

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Todd and Liana)	
Viken for a Conditional Use Permit for a Type II)	
Home Occupation to Operate a Dog Boarding)	FINAL ORDER NO. 29-2014
Kennel in a Rural Residential (RR-5) Zone)	

WHEREAS, on January 27, 2014, Todd and Liana Viken applied for a Conditional Use Permit for a Type II Home Occupation to build a new 4,000 square foot building for a 15-dog boarding kennel on in the Rural Residential-5 (RR-5) zone (Application No. CU 14-11). The parcel is located at 55501 Columbia River Highway, Scappoose, Oregon 97056 (Tax Account Number 4130-030-00100); and

WHEREAS, the application was deemed complete on February 27, 2014; and

WHEREAS, after proper notice the Columbia County Planning Commission held a public hearing on the application at its regularly scheduled meeting on April 7, 2014, heard testimony and received evidence into the record; and

WHEREAS, the Planning Commission then closed the hearing to further testimony and evidence, deliberated on the matter and voted unanimously to approve the application with conditions. The Planning Commission's final order was mailed to those entitled to notice on April 9, 2014; and

WHEREAS, on April 15, 2014, Mary Larson, a neighboring property owner, filed an appeal of the Planning Commission's decision to the Columbia County Board of Commissioners ("Board"); and

WHEREAS, a hearing was then scheduled before the Board for June 4, 2014, and notice of the hearing was sent on May 5, 2014 to the applicants, nearby property owners, and those who participated in the proceeding; and

WHEREAS, on June 4, 2014, the Board held a public hearing on the appeal at its regularly scheduled meeting, heard testimony, and received evidence into the record; and

WHEREAS, the Board then closed the public hearing and continued the matter to its regularly scheduled meeting on June 18, 2014 for deliberation; and

WHEREAS, on June 18, 2014, the Board deliberated on the matter and voted unanimously to tentatively approve the application with conditions as presented in the staff report

and amended by the Board.

NOW, THEREFORE, in addition to the findings and conclusions in the Staff Report, attached hereto as Attachment 1 and incorporated herein by this reference, the Board of County Commissioners makes the following supplemental findings based on the evidence submitted and received into the record on this matter:

1. The Board received testimony from several nearby residents objecting to the potential noise impacts that from an above-ground boarding kennel. For the past few years, the applicants have been operating a 12-dog boarding kennel in the basement of their home in compliance with their previously issued Conditional Use Home Occupation. As mentioned in the staff report, the County has received no complaints on the existing kennel. The applicants now seek approval for up to 15 dogs in an above-ground kennel. The Board understands the concern expressed by nearby residents that noise impacts will be greater with an above-ground kennel and finds that the noise impacts can be addressed through a condition requiring sound insulation and through enforcement of the Columbia County Kennel Ordinance prohibition on continuous barking.

Columbia County Zoning Ordinance (CCZO) 1503.5(E) applicable to conditional uses provides: "The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district." In addition, CCZO 1507.3(B) applicable to home occupations provides: "A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located." For the reasons described in the Staff Report and for the following additional reasons, the Board finds that the application meets these criteria:

- a. Although the applicants testified that they will insulate the new building, the Board finds it appropriate to require sound insulation to mitigate noise impacts from barking dogs. The Board has therefore added a condition to require the applicant to install sound insulation that meets a minimum Sound Transmission Class (STC) of 55. This standard exceeds the Oregon Structural Specialty Code standard for walls between dwelling units. The Board finds the sound insulation to be sufficient to mitigate noise from barking dogs in light of additional mitigating factors. First, the property sits on the heavily traveled State Highway 30. Road noise from the highway is pronounced on the property. Second, the kennel will be setback at least 100 feet from all property lines, providing a distance buffer from nearby residences. Third, as an additional sound buffer, the applicants have proposed to install a fence and hedge around the perimeter of the property. The Board finds that with the condition of approval requiring a minimum 55 STC sound insulation, in combination with other mitigating factors, the dogs will not create a noise impact that will substantially limit, impair, preclude, or unreasonably interfere with the allowed uses on the surrounding properties.

- b. In addition to requiring sound insulation for the new kennel building, the Board finds that the Columbia County Kennel Ordinance, applicable to kennel licensees such as the applicants, provides additional protections against barking that unreasonably interferes with the allowed uses on the surrounding properties. Section 7.H of the Kennel Ordinance prohibits “continuous barking,” which means barking and other animal noises that are constant and prolonged for more than 30 minutes during the day and 15 minutes between the hours of 10 pm to 7 am and that unreasonably interfere with the use and enjoyment of nearby properties. Thus, in addition to the mitigation described above, the kennel use will be subject to the prohibition on “continuous barking.”
2. The Board also heard testimony from several nearby property owners that the kennel building will be out of character with the surrounding area. As stated above, CCZO Section 1503.5.E provides that the proposed use will not alter the character of the surrounding area in a manner that substantially limits uses allowed in the zone. The Board finds that the proposed building will not be out of character with the surrounding area. Farm and forest uses are allowed outright in the RR-5 zone, and large agricultural buildings are therefore not uncommon. The staff report at page 7 shows a barn situated on the adjacent property to the north. Structures such as barns are allowed to reach a height of 50 feet and do not require conditional use approval. Non-farm, non-forest structures, such as dwellings and the kennel building, are limited to 35 feet in height and would be less imposing than an allowed-by-right farm or forest building. The applicants have also stated that they will design the kennel building to look like a house. The Board finds that whether the kennel building looks like a house or an agricultural building, neither would alter the character of the surrounding area in a manner that substantially limits uses allowed in the zone.
3. Also raised at the hearing was the concern that the kennel use would negatively impact the big game corridor in the area. The new kennel use would have no more impact on big game than the existing kennel use because the same conditions will remain requiring dogs to be on leash at all times unless they are in a building or in the approved outdoor exercise area. Moreover, although big game may be seen in the area from time to time, the subject property has no Big Game Habitat overlay zoning. Accordingly, there are no special protections for big game habitat that apply to the property.
4. Finally, some who testified questioned how the Board could approve essentially the same above-ground kennel building that it denied in 2010. As an initial matter, the application that was denied in 2010 (CU 09-03) was for a 4,600 square-foot pole barn for up to 30 dogs. It included ten new parking spaces and two outside 3,000 square-foot exercise yards. The approval here provides for a 4,000 square-foot sound-insulated building to house up to 15 dogs. The building will be designed to look like a house or an agricultural building. Accordingly, while the building may be similar in size, the use will be less intense and more compatible with the surrounding area.

In addition, legislative changes since 2010 have changed the approval criteria and provided for better enforcement. The County's Kennel Land Use Ordinance, which added specific kennel regulations to the zoning code, became effective in 2011. Those regulations provide standards for kennels, such as the 100-foot setback and 5-acre minimum lot size, and allow kennels of up to 15 dogs in the RR-5 zone as Conditional Use/Home Occupations. Those standards were designed to improve compatibility of kennels with their surrounding areas. The applicants' proposed kennel operation meets those standards. They also meet the Conditional Use/Home Occupation approval criteria as discussed in the staff report and the findings herein.

The County has also adopted amendments to the Kennel Ordinance, which applies to licensed kennels such as the applicants' kennel. As discussed above, one change to the Kennel Ordinance is the prohibition on "continuous barking." Other changes include a provision allowing drop-in inspections by the Animal Control Officer and a provision authorizing the Animal Control Officer to ensure compliance with land use conditions of approval. These changes both mitigate potential noise impacts and provide for better enforcement of kennel regulations.

Lastly, the applicants have established a history of complying with the terms of their kennel license and land use conditions of approval. In the four years since they have been in operation, the County has not received a single complaint. Based on changes in regulations as well as the applicants' history of compliance, the Board finds that subject the kennel use as approved with conditions complies with all current applicable criteria.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY ORDERS as follows:

- A. The findings and conclusions in the Staff Report, attached hereto as Attachment 1 and incorporated herein by this reference, are hereby adopted to the extent that they are consistent with the supplemental findings herein; and
- B. Based on the findings and conclusions in the Staff Report and the supplemental findings herein, the Board of County Commissioners hereby **APPROVES** this **Conditional Use Permit (CU 14-11)** at RR-5 property addressed at 55501 Columbia River Highway in Scappoose, further identified as Tax Lot ID # 4130-030-00100 subject to the following conditions:
 1. This Conditional Use Permit shall become void unless the proposal has commenced in conformance with all conditions and restrictions established herein within the **2 year validity period**. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicants are not responsible for failure to commence with the proposal.

2. Kenneled dogs shall only be allowed outside if contained within the existing exercise yard or if on a leash or in a carrier. Kenneled dogs shall not be allowed on the property outside of the new 4,000 square foot kennel facility and/or outdoor fenced exercise yard.
3. Kenneled dogs shall only be allowed outside in groups of four for 45 minute increments (each), two times per day.
4. The operator of the Home Occupation Business shall maintain proper dog kennel licensing from Columbia County Animal Control. Violation of the Columbia County Animal Control kennel licensing shall be considered inconsistent with this Conditional Use and will be subject to further review under conditions 14 and 15, below. If a revised Kennel License is required after the new 4,000 facility is constructed, a copy of this revised license shall be submitted to Land Development Services prior to kenneling any dogs in the new 4,000 square foot facility.
5. The Home Occupation Business shall comply with the Columbia County Noise Control Ordinance. In addition, all dogs shall be kept indoors between the hours of 9 PM and 6 AM.
6. There shall be no more than 15 kenneled dogs, six months of age or older, on the subject property at any given time.
7. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located at 55501 Columbia River Highway.
8. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
9. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land and cannot be transferred to other applicants/property owners.
10. Before any sign is established for this Home Occupation business, all applicable sign permits for home occupations in the RR-5 Zone shall be obtained from the County. All applicable sign standards in effect at the time of County review shall apply.
11. Any rebuilding, changing, moving or expansion of the existing fenced outdoor play area for dogs along the north and east property lines shall comply with the applicable provisions of nonconforming structures in Section 1506 of the Zoning Ordinance for the life of the proposal requested for CU 14-11.

12. The sight-obscuring landscaping and continuous hedge of at least 6 feet height along the northern boundary of the outdoor exercise area shall be continually maintained.
13. The County Planning Official shall verify that the new 4,000 square foot kennel structure facility is located at least 100 feet from all property lines prior to the issuance of any building permits.
14. The Department of Land Development Services reserves the right to review this application again in the future if it determines that the approved Home Occupation business is in noncompliance with any of these conditions of approval.
15. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.
16. The County Sanitarian shall approve how the disposal of any waste water being created by the dog kennel use occurs pursuant to the Columbia County Kennel Wastewater Policy.
17. The kennel building shall be sound-proofed in accordance with the Oregon Structural Specialty Code to minimize noise from dogs in the building. The applicant shall install sound attenuation materials to reduce airborne sound to a minimum of 55 Sound Transmission Class (STC) rating.

Dated this 2nd day of July, 2014.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: [Signature]

Office of County Counsel

By: [Signature]

Anthony Hyde, Chair

By: [Signature]

Henry Heimuller, Commissioner

By: [Signature]

Earl Fisher, Commissioner

COLUMBIA COUNTY BOARD OF COMMISSIONERS**STAFF REPORT**

May 28, 2014

APPEAL of Planning Commission Approval**Conditional Use Permit - Home Occupation Dog Kennel**

HEARING DATE: June 4, 2014

FILE NUMBER: CU 14-11

**APPLICANT/
OWNER:** Liana and Todd Viken
55501 Columbia River Hwy
Scappoose, OR 97056

SITE LOCATION: 55501 Columbia River Highway, Scappoose.

TAX ACCOUNT NO: 4130-030-0100

ZONING: Rural Residential (RR-5)

SITE SIZE: ± 5.34 Acres

REQUEST: Conditional Use Permit for a Type II Home Occupation for a new 4,000 square foot kennel structure that will house dogs associated with a kennel expansion and boarding facility known as *Hug-A-Bubba*.

APPLICABLE REVIEW CRITERIA:

<u>Columbia County Zoning Ordinance</u>		<u>Page</u>
Section 1506	Non Conforming Uses	5
Section 600	Rural Residential (RR-5)	9
Section 1300	Signs	10
Section 1503	Conditional Uses	11
Section 1507	Home Occupations	17
Section 1802	Special Use Standards - Kennels	18

APPLICATION COMPLETE: 2/27/14**150-DAY DEADLINE:** 7/27/14**BACKGROUND AND SUMMARY:**

The Planning Commission approved this application CU 14-11, Chairman Guy Letourneau signed the Final Order with Conditions and was mailed on April 9, 2014. Mary Larson, a neighboring property owner, spoke in opposition at the hearing and filed an appeal on April 15, 2014.

The Board has previously heard two separate applications for a dog kennel by the Vikens' on this five acre property. The first proposal in 2008, denied by the Board, was for 30 dogs, a 4,600 sq ft kennel building, two outside exercise yards, and delivery by dog owners & kennel shuttle. The second proposal in 2010, approved by the Board, was downsized considerably to: 12 total kennel dogs, no new building but dogs housed in the basement of the house, one fenced exercise yard near Hwy 30, and delivery by kennel shuttle only.

Since November 2010, the applicants, Liana and Todd Viken, have been operating a dog kennel and boarding facility - known as *Hug-A-Bubba* - from the underground basement in their home at 55501 Columbia River Highway. This existing kennel operation, application number (CU 10-45), was approved by the Board of County Commissioners on October 6, 2010 provided they comply with the conditions in Final Order No. 66-2010. Although the Vikens have been successfully operating *Hug A Bubba* for these past three years, they would now like to construct a new 4,000 square foot kennel structure in order to move the kenneled dogs out of their basement and into this new separate facility.

In January 2011 the County amended the Zoning Ordinance (Ordinance No. 2010-03) to include a new Article - Special Use Standards for Kennels because of their possible effects upon neighboring properties and the surrounding area. Consequently, the current proposal CU 14-11 will also be reviewed for compliance with the amended zoning provisions in Sections 600, 1800, 1801 and 1802 of the Zoning Ordinance. One of the new requirements for conditionally permitting dog kennels in the RR-5 zone was to limit the size of kennels to only 15 dogs in residential zoned areas. This size limitation was necessary to allow for small-scale kennels that may be compatible with surrounding residential uses, and also, to prohibit larger and more intense kennels that are more likely to conflict with the surrounding residential uses. Even though the application states the boarding facility would handle 32 dogs, the applicants have acknowledged this error and will adhere to the 15 dog limit. As far as the maximum size of a kennel structure building, the State LCDC adopted rules (OAR 660-022-0030(10) that county land use regulations may not permit commercial buildings in excess of 4,000 square feet in any rural zoned area. This State LCDC restriction is meant to establish a size limit for the establishment to be "small, low impact commercial use."

The existing site development on the 5.34 acre property consists of a single-family residence, two detached shops, a private well, a septic system, and an approximate .50 acre fenced outdoor play area for dogs located along the north and east property lines. This outdoor fenced area was approved by the Board in 2010 and is considered to be a lawfully established Non-Conforming Use/Structure because it does not comply with the minimum 100 foot setback from all property lines as required by the new provisions in Section 1802.2 of the Zoning Ordinance. Findings 1 and 2 will discuss and evaluate whether or not the applicants can continue to use this outdoor exercise area according to the applicable provisions in Section 1506 related to Non Conforming Uses.

The applicant's site plan confirms that all of the site's existing development is clustered in the property's eastern and northeast portion, in close proximity to Columbia River Highway. According to the site plan, the new 4,000 square foot kennel structure will be in this same general area, behind the house, with a new fenced exercise area between it and the house. Staff has encouraged the applicant to not build a new fenced exercise area that will meet the 100 feet setback from the property line; but instead, to continue using the 0.50 acre previously approved play area located along the north and east property lines. In doing so the proposed new kennel structure could be moved further to the east, closer to the applicant house and further from existing residential development. The new

kennel structure will be at least 100 feet away from all property lines per the requirements for dog kennels in Section 1802.2. The floor plan view of the new 4,000 square foot kennel facility provides dogs with separate areas for kenneling, play/exercise, and bathing/grooming, as well as reception, break room, food preparation, storage, and bathroom facilities for employees. The applicants state that with this new larger and multi-faceted kennel structure, “dogs will be indoors 90% of the time either resting or playing.”

According to FEMA Flood Insurance Rate Map (FIRM) No. 41009C0454 D, the site does not contain any flood hazard areas. According to the National Wetlands Inventory Map of St. Helens and the Beak Map of the Scappoose-Spitzenberg CPAC Area there are no wetlands or hydric soils on the site nor is the property within any big game or other sensitive species overlay areas.

Aerial Photograph of 5.34 acre site & outdoor fenced area



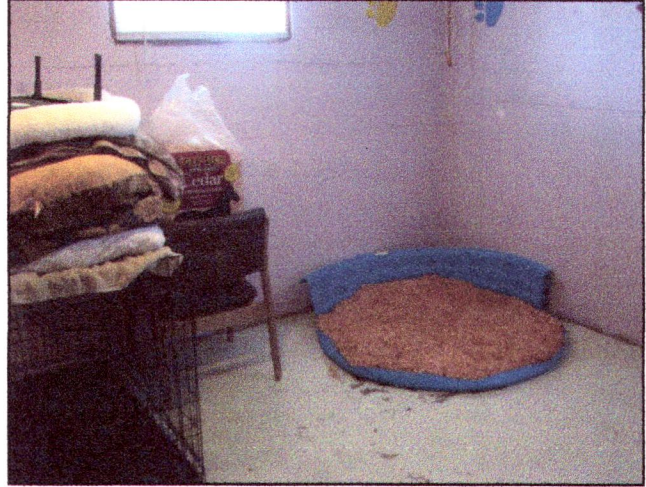
View of applicants' home and existing dog kennel facility in the basement



Existing Dog Kennel facilities in the applicants' basement



Dog Kennels and indoor bathroom area



REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

Beginning with the applicable portions of the Columbia County Zoning Ordinance related to Non Conforming Uses:

1506 NON-CONFORMING USES:

- .1 Continuation of Non-Conforming Uses or Structures: Except as provided in this section, a Non-Conforming Use or structure may be continued, even though it is not in conformity with the use, height, area, and all other regulations for the district in which it is located

Outdoor fenced .50 acre play area along north and east property lines



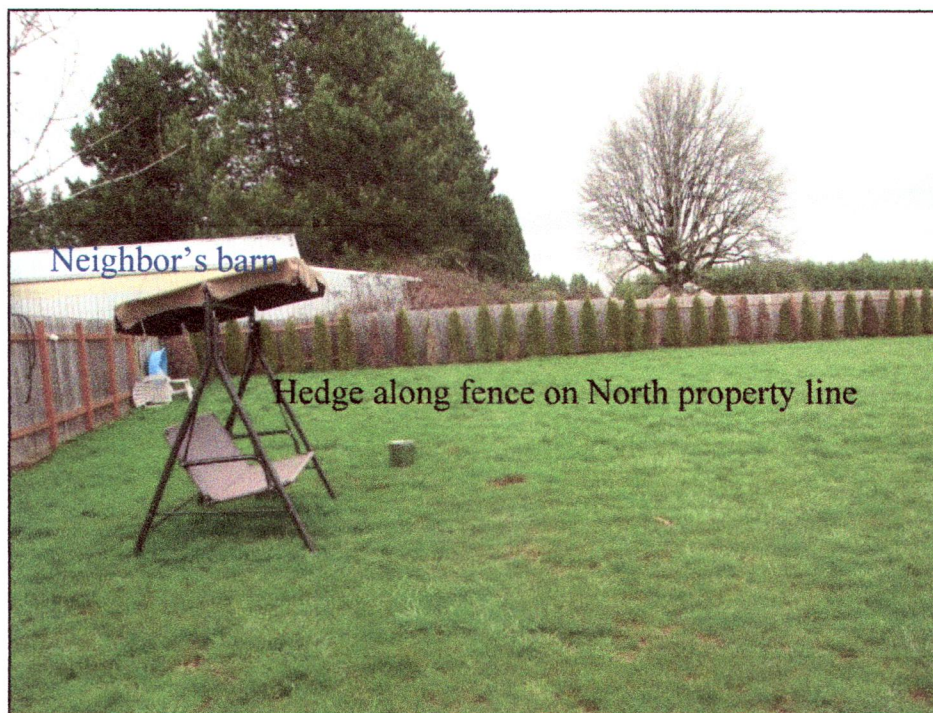
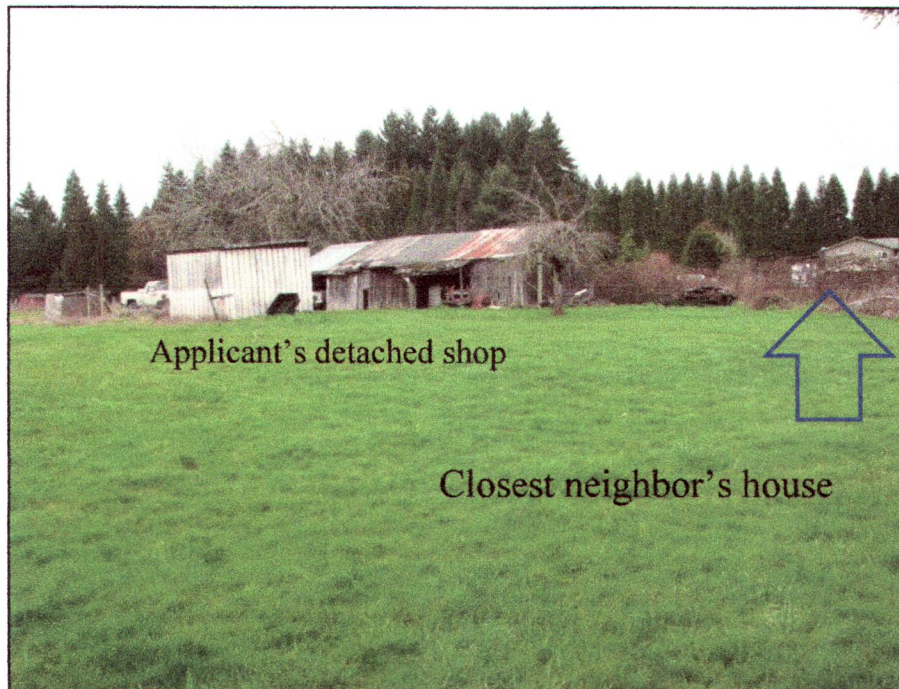
Two gates for entrance to existing outdoor fenced area



Taking leashed dogs to outdoor play area



Closest property to the north addressed at 34170 Pollard Drive - containing one shop and single family dwelling seen below



Discussion: The existing outdoor fenced area in the NE corner of the subject site (shown on Pages 5 - 7) is considered by Land Development Services to be a lawfully established Non Conforming kennel use/structure associated with the applicant's existing kennel operation and approved by the Board of Commissioners on October 6, 2010. This location - along the north and east property lines - does not conform with the new siting specifications in Section 1802.2 requiring all kennel facilities approved after January 4, 2011 to be at least 100 feet away from all property lines.

One of the Board's justifications for restricting the kenneled dogs' outdoor exercise time to this specific location was because this is the area of the property where the Columbia River Highway noise is most pronounced. The Board determined that one effective way of minimizing potential detrimental impacts (barking dogs) on adjacent RR-5 properties would be to locate these barking dogs as close as possible to the (already noisy) state highway. Further, the Board also required other conditions of approval to help minimize the kennel's impacts on nearby rural residents and their properties. Specifically, these additional conditions required dogs:

- (1) Only be allowed outside in groups of four, for 45 minute increments (each) two times per day;
- (2) Only be allowed outside if contained within the existing exercise yard, on a leash, or in a carrier;
- (3) Be kept indoors between 9 pm and 6 am; and
- (4) The applicants were required to plant 6 foot high hedges along the northern edge of the fence to minimize noise onto the closest neighbor. *(Note: This hedge and home can be seen on Pages 6 & 7).*

The submitted application and documentation for CU 14-11 confirms the applicants will continue to adhere to these conditions for outside dog time and are not requesting any modifications or changes in the existing authorized uses of this non conforming kennel exercise area. The applicants will still only allow 2-4 dogs to be in this outdoor non conforming play area at any given time and for no more than 45 minutes each time. Dogs will be walked to and from this outdoor play area on leashes or in carriers, and employees will always supervise dogs while they play and exercise in this outdoor kennel facility.

The Land Development Services did not receive any objections, complaints, or concerns about this proposal during the notification comment period for CU 14-11's Referral and Acknowledgment to all property owners within 250 feet. During a March 2014 phone conversation between the Project Planner and the County Animal Control Officer, staff confirmed that the Animal Control Officer has not had any complaints about or problems with how the applicants have been operating their kennel over the past 3 years. The Animal Control Officer attached comments dated 3/20/14 that he conducted sound meter testing on the subject site on March 18. This testing revealed that the general background noise from vehicular traffic on Columbia River Highway measured between 50 to 83 decibels at the driveway near the fenced area. The Animal Control Officer also states that moving the outdoor yard area to comply with the 100' setback "*would only place the kennel closer to the potential victims of the noise and take away the benefit of the highway white noise at this location.*"

The Scappoose-Spitzenberg CPAC has also recommended the County consider approving the continued use of this non conforming outdoor fenced area instead of requiring the applicants to construct a new outdoor fenced area further away from Columbia River Highway.

Finding 1: The site plan and documentation submitted for CU 14-11 indicates the applicants are willing to construct a new fenced outdoor play area for dogs adjacent to their new 4,000 square foot facility; this will ensure both kennel facilities, the kennel structure and fenced outdoor play area,

would comply with the 100 foot separation from all property lines as required by Section 1802.2. However, staff finds the site's existing outdoor fenced and landscaped play area is a Non Conforming kennel use/structure that was lawfully established through the conditions of CU 10-45 in 2010; and, it continues to be used. Since the information submitted with CU 14-11 confirms the applicants are willing to comply with all of the outdoor exercise areas' original restrictions and are not proposing any changes to them, staff finds the applicants are authorized to continue using the existing lawfully established Non Conforming Outdoor Exercise Area. Staff finds the applicants do not need to construct a new outdoor exercise area to abide by the original restrictions and uses for outdoor dog times. Staff finds that because CU 14-11 will not change the design, uses and restrictions of the existing non conforming outdoors play area for dogs, the applicants are authorized to continue using it in compliance with these non-conforming use provisions.

Continuing with the zoning provisions for Non Conforming Uses :

- .5 Rebuilding, Change, Moving, or Use Expansion: A Non-Conforming building or use may be rebuilt, moved, or changed in use to a use of the same restrictive classification or expanded, subject to the provisions outlined herein, if upon review in accordance with Section 1601 the Director finds all the following to exist:
- A. That such modifications are necessary because of practical difficulties or public need;
 - B. That such modifications are not greater than are necessary to overcome the practical difficulties or meet the public need;
 - C. That such modifications will not significantly interfere with the use and enjoyment of other land in the vicinity, nor detract from the property value thereof; and
 - D. That such modifications will not endanger the public health, safety, and general welfare.
- 7 Change of Use: A Non-Conforming Use may be changed to a use of the same or a more restrictive classification but not to a use of a less restrictive classification, pursuant to subsection 1506.5.

Finding 2: As already discussed for Finding 1, the applicants are authorized to continue using their existing Non Conforming fenced kennel use/structure as an outdoor play area for dogs until such time as they rebuild, change, move, or expand it per these provisions in Section 1506.5 and 1506.7 above. Since the application submitted for CU 14-11 does not include any modifications to or changes in the authorized uses of this Non Conforming kennel use/structure, staff finds these requirements shall be made as conditions of approval and shall be adhered to by the applicants for the life of their kennel operation at 55501 Columbia River Highway.

Continuing with the applicable portions of the Zoning Ordinance related to RR-5 Development:

Section 600 Rural Residential (RR-5)

603 Conditional Uses:

5. Kennel as a home occupation with a maximum of 15 dogs subject to standards contained in Section 1507 and Section 1802.
 - A. Consistent with all home occupations, land use approval for a kennel granted as a home occupation shall be granted only to the person or persons named on the application and shall not be transferable to or include any other person or organization, unless approved through a new home occupation permit; and
 - B. A home occupation permit for a kennel shall be granted only to an individual resident or residents of the dwelling and shall not be granted to an organization, such as but not limited to a business or non-profit corporation.

[Amd. Ordinance No. 2010-3, eff. 01.04.11].

Finding 3: As stated in the Background/Summary, the proposal requested for CU 14-11 is for the applicants, who reside at the subject property, to kennel a maximum of 15 (not 32) dogs on their subject 5.34 acre RR-5 zoned property. Todd and Liana Viken are listed as the applicants for CU 14-11 and they have been living on the subject property since at least 2010. The County Assessors records confirm they, and not *Hug-A-Bubba*, own this property. The Vikens also acknowledge that they, and not any other employees, are the only residents authorized to operate this kennel. Staff finds these conditions have been met and shall be adhered to by the applicants for the life of the proposal on the subject property.

604 Standards:

- .8 Unless otherwise prohibited, structures such as barns, silos, windmills, antennas, chimneys, or similar structures may exceed the height limitations to a maximum height of 50 feet.

Finding 4: The partial plans of the new 4,000 square foot kennel structure submitted with CU 14-11 does not specify its height. Nevertheless, the 50 foot maximum height of this accessory structure will be adhered to at the time of building permit issuance. This criterion can be met at building permit release.

Continuing with Section 1300 of the Zoning Ordinance related to Signs for Home Occupations:

Section 1300 SIGNS

- 1301 Use: No sign may be established, altered, or expanded hereafter in any district in Columbia County, except in accordance with the provisions outlined in this Section. The sign provisions apply to signs established in conjunction with any use in the county

1306 Signs pertaining to rural home occupations:

- .1 Shall not exceed 6 square feet.
- .2 Only one such sign shall be permitted upon the premises.
- .3 Shall not be artificially illuminated.
- .4 Shall be located at least 5 feet from the front property line.

Finding 5: The applicants are proposing new signage in association with *Hug-A Bubba* and shall be required to apply for and be granted a sign permit and meet all requirements of Section 1306 stated above. Staff finds that the criterion can be met subject to conditions.

Continuing with Section 1503 of the Zoning Ordinance related to Conditional Uses:

Section 1503 Conditional Uses

- 1503 .4 Suspension or Revocation of a Permit: A Conditional Use Permit may be suspended or revoked by the Commission when any conditions or restrictions imposed are not satisfied.
- A. Conditional Use Permit shall be suspended only after a hearing before the Commission. Written notice of the hearing shall be given to the property owner at least 10 days prior to the hearing.
 - B. A suspended permit may be reinstated, if in the judgment of the Commission, the conditions or restrictions imposed in the approval have been satisfied.
 - C. A revoked permit may not be reinstated. A new application must be made to the Commission.

Finding 6: Though a Home Occupation may be found to not jeopardize public health, safety and/or welfare now, it could evolve to do so in the future. Therefore, compliance with all conditions and applicable standards is necessary to ensure that the Home Occupation remains harmonious with surrounding properties. Compliance with conditions imposed in granting a Conditional Use Permit and adherence to any approved plans are required for the life of the operation of the approved proposal. Any departure from these conditions of approval and the approved plans constitutes a violation of this ordinance. In such circumstances this Conditional Use Permit will be subject to suspension or revocation by the Planning Commission. Staff finds these criteria can be met with conditions.

Continuing with Section 1503 related to Conditional Uses:

- 1503 .5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:
- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;

Finding 7: As covered for Finding 3, kennels are authorized as conditionally permitted home occupations in the RR-5 Zone Section 605.3, subject to provisions in Sections 1507 and 1802. Staff finds this criterion has been met.

Continuing with CCZO Section 1503.5 Conditional Uses

B. The use meets the specific criteria established in the underlying zone;

Finding 8: The underlying zone is Rural Residential RR-5. Uses in this district are predominately single family residential on large lots with only rural levels of public service. Home occupations of a rural character are conditionally allowed if consistent with all conditional use criteria and special criteria imposed for the specific use. As to whether a kennel operation is appropriate in large lot residential areas - the County deliberated and determined that a kennel operation could be compatible in some cases, but not all. Compatibility depends on how close the kennel is to adjoining residential uses, and depends on the kennel operation itself. The types of disturbing activities coming from the kennel must be minimized by the operator. For this proposed kennel operation, with a large fully insulated kennel building, the dogs can be primarily kept in the building, thereby minimizing the impacts to the surrounding residential uses.

The location of the new 4,000 square foot kennel facility is required to be at least 100 feet away from all property lines in accordance with siting provisions in Section 1802. The 50' height restriction for accessory structures in the RR-5 Zone will be adhered to at time of building permit issuance as covered for Finding 4. The minimum kennel specific siting standards listed in Section 1800 can be found in Findings 17 - 24. Staff finds that the site specific criterion referred to in Section 1503.5(B) will be addressed for Findings 17 - 24.

Continuing with CCZO Section 1503.5 Conditional Uses

C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;

Discussion: The characteristics of the area and site which are supportive of a kennel operation at this location include: it's size (5.34 acres), it's proximity to a major transportation corridor (Hwy 30 & rail freight) and the front (east) portion of the lot slopes up away from the Hwy, acting to block noise. However, the back (western) portion of the lot is relatively flat, at the same level as a more densely developed residential area. The location of the site in relation to existing residential improvements have raised neighborhood non-supportive concerns. Scott Acres is an old 15 lot subdivision with less than one acre lots; and, it mainly developed with large single family homes. In the subdivision, Shamrock Way properties are approximately 450 feet from the subject property eastern line.

The fact that the applicants have been operating a dog kennel primarily from their basement on their property for the past three years without any complaints from neighbors demonstrates their ability to successfully work within these site specific limitations on their 5.34 acre RR-5 zoned property. They have been able to successfully transport kenneled dogs to and from their home, board and provide

these dogs with all necessary and appropriate activities in their basement and the existing non conforming outdoor play area. They have safely conducted all of their kennel operations without endangering or detrimentally impacting their neighbors, themselves, or their served dogs. It appears that all kennel and site specific improvements to the home and outdoor fenced areas as well as for the handling of kenneled dogs and their waste products have been conducted with permits and according to the specific conditions of their kennel operation approved and authorized by CU 10-45.

The applicants are not proposing to change any aspect of their existing kennel operation other than requesting to relocate their kenneled dogs out of their underground basement and into the new stand-alone 4,000 square foot kennel facility. They are not changing their weekly hours of operation, will still be closed on Sundays, and will keep all dogs inside between 9 pm to 6 am daily. Dogs will still be exercised outdoors in groups of 4 or smaller. This new larger kennel facility will be devoted only to services and activities for 15 kenneled dogs at any one time. The documentation submitted with CU 14-11 shows that this new facility is intended to support all of the kenneled dogs indoor activities including safe and appropriate areas for where dogs can:

- Sleep and rest;
- Play and exercise with other similarly sized dogs;
- Use the bathroom;
- Be groomed and
- Be interviewed before they can be served.

In addition, the new 4,000 square foot kennel structure will provide areas used by employees when they groom and/or bath dogs, prepare and store dog food, as well as areas for them to take a break and use the bathroom. With regards to minimizing impacts to nearby residents, the new indoor play area for dogs inside the 4,000 square foot facility will allow the dogs to be inside approximately 90% of the time and will allow them to participate in many different kinds of indoor activities that are not available in the smaller underground basement. The Animal Control officer also encourages the County to consider leaving the outdoor play area as it is now, instead of building a new outdoor play area away from Columbia River Highway noises.

The uses of the kennel's existing non conforming outdoor play area are not changing as covered for Findings 1 and 2 and are consistent with the applicable provisions in Section 1506 for this specific kennel structure.

Neither the County Sanitarian or Building Official, the Scappoose Rural Fire District or the County Animal Control Officer have any objections or concerns about the proposal requested for CU 14-11 provided the applicants apply for and be granted the necessary building and wastewater permits for these changes to the existing kennel operation.

There are no environmentally sensitive, flood hazard, or big game habitat areas on the subject site as covered during the Background that may prohibit the construction of the new 4,000 square foot kennel structure.

At the Planning Commission hearing 6 people were supportive of the kennel operation and spoke in favor, and 5 persons were opposed mainly stating that a kennel does not belong in close proximity of established residential areas.

Finding 9: For the reasons stated above and without any additional evidence to the contrary, staff finds the natural and built characteristics of the 5.34 acre site, including the size, shape, location topography, existence of improvements and natural features can be made suitable for the continuing operation of kennel operation with a large kennel building at this location along Columbia River Highway, only with strict operational guidelines and conditions to minimize detrimental affects. Staff finds that the criteria in Section 1503.5C can be met with conditions.

Continuing with CCZO Section 1505.5

- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

Finding 10: The 5.34 acre site and proposed new kennel structure requested for CU 14-11 is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area which are affected by the new facility kennel operation. The subject property has usable frontage on Columbia River Highway and the Oregon Department of Transportation has not submitted any objections or concerns about the permit requesting approval of CU 14-11. The applicants will still be transporting kenneled dogs to and from their property once a day and will not allow any unscheduled drop offs or pick up by individual customers.

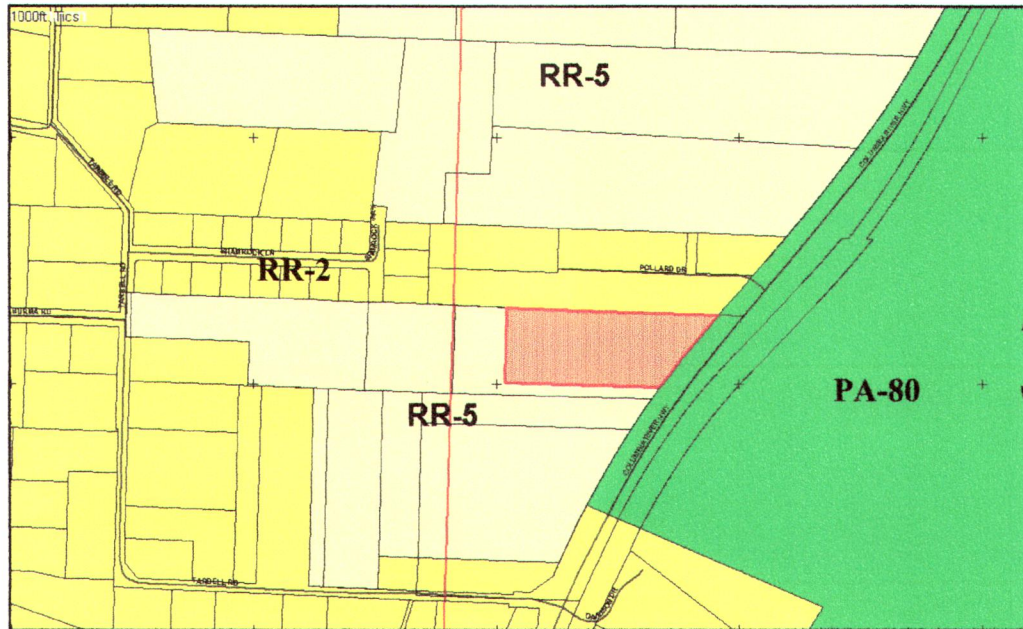
The site is served by an existing well that can continue to serve the existing residence as well as the new kennel facility's needs. The County Building Official has no objections to the new facility provided the applicant obtain all necessary building permits prior to construction. The County Sanitarian 3/11/14 comments confirmed that any wastewater generated by the new 4,000 square foot kennel facility is subject to the Columbia County's Onsite Wastewater Kennel Policy provisions and those in the Chapter 340 Division 71 of the Oregon Administrative Rules. Consistency with these provisions will be required prior building permit issuance as a conditions of approval for CU 14-11.

Finally, emergency services are provided to the site by the Columbia County Sheriff's Department and the Scappoose Rural Fire District. The fire district's comments stated they have no objections to the approval of CU 14-11 as submitted. For these reasons, staff finds that *Hug-A-Bubba's* proposed new kennel operations are not anticipated to place an increased burden on the site's existing water use, garbage service, sewage or wastewater disposal or emergency services. Staff finds that the criterion is met subject to conditions.

Continuing with CCZO Section 1503.5

- E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Current Zoning Map of Subject and Adjacent Properties



Discussion: As shown on the above zoning map, the subject RR-5 property is surrounded to the north, west and south by other Rural Residential zoned properties and to east (across Columbia River Highway) by Primary Agriculture (PA-80) zoned lands. These adjacent properties consist of both rural residential and resource-related development as well as vacant lands. As demonstrated in the pictures on Page 7, the closest residence/neighbor is directly north of the 5.34 acre site, addressed 34170 Pollard Drive, and consists of a accessory farm structures and a single family residence. One barn is immediately north of the non-conforming outdoor fenced kennel structure while the residence is over 100 feet further west of the existing kennel facility. There is one other residence at 55455 Columbia River Highway to the southwest (seen below on Page 15) that will be over 300 feet from the new kennel facility.

As of the date of this report the only objections raised were at the Planning Commission meeting where five property owners within the residentially zoned area testified and expressed their objection to the proposed kennel expanded facilities. The testimonies seemed fearful of the unknown effects and presented possible suppositions not based on fact. The Planning Commission was not convinced and voted to approved the facility expanded kennel operation.

Closest residence to the south - over 300 feet away from new kennel facility



The considerations for minimizing the kennel's impacts to adjacent property owners and properties were already covered in the Discussions related to Findings 1 and 9. These two discussions explain how the applicants have already implemented the various ways in which the Board of Commissioners (in the earlier CU 10-45 decision) required them to run their daily kennel operation to minimize potentially detrimental impacts to nearby RR-5 properties and residents. Staff has already found (Findings 1 and 2) that the applicants will not be changing the non-conforming features or uses of the Board designated fenced outdoor play area at its current location along the north and east property lines and as close as possible to the loud and constant noises associated with Columbia River Highway.

In addition, the application states the applicants are also intending (1) to install a separate fence surrounding the perimeter of their entire 5.34 acre property and (2) design the new 4,000 square foot kennel facility to look like a house. Even with perimeter fencing surrounding the 5.34 acre, the kenneled dogs are not allowed to be outside their approved .50 fenced area. All of these features will help to ensure the proposal requested for CU 14-11 will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the RR-5 or PA-80 uses on surrounding properties.

The applicants will still be required to adhere to the existing conditions of approval that are designed to preserve and minimize detrimental impacts to the surrounding rural residential neighborhood by:

Operating only on Monday - Saturday;
Limiting the time spent in and number of dogs allowed in the outside fenced area;
Scheduling the transportation of dogs to and from the property;
Keeping dogs inside from 9 pm to 6 am;
Annually renewing their Kennel License with the Animal Control Officer; and
Abiding by the restrictions and definitions of the Columbia County's Noise Control Ordinance

Finding 11: Staff finds for the above listed reasons and with the related conditions, that the proposal requested for CU 14-11 will allow and require the applicants to continue operating *Hug-A-Bubba* in

ways that do not substantially limit, preclude, impair predominant uses on surrounding properties as they appeared to have been doing for the past 3 years. Staff finds this criteria can be satisfied with conditions.

Continuing with CCZO Section 1503.5

- F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

Finding 12: With regard to the County's Comprehensive Plan, Part X - Economy, is the most applicable. There are two goals of Part X:

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.
2. To utilize Columbia County's natural resources and advantages for expanding and diversifying the economic base.

Allowing the applicants to continue operating *Hug-A-Bubba* as a home occupation from their residence recognizes these goals in that it provides them with income and allows them to hire local employees. Furthermore, allowing the applicants to move kenneled dogs out of their basement and into a new 4,000 separate kennel facility will also help this home occupation to continue strengthening and diversifying the county's economy. Staff finds that the proposal requested for CU 14-11 satisfies the Economic Goals and Policies of the Comprehensive Plan.

Continuing with CCZO Section 1503.5

- G. The proposal will not create any hazardous conditions.

Finding 13: The application states that no hazardous substances are used for the daily care of the boarded/kenneled dogs. All kennel related wastewater shall be treated, disposed, and approved by the County Sanitarian according to the applicable provisions in OAR Chapter 340 Division 71. Solid dog waste is disposed of daily in 32- 36 gallon garbage cans and picked up weekly by Hudson Garbage.

Dogs will be inside the new 4,000 square foot facility at all times except when they are securely transported to and from the property and to and from the existing outdoor fenced area. The applicants are also intending to install a separate fence surrounding the perimeter of their 5.34 acres which will help ensure any dogs who escape the kennel's secure facilities will not be able to run onto adjacent properties or Columbia River Highway. The applicants also have employees on hand to supervise dogs at all times and requires all dogs to be fully vaccinated before they can be served. Finally, the application states that all dogs are screened for aggressive behavior and excessive barking; any dogs with these potentially disruptive behaviors are not accepted into their program.

It appears that *Hug-A-Bubba* has been maintaining a clean and secure kennel operation which is also an integral component of annually renewing their required kennel license through the County Animal Control Officer. Maintaining their kennel license will require the Animal Control Officer to regularly

inspect and approve the applicants' method of waste management and ensures all necessary measures are incorporated into their annual kennel licensing/renewal process. With proper employment of waste management practices as well as 24/7 supervision of dogs by qualified employees are both necessary to help minimize and/or avoid potential health and environmental hazards from occurring onsite. Staff finds that the criterion in Section 1503.5(G) can be met with conditions that will be required throughout the continuing operation of the kennel as a conditionally permitted home occupation.

Continuing with Section 1503 of the County Zoning Ordinance:

Section 1503 Conditional Uses

- 1503 .6 Design Review: The Commission may require the Conditional Use be subject to a site design review by the Design Review Board or Planning Commission.

Finding 14: This proposal for a dog kennel is subject to mandatory hearing review, but is not of such magnitude that a design review is necessary to ensure that public health, safety and welfare will not be compromised. The applicants have already demonstrated as evidenced via their 3 year history that they have taken a variety of appropriate measures designed to successfully minimize negative impacts onto adjacent properties. Staff finds that an additional site design review permit is not warranted for this proposal.

Continuing with County Zoning Ordinance:

Section 1507 Home Occupations

- 1507 .2 Type 2: A Type 2 home occupation is reviewed as a Conditional Use by the Planning Commission and may be visible to the neighborhood in which it is located. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 2 home occupation:
- A. It shall be operated by a resident or employee of a resident of the property on which the business is located.
 - B. It shall employ on the site no more than five full-time or part-time persons.
 - C. Signs are permitted as per Section 1300 of the CCZO.

Finding 15: Findings 3 and 5 covered these criteria pertaining to who is authorized to run this home occupation and the onsite signage allowed for the requested proposal. The applicants also state that they have never had any more than three (3) other employees onsite since they are both involved in their daily operations of *Hug-A-Bubba* from their home. Staff finds that these criteria have been met and shall be made conditions of approval to ensure compliance with these mandated provisions for the life of the proposed Type 2 Home Occupation as presented in CU 14-11.

- 1507 .3 The following criteria shall apply to all home occupations:

- A. A home occupation shall be operated substantially in:
 - 1. The dwelling; or
 - 2. Other buildings normally associated with uses permitted in the zone in which the property is located.
- B. A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

Finding 16: The proposed new kennel structure complies with the maximum 4,000 square foot size limitation of rural commercial structures in the Oregon Administrative Rules (OAR) 660-022-0030(10). Allowing the applicants to construct a new 4,000 square foot kennel facility will not only enable the 15 kenneled dogs to be inside approximately 90% of the time, but will also provide indoor exercise/play areas for these dogs to keep them occupied and free from potential outside distractions. By keeping dogs inside there is less likelihood of outside noise contributing to surrounding property negative impacts. The outdoor kennel play area's 6 foot high wood fence also prohibits dogs from being exposed to any distractions outside of this controlled and secure area where they can play with one another and the employees. Dogs in the existing basement have a minimum amount of indoor area where they can play as shown in the pictures on Pages 4 and 5. Although the applicant states that the new kennel structure will be designed to look like a house, its use will be accessory to the applicants' primary residential use of this 5.34 acre site.

As far as the proposed kennel operation unreasonably interfering with other residential uses, the Planning Commission and Staff have heard both sides; some say it will interfere, others say it won't. Between the Special Use Criteria (below) recently adopted into the Zoning Ordinance and other recommended conditions, staff believes we have suggested as much mitigation efforts as possible for the proposed kennel structure expansion. If the Board finds that the criteria has not been met, then an amendment to not allow kennels in RR-5 zones should be considered. For these reasons and related conditions staff finds the proposal requested for CU 14-11 will comply with the criteria in Section 1507.3 of the Zoning Ordinance, with conditions.

Continuing with County Zoning Ordinance related to Special Use Standards for Dog Kennels:

ARTICLE IX – SPECIAL USE STANDARDS

Section 1800 SPECIAL USE STANDARDS

1801 GENERAL PROVISIONS

Special uses are those included in Section 1800. Due to their public convenience and necessity and their effect upon the surrounding area, these uses are subject to conditions and standards that differ from those required of other uses. Special uses shall be subject to the provisions of the section that regulates the specific use and the provisions of the zoning district in which the special use will be located. Special uses are permitted only when specified as a primary, accessory, or conditional use in the subject zoning district. Where a dimensional or development standard for a special use differs from that of the subject zoning district, the standard for the special use shall apply.

Finding 17: Because the applicants will have more than ten (10) dogs over six months of age on their property, it is considered a “Kennel,” per the Columbia County’s Kennel Ordinance. Any operation meeting the definition of a kennel must satisfy two regulatory requirements to lawfully operate in Columbia County; 1) all kennels must apply for and obtain a Kennel License through Columbia County Animal Control, and 2) all kennels must apply for and receive land use approval for a Conditional Use and/or Home Occupation Permit through Columbia County Land Development Services. The applicants have already obtained a current kennel license from the Columbia County Animal Control and will be required to always maintain and renew this license for the duration of this kennel operation. The Animal Control Officer’s comments confirmed they have obtained a kennel license and he has no objections to the requested relocation of the kennel facilities.

1802 KENNELS

- .1 Minimum Site Area: The minimum site area in RR-5, PF-76, FA-19 and PA-38 zones shall be five acres.

Finding 18: The subject property is approximately 5.34 acres in size and satisfies this minimum 5 acre criteria for new kennel operations in the county’s unincorporated areas and zoned RR-5.

- .2 Setbacks: The minimum setback for all kennel facilities including exercise and waste disposal areas in RR-5, PF-76, FA-19 and PA-38 zones shall be 100 feet. In all other zones in which kennels are allowed, the setback shall be as prescribed by zoning district standards of the zone in which it is located.

Finding 19: The new kennel structure will be sited on the property at least 100 feet from any property line. As already discussed for Findings 1 and 2 the only kennel facility that does not conform to the minimum 100' setback from all property lines is the lawfully established non conforming outdoor fenced kennel structure. This kennel facility is not being altered or changed and can continue to be used for its original purposes according to the provisions in Section 1506.1. The 32- 36 gallon garbage cans for solid kennel waste are located in the driveway near the home and are also at least 100 from all property lines. The only new kennel facility proposed and authorized for CU 14-11 is the new 4,000 square foot facility which will be at least 100 feet away from all property lines, verified at the time of building permit issuance. Prior to the occupancy of this new facility, LDS Planning Staff will verify these distances with a field visit. Staff finds that the criterion is met subject to staff verification of these distances.

- .3 Signs: There shall be a maximum sign area of six(6) square feet in RR-5, PF-76, FA-19 and PA-38 zones. In all other zones in which kennels are allowed, the maximum sign area shall be as prescribed by sign standards contained in Section 1300.

Finding 20: These provisions have also been addressed in Finding 5, and will be required as a condition of approval. They will be adhered to for the lifetime that the applicants operate a kennel at this location. Staff finds that the criterion is met subject to conditions.

- .4 Kennel Licence: A Columbia County kennel licence shall be obtained.

Finding 21: The applicants have submitted documentation that the Animal Control Officer has renewed their kennel operation for 2014- 2015. With the proposed new kennel facility the Animal Control Officer may need to revisit the kennel and modify their license. If so, a copy of this renewal shall be submitted to Land Development Services prior to kenneling any dogs in the new 4,000 square foot facility. Said licensing shall be continuously maintained for the life of the kennel operation. The Animal Control Officer's comments dated 3/20/14 confirm that he has no objections to the proposal requested for CU 14-11 and encourages the County to allow the applicants to continue using the fenced outdoor play area near Columbia River Highway. Staff finds that the criterion is met subject to conditions.

- .5 Dog Waste: All kennels shall comply with dog waste handling and disposal standards contained in Section 10 D. of the Columbia County Kennel Ordinance.

Finding 22: This criteria has also been covered and addressed in Findings 10 and 13 and will be adhered to for the duration of the operation of CU 14-11 at this location. It appears the existing waste disposal methods have not compromised the site's residential septic system and are not a concern for the County Sanitarian. Without any further evidence, the applicants have been and will continue to handle dog waste in accordance with standards set forth in Section 10.D of the Columbia County Kennel Ordinance. Dog waste handling is addressed at the time of kennel licensing and the disposal standards of the Kennel Ordinance are enforced by the Columbia County Animal Control Officer. Staff finds that the criterion is met subject to conditions.

- .6 Outside Hours: All dogs shall be brought into an enclosed building between the hours of 9pm and 6am.

Finding 23: The application states that all dogs will be inside the new kennel facility between 9 pm and 6 am and are usually inside after 5 pm on most evenings. Staff finds that the criterion is met subject to conditions.

- .7 Control of Dogs: All dogs shall be confined within an enclosed building or within secure fencing at all times when not under the direct control of a keeper.

Finding 24: As the applicants have stated consistently throughout their CU 14-11 application, all kenneled dogs are supervised 24/7, whether or not they are inside or outside of the kennel facilities in accordance with CCZO Section 1802.7. Staff finds that the criterion is met subject to conditions.

- .8 A kennel and/or keeper of a dog shall be subject to ORS 609.095. A violation of ORS 609.095 shall be a basis for denial or revocation of a kennel land use approval.

Finding 25: The applicants will be required to annually renew their Columbia County Kennel License as a condition of approval. The continuation of the kennel shall be subject to the public nuisance laws of Oregon Revised Statute (ORS) 609.095. ORS 609.095 states the following:

609.095 Dog as public nuisance; public nuisance prohibited; complaint. (1) A dog is a public nuisance if it:

- (a) Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;
 - (b) Damages or destroys property of persons other than the keeper of the dog;
 - © Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others;
 - (d) Trespasses on private property of persons other than the keeper of the dog;
 - (e) Disturbs any person by frequent or prolonged noises;
 - (f) Is a female in heat and running at large; or
 - (g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098.
- (2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.035 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of this section. Maintaining a dog that is a public nuisance is a violation.
- (3) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under ORS 609.990 or if a keeper fails to provide acceptable proof of compliance to the court on or before the 10th day after issuance of the order imposing the restrictions. If the court finds the proof submitted by the keeper unacceptable, the court shall send notice of that finding to the keeper no later than five days after the proof is received.
- (4) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the county, precinct or city. The receipt of any complaint is sufficient cause for the county, precinct or city to investigate the matter and determine whether the keeper of the dog is in violation of subsection (2) or (3) of this section.

Staff finds that the criterion is met subject to conditions.

Continuing with Special Use Standards CCZO Section 1802

- .9 All kennels must be sited to minimize impacts on neighboring properties and resource uses.

Finding 24: The kennel has been sited in accordance with the standards of Section 1800 Special Use Standards, to minimize impacts on neighboring properties and resource uses. Findings 1, 9, 10, 11, and 13 provide detailed analyses of the conditions imposed to mitigate impacts. The Board may attach additional conditions if found necessary to minimize impacts. Staff finds that this criterion is met subject to conditions.

COMMENTS RECEIVED:

County Animal Control Officer: Has reviewed the proposal and has no objections to its approval as submitted and encourages the continuing use of the existing outdoor fenced area near Columbia River Highway.

Scappoose Rural Fire District: Has reviewed the proposed application and has no objections to its approval as submitted.

County Sanitarian: No Objection provided the wastewater considerations comply with the applicable provisions in OAR 340 Chapter 71.

Scappoose-Spitzenberg CPAC: Have no objections to the approval of CU 14-11 and encourage the Commission to allow the continuing use of the site's existing fenced area for the dogs outdoor play.

County Building Official: No Objection to the approval of CU 14-11 as submitted provided they apply for and be granted the necessary building permits for the new 4,000 square foot facility.

Oregon Department of Transportation: Has not submitted any objections or comments to this proposal as of the date of this report.

Debra Weekley, Steve and Maria Strauss, Jason Coulthurst, Kevin Shoop, Peg Allen, Colleen Nyberg, Tami, and Laurie Going all current clients of *Hug-A-Bubba* have submitted letters in support of the applicants' kennel operation.

Planning Commission: Recommend approval, see minutes attached.

No further comments from agencies, citizens or otherwise have been received regarding this proposal as of the date of this staff report, May 28, 2014.

CONCLUSION, & RECOMMENDED DECISION & CONDITIONS:

Siting a dog kennel in a residential zone presents a set of inherent compatibility problems with neighboring properties. The types of disturbing activities coming from the kennel must be minimized by the operator and by conditions imposed.

Based on the facts, findings and comments herein, staff recommends **approval** of this **Conditional Use Permit (CU 14-11)** at RR-5 property addressed at 55501 Columbia River Highway in Scappoose, further identified as Tax Lot ID # 4130-030-00100 subject to the following conditions:

1. This Conditional Use Permit shall become void unless the proposal has commenced in conformance with all conditions and restrictions established herein within the **2 year validity period**. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicants are not responsible for failure to commence with the proposal.
2. Kenneled dogs shall only be allowed outside if contained within the existing exercise yard or if on a leash or in a carrier. Kenneled dogs shall not be allowed on the property outside of the new 4,000 square foot kennel facility and/or outdoor fenced exercise yard.
3. Kenneled dogs shall only be allowed outside in groups of four for 45 minute increments (each), two times per day.
4. The operator of the Home Occupation Business shall maintain proper dog kennel licensing from Columbia County Animal Control. Violation of the Columbia County Animal Control kennel

licensing shall be considered inconsistent with this Conditional Use and will be subject to further review under conditions 14 and 15, below. If a revised Kennel License is required after the new 4,000 facility is constructed, a copy of this revised license shall be submitted to Land Development Services prior to kenneling any dogs in the new 4,000 square foot facility

5. The Home Occupation Business shall comply with the Columbia County Noise Control Ordinance. In addition, all dogs shall be kept indoors between the hours of 9 PM and 6 AM.
6. There shall be no more than 15 kenneled dogs, six months of age or older, on the subject property at any given time.
7. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located at 55501 Columbia River Highway.
8. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
9. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land and cannot be transferred to other applicants/property owners.
10. Before any sign is established for this Home Occupation business, all applicable sign permits for home occupations in the RR-5 Zone shall be obtained from the County. All applicable sign standards in effect at the time of County review shall apply.
11. Any rebuilding, changing, moving or expansion of the existing fenced outdoor play area for dogs along the north and east property lines shall comply with the applicable provisions to non conforming structures in Section 1506 of the Zoning Ordinance for the life of the proposal requested for CU 14-11.
12. The sight-obscuring landscaping and continuous hedge of at least 6 feet height along the northern boundary of the outdoor exercise area shall be continually maintained.
13. The County Planning Official shall verify that the new 4,000 square foot kennel structure facility is located at least 100 feet from all property lines prior to the issuance of any building permits.
14. The Department of Land Development Services reserves the right to review this application again in the future if it is determined that adjacent properties are being negatively impacted by the operation of this Home Occupation business.
15. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.
16. The County Sanitarian shall approve how the disposal of any waste water being created by the dog kennel use occurs pursuant to the Columbia County Kennel Wastewater Policy.

ATTACHMENTS:

CU 14-11 Application, Site Plan & Internal view of new kennel facility
Zoning, Address and Vicinity Maps
Comments and letters received