farms ranging in distance from adjacent to 1000 feet and within sight and sound from the subject properties. The only access to our properties is along Frontage Road, a single-lane, dead-end road with no public turn-arounds. The LLA application clearly affects our interests with adverse impacts to the use and enjoyment of our properties.

We request that this decision be withdrawn and both the LLA decision and the related zone permit request #23-13 be reversed and returned to the applicant because it does not meet criteria found in 39.020.2.D. The application proposes to “...*further diminish the area of a parcel already smaller than the minimum lot size and the use is inconsistent with the purpose and intent of the zone in which it is located*”. Specifically, LLA-23-01 adjusts the boundary between tax lots 300 (UGB-R, Urban Growth Boundary Residential) and 1300 (C-I, Commercial-Industrial), which should not be approved, because the commercial use associated with the development of a Dollar General would then occur on land zoned for residential purposes.

In addition to the above conflict with County Ordinances, the complex nature of the LLA application and related zone permit for a Dollar General proposed in #23-13 should have minimally triggered a Public Hearing Review, with notices to affected landowners. WCLDO 5.010 requires a Public Hearing Review process for applications “...*which may have a significant impact on neighboring uses and developments; ...the health, safety, or welfare of the citizens; or on the provision of public services; therefore, they require review in an open and public forum.*” This LLA application meets these criteria as it will clearly have a significant impact on:

- Citizen safety associated with the transportation system and pedestrian access at the proposed development.

- The provision of public services due to potential effects on water quality and riparian habitat of Bear Creek.
- Neighboring Bear Creek is identified as critical habitat for three species of fish protected under the Endangered Species Act: chinook salmon, steelhead, and bull trout.
- Locally-owned businesses in both the City and County that will suffer revenue loss and potential closure due to the unfair purchasing and pricing tactics of Dollar General.

This application also does not meet criteria for Ministerial Review as identified in WCLDO 39.020.01(C):

- *“Adjustments to non-conforming...parcels shall not result in greater non-conformity”.* The proposal further reduces Tax Lot 1300 in size below the minimum area required. WCLDO 26.025.01 requires a minimum lot size of 5 acres within Urban Growth Areas. Tax Lot 300 already exceeds the minimum lot size as specified in the City of Wallowa Ordinance 330-01.3.2(4)(E) and therefore, the exception at WCLDO 26.025.01(C)(1)(a) does not apply.

- Tax Lot 1300 does not meet setback requirements as specified in WCLDO 39.020.01(C)(2) and City Ordinance 330-01(3.5)(5)(D): The Dollar General building proposed in zone permit #23-13 appears to be within 50 feet of a lot in a residential zone (parcel 300, UGB-R).

Furthermore, the Planning Department did not provide the required written Notice of Public Hearing, which would also include notice to affected parties of their right to appeal the decision.

The incomplete and inaccurate information provided on the application needs investigation, and when considered in tandem with zone permit #23-13 presents additional concerns:

- Per WCLDO 39.030.02.5 and stated on the LLA application form, applicants are required to provide a map showing the location of the proposed partition and the location of all existing and proposed structures. Applications must also include any required road improvements. The applicant file provided on November 13, 2023 by the Wallowa County Planning Department does not include existing structures, nor does it include the proposed structures and roadway alteration as shown in #23-13.

- The application appears to incorrectly show zoning for the affected tax lots, listing both parcel 1300 and 300 as Commercial-Industrial. Zone maps in the UGB Agreement (City Ordinance 332-01 and County Ordinance 2001-04) show that tax lot 300 is zoned UGB-Residential.

- The acreage information on the application appears to be incorrect. Acreage before LLA is shown as 2.93 ac for tax lot 1300 and 1.8 acres for tax lot 300 for a total of 4.73 acres. However, the after LLA acreage is shown as 2.335 acres for tax lot 1300 and 2.172 acres for tax lot 300 for a total of 4.507 acres. There appears to be a discrepancy of 0.223 acres. All above acreages are different from those identified on the Zone maps in the UGB Agreement. In light of these discrepancies, it is imperative to note the conflict of interest that exists with the property survey. KM Engineering is both the developer and the surveyor for the applicant parcels.

Were the application completed properly to include the proposed development on the parcel, the standard review process identified in WCLDO Article 39 would clearly have required denial or a revised LLA boundary and review in an open, transparent, and public process.

In accordance with WCLDO 7.015.01, we are exercising our right to appeal the decision made using the Ministerial Review process to approve the Lot Line Adjustment. Due to the lack of comprehensive review of the many complex issues associated with this application, we are requesting denial of LLA-23-01 and the associated zone permit request #23-13. If the Planning Commission does not find in favor of denial, per 7.025.02 we are requesting a *de novo* Public Hearing Review on the merits of the application, with new evidence allowed to be submitted and considered in order to ensure that the requirements of both Wallowa County and the City of Wallowa are met.

Additionally, due to the rapid pace of construction at tax lot 1300 relative to the next available appeal hearing date on January 30, 2024, the deviation from public noticing processes, and the potential for irreparable harm to land, habitat and community, **we are requesting that the Wallowa County Planning Department take immediate action to pause all construction activity** at 70970 Frontage Road, T1N R42E S11, Tax Lot 1300 until this matter is resolved through the appeal process.