



**City of Prineville**  
**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**  
**STAFF REPORT TO PLANNING COMMISSION**

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**HEARING DATE:** November 1, 2011

**PROJECT NUMBER:** AMEN-2011-102

**APPLICANT:** Jay & Rhonda Krider  
2584 NW Gerke Rd.  
Prineville, OR, 97754

**STAFF:** Scott Edelman, Planning Director

### **Background**

In July, 2011 Jay Krider, owner of Dave's Towing, approached the Planning Department with a request to sign a highway approach permit for a new location for his towing business as well as his wife's quilt shop. At that time, Mr. Krider was informed that towing yards are not a permitted use in the C-2 General Commercial Zone. After taking the issue to the Planning Commission for discussion, staff informed Mr. Krider that the City could not accept an application for a towing company on the subject site unless a text amendment was approved by the City to allow towing yards in the C-2 zone.

Mr. Krider applied for the text amendment on September 19, after which City staff prepared the required notice to the Department of Land Conservation and Development and posted local notice per the City's notice requirements for legislative procedures (Prineville Code 153.252). The purpose of the public hearing on November 1 is to solicit public comments and then make a formal recommendation to City Council in regard to the proposed text amendment based on the record, which includes the findings in this report, public comment and deliberation among Planning Commissioners.

### **Proposed Amendment**

Mr. Krider has requested that towing yards be included as an allowable use in the C-2 zone. Since towing yards are already allowed as an outright use in the M-2 Heavy Industrial zone, staff recommends that Planning Commission also consider allowing this as an allowed use in the M-1 Light Industrial zone. Exhibit A highlights the proposed amendments as they would be shown on the Commercial & Industrial Use Table in section 153.037. As depicted, the proposal is to allow towing yards as an outright use in the M-1 zone and as a type 2 conditional use in the C-2 zone.

The Planning Commission may also consider additional amendments related to this issue, including but not limited to those outlined in Exhibit B.

## **Process**

As this proposed text amendment does not apply to a single property but to every property within the C-2 and M-1 zones, this is a legislative process (as opposed to a quasi-judicial process, such as a site plan review or zone change which would only address a single site). As a legislative process, the role of the Planning Commission is to consider written and verbal public testimony, the findings in this staff report and their own deliberations in making a formal recommendation to City Council. Council will then hold a separate public hearing to consider the recommendation of the Planning Commission.

It is important to note that this public hearing is not reviewing Mr. Krider's request to locate his towing business on a specific site, but to allow towing yards in general throughout the C-2 and/or M-1 zones.

## **Impact of Amendment**

If this amendment is approved by City Council, Mr. Krider and other towing companies will be allowed to apply to the City for a site plan application to locate towing yards in the C-2 and M-1 zones. If allowed as an outright use in either zone, towing yards would be reviewed by staff based on general site and design criteria. If allowed as a type 1 conditional use, towing yards would be reviewed either by staff or the Planning Commission based on general site and design criteria as well as conditional use criteria (153.135 – 153.139), which would allow the reviewing body to place additional conditions on a site to ensure compatibility with neighboring uses and the best interests of the community as a whole. If allowed as a type 2 conditional use, towing yards would be subject to the same criteria as a type 1 conditional use, but with a public hearing before the Planning Commission as an automatic requirement.

As part of the review process for a towing yard, as with any business, the land use decision would have to comply with Chapter 155 of the City Code. This is the Natural Features Overlay District (NFOD) which provides protections for the community's natural resources and includes a required minimum setback of 50 feet from the Ochoco Creek or Crooked River and any associated wetlands to a development. There is also a required minimum setback of 25 feet from any isolated wetland (not directly associated with the river or creek). For a towing yard, this would be the closest that any portion of the business could be located in proximity to one of these natural features. Additional setbacks to the business or to specific business activities (such as storage of wrecked vehicles) could be required through the conditional use process.

As a conditional use, staff or the Planning Commission would have the ability to determine that the use is either not appropriate for a specific site or that additional conditions would be necessary in order for it to be appropriate for that site and surrounding uses. Such additional conditions would be based on the following criteria.

### **153.136 SPECIFIC CONDITIONS.**

In addition to the standards and conditions set forth in a specific zone, this subchapter, this chapter and other applicable local, county, state and/or federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area, the city as a whole and the general public. No condition may be imposed which violates federal or state law with regard to needed housing. The conditions may include, but are not limited to, the following.

(A) Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.

(B) Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.

(C) Limiting the height, size or location of a building or other structure or use.

(D) Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.

(E) Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.

(F) Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.

(G) Requiring diking, screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.

(H) Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or manmade significant resources.

### **Staff Findings**

Staff findings are based on two primary considerations:

1. The proposed use is consistent with other uses allowed in the C2 and M1 zones
2. The proposed amendment is consistent with the City's Comprehensive Plan

The following uses are examples of similar uses allowed outright or conditionally in the C-2 zone:

Outright – auto detailing; auto repair; auto rentals; auto sales (new & used); auto service station; recreational vehicle sales, service, rental & repair; and semi-truck parking and staging

Type 1 Conditional –auto painting, auto body work

**Staff Finding 1:** Based on the uses listed above in the C-2 zone, staff finds that a towing yard is similar in nature and impact to the uses identified above as they all relate to vehicle services. Due to the characteristics of a typical towing yard (i.e. visual impacts, environmental impacts, potential 24-hour activity, etc.), staff finds that the potential impacts would make a towing yard most compatible with those allowed as conditional uses in the C-2 zone.

The following uses are examples of similar uses allowed outright in the M-1 zone:

Outright – auto painting, auto body work; auto repair; auto sales (new & used); auto service station; truck stop; recreational vehicle sales, service, rental & repair; recreational vehicle storage facility

**Staff Finding 2:** Based on the uses listed above in the M-1 zone, staff finds that a towing yard is similar in nature and impact to the uses identified above as they all relate to vehicle services. As all of these services are listed as outright uses in the M-1 zone, staff finds that towing yards could also be classified as an outright use unless the Planning Commission determines potential impacts are greater for a towing yard than other uses listed above.

In regard to consistency with the City's Comprehensive Plan, the following are excerpts that support the proposed text amendment. Some of these values and policies would support locating towing uses in commercial zones while others cover a different angle of the same argument by not limiting towing yards to industrial zones in order to preserve these for true industrial/manufacturing uses.

#### *Commercial Zone Values and Policies*

- Commercial zones must include outright permitted and conditional uses adequate to fully support the needs of the Prineville community.

**Staff Finding 3:** Allowing towing yards in the M-1 and/or C-2 zones would significantly increase the number of sites available for a towing yard, thereby helping to ensure adequate availability of this service for the community. Currently there is only one towing yard in town (Dave's Towing) and it is located in the M-2 Heavy Industrial Zone. While additional towing yards may not be necessary at this time to "fully support the needs of the Prineville community," as the city grows, additional facilities such as this might be in demand. Expanding the number of sites on which towing yards could be located increases the ability of the city to support this type of business in the future.

- Commercial zone regulations should be flexible and include incentives to attract businesses to create a self-supporting community and competitive business environment.

**Staff Finding 4: Allowing a specific use in additional zones is not technically an incentive. However, any time more land is made available for a certain use, it increases flexibility and opportunity for those wishing to pursue it, thereby contributing to a competitive business environment.**

- Commercial zones should provide adequate opportunities to locate and operate businesses so Prineville can be as self-sufficient as possible without requiring citizens to make excessive vehicle trips to other communities.

**Staff Finding 5: Increasing the number of zones within which a towing yard is allowed contributes toward providing “adequate opportunities to locate and operate a business” in Prineville.**

- Commercial areas should allow for service, repair and small manufacturing as a way to preserve industrial parcels in large acreages. Special incentives may be needed to control land prices for these uses.

**Staff Finding 6: One of the dangers of allowing commercial uses in industrial zones is that the lower land prices may incentivize commercial businesses to locate in industrial areas instead of downtown or other primary commercial areas. This has at least two negative effects. First, it takes away from the downtown core and other commercial areas by attracting businesses that would be a better fit in a commercial center rather than an industrial area. Second, as this policy reflects, is the danger that industrial land will be absorbed by commercial uses, thereby increasing the cost of industrial land and potentially hindering manufacturing and other job-creating industrial uses. Allowing towing yards outside of the M-2 heavy industrial zone will provide alternative sites that will not take up valuable industrial land.**

#### *Industrial Zone Values and Policies*

- Industrial zones should provide the greatest density of manufacturing jobs per acre, exclusive of workforce housing, and be located in places that do not disrupt the function of other land uses.

**Staff Finding 7: Obviously commercial uses do not contribute to a high density of manufacturing jobs per acre when located in industrial zones. This is particularly true of businesses with a very low employee-to-land ratio like towing yards. The proposed amendment would provide for alternative locations outside of the M-2 zone for this use.**

- Small service, repair, and manufacturing industries should be encouraged to locate in commercial areas, if appropriate, as a way to retain large industrial acreages. Special incentives may be needed to offset the difference in land costs.

**Staff Finding 8: This policy also speaks to the importance of preserving industrial land for manufacturing uses by encouraging uses that can be compatible with commercial areas to locate in commercial zones. As a service business, towing yards are one of these that can be compatible with other uses in commercial zones if appropriately located and regulated.**

## **Conclusions**

Based on the findings above, staff has determined that the proposed text amendment is consistent with both other uses allowed in the M-1 and C-2 zones as well as the relevant policies in the Comprehensive Plan. However, staff also advises the Planning Commission to consider whether existing codes (i.e. site and design, conditional use criteria and Natural Features Overlay District criteria) are sufficient to ensure towing yards do not have an adverse impact on neighboring properties, natural features or the greater community if allowed to locate in one or both of these zones.

If the amendment is adopted by Council, some protection for neighboring uses and features from adverse impacts will be provided by the general site and design criteria. Further protections would be provided if classified as a conditional use as described above. Staff recommends that the Planning Commission discuss whether additional criteria should be placed on towing yards, whether allowed conditionally or outright. Examples of additional criteria that might be imposed are included in Exhibit B.

## **MOTION IN FAVOR**

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Favor of this amendment to the City of Prineville Land Use Code. I Move that the Planning Commission makes a formal recommendation to City Council in favor of the proposed amendment.*

## **MOTION IN OPPOSITION**

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Opposition to this amendment to the City of Prineville Land Use Code. I Move that the Planning Commission makes a formal recommendation to City Council in opposition of the proposed amendment.*

## Additional Criteria to Consider for Towing Yards

The following are examples of additional definitions and review criteria the Planning Commission could consider adding to the code related to towing yards.

### Definitions

**Towing Yard.** A lot or portion of a lot used for temporary storage of vehicles that have been towed by a licensed towing company. A towing yard shall not include any dismantling of vehicles or storage of vehicle parts (see Wrecking Yard).

**Wrecking Yard.** A lot or portion of a lot used for dismantling of vehicles and storage of vehicles, vehicle parts, fluids removed from vehicles and other related activities.

**Towing Yard.** In considering an application for a towing yard, the following factors, conditions and limitations shall be applicable:

(1) A building and/or enclosure or other barrier at least 6 feet in height shall be constructed and maintained, and that the subject use shall be contained totally within the building and/or enclosure.

(2) No activity involving any wrecking, dismantling or altering of vehicles shall be permitted on the site.

(3) Special consideration shall be given to the following factors, and additional setbacks, screening and other conditions and limitation may be established relative thereto.

(a) Proximity to residentially zoned areas and existing residential uses on non-residentially zoned property.

(b) Proximity to churches, schools, hospitals, clinics, public buildings, recreational facilities, or other places of public assembly or gathering.

(c) Visual impact from neighboring properties and adjacent public rights-of-way.

(d) The health, safety and general welfare of the city and the public.