



Public Hearing Item 1: Conditional Use Permit

Planning & Zoning Committee • January 7, 2025

<u>Proposed Use:</u>	Major Home Occupation – Commercial Services
<u>Applicable Section(s):</u>	12.105.02; Table 12.105.02(1); 12.125.28(2); 12.155.08(2)
<u>Zoning District(s):</u>	A-1 Agriculture
<u>Property Owner(s):</u>	Herbert, Kyle D; Herbert, Jessica R
<u>Property Location:</u>	Located in the Northeast Quarter of the Southwest Quarter of Section 8, Town 12 North, Range 10 East
<u>Town:</u>	Wyocena
<u>Parcel(s) Affected:</u>	307.01
<u>Site Address:</u>	W6717 West Bush Road

Background:

Kyle D Herbert and Jessica R Herbert, owners, request the Planning and Zoning Committee review and approve a Conditional Use Permit for a Major Home Occupation on the aforementioned property. to move their existing CUP, 2019-063 to this property. Conditional Use Permit 2019-063 was approved in December 2019 for a major home occupation to allow a chiropractic office to be run out of the residence at W5602 County Highway P, also in the Town of Wyocena. Parcel 307.01 is zoned A-1 Agriculture and is also planned for continued Agricultural or Open Space use on the Columbia County Future Land Use map. The parcel is 39.79 acres in size and West Bush Road runs through the northeastern corner of the property. Lands that are northwest of West Bush Road are mapped as wetland, as well as some lands along the west parcel boundary. All three existing structures (residence and two accessory structures) are located well outside of this area. There is no floodplain on the property. There is no prime farmland or highly erodible lands on the parcel. Land use and zoning of adjacent properties are shown in the table below.

Adjacent Land Uses and Zoning

Direction	General Land Use	Zoning
North	Single-Family Residence and Wetland/Open Space	A-1 Agriculture
East	Agriculture and Single-Family Residence	A-1 Agriculture
South	Agriculture and Woodland/Open Space	A-1 Agriculture
West	Single-Family Residence, Agriculture, and Woodland	A-1 Agriculture

Analysis:

The chiropractic clinic is classified as a commercial service under the Columbia County Zoning Code. A commercial service is defined in Section 12.155.05(5) as, “all indoor land uses of which the primary function is the provision of commercial services directly to an individual on a walk-in or on-appointment basis. Examples of such uses include barber shops, beauty shops, indoor repair, or maintenance land uses (except for motor vehicles), and related land uses.” Commercial services are allowed as both minor and major home occupations under Section 12.155.08. Because Conditional Use Permits are not transferrable from property to property, a new request is being applied for; however, the proposed relocated use and expected conditions of approval will remain similar to the original 2019 proposal.

The chiropractic services are targeted to both people and animals, small and large. Hours of operation are Monday to Thursday, from 10:00 am to 6:00 pm, by appointment only. The chiropractic services are also mobile, so house/farm calls are done on Wednesdays and some Tuesdays. This leaves on-site chiropractic services being conducted approximately 3 days per week. Recommended Condition 3 allows for a wider range of operational hours, in the event that additional hours become necessary in the future. Other than the individuals living in the residence, there is one full time employee and one remote employee, for a total of four. The office approved in 2019 takes up approximately 375 square feet of the existing single-family home at W5602 County Highway P. The new office will be conducted out of an existing agricultural structure on parcel 307.01. There are two treatment rooms, a break room, and a waiting area proposed. The use will occupy an area of approximately 34'x60', or 2,040 square feet, within the existing structure. Section 12.125.28(2)(b) states that major home occupations, "shall occupy no more than 50 percent of the gross floor area on the floor(s) of the principal structure where the use takes place, not more than one accessory structure if located therein, or a combination of these two locations. There is an existing convenience bathroom located within the accessory structure. The bathroom is serviced via a 2,000-gallon holding tank installed in 2023, and a maintenance agreement is on file with the Register of Deeds. The system is sized for 150 gallons per day and should account for the proposed use. If hours of operation increase, the Department will need to determine if an upgraded system is necessary.

The existing signage will be relocated to the new location. The existing freestanding sign is less than 32 square feet in area, as required by Section 12.145.04(2)(g), and a permit must be obtained prior to placement. Employee vehicles will be parked within the existing garage, or next to it to allow for ample customer parking opportunities during business hours. Aspen Chiropractic and Wellness utilizes magnetic signs for any vehicles used for home and farm calls. This allows the signage to be removed outside of office hours for personal vehicular use. Additional details about the business can be viewed in the attachments.

Town Board Action:

The Wyocena Town Board met on November 21, 2024 and recommended approval of the Conditional Use Permit with conditions.

Standards for Review:

The proposed use complies with the General Criteria of Section 12.150.07(4) of the Columbia County Zoning Ordinance. See Attachment A for more details.

Recommendation:

Staff recommends approval of the Conditional Use Permit for a Major Home Occupation, subject to the adoption of the following recommended Findings, Conclusions, and Conditions.

Recommended Findings of Fact:

1. Upon review of the guidelines in Section 12.150.07(4) of the Columbia County Zoning Code, and with the explanation of the criteria in Attachment A of the Staff Report, the Committee finds the following:
 - a. Kyle D Herbert and Jessica R Herbert are the owners of the subject property.
 - b. Kyle D Herbert and Jessica R Herbert are the applicants for a Conditional Use Permit.
 - c. Kyle D Herbert and Jessica R Herbert is requesting a Conditional Use Permit to operate a major home occupation on parcel 11042-307.01.
 - d. The property is already developed with a single-family residence, accessory structures, septic system, well, and driveway on site.
 - e. The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare of the occupants of surrounding lands.
 - f. The use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.
 - g. The erosion potential of the site, based on topography, drainage, slope, soil type, and vegetative cover is minimal.
 - h. There is no existing or anticipated water pollution including sedimentation, and no impacts on floodplain and wetlands.
 - i. The site has adequate utilities, including acceptable disposal systems.

- j. Access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow.
- k. The Conditional Use shall conform to the standards of the applicable district(s) in which it is located.

Recommended Conclusions of Law:

1. The subject property is located in the Town of Wyocena and is zoned A-1 Agriculture. The District uses are listed in Table 12.105.02(1).
2. A major home occupation is a conditional use within the A-1 Agriculture district.
3. Kyle D Herbert and Jessica R Herbert are the petitioners for a Conditional Use Permit. The petition followed the procedures of Section 12.150.07(3) of the Columbia County Zoning Code.
4. The petitioners are proposing to use an accessory structure within the A-1 Agriculture zoning district for a Major Home Occupation, which is allowed as a Conditional Use under Table 12.105.02(1).
5. The Wyocena Town Board has reviewed and recommended approval of the Conditional Use Permit, with conditions, in accordance with Section 12.150.07 of the Columbia County Zoning Code.
6. The Columbia County Planning and Zoning Committee has the authority under Sections 12.150.03(2)(b) and 12.150.07 of the Columbia County Zoning Code to conduct public hearings, review, and decide on requests for Conditional Use Permits.
7. The standards of Section 12.125.28(2) of the Columbia County Zoning Code as noted below are applicable:

(2) **Major home occupation.** To be classified as a legal major home occupation, such uses shall be subject to the following performance standards.

- (a) The use shall be conducted entirely within the confines of the principal residential structure or accessory structure.
- (b) The use shall occupy no more than 50 percent of the gross floor area on the floor(s) of the principal structure where the use takes place, not more than one accessory structure if located therein, or a combination of these two locations.
- (c) The appearance of the structures shall not be altered or the occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.
- (d) A total of no more than four persons shall be employed by the major home occupation. This total excludes those members of the family that are permanent residents of the premises shall be employed by the major home occupation, aside from in the A-1 District where the limitations under Subsection 11 shall apply.
- (e) There shall not be conducted on the premises the selling of stocks of merchandise, supplies, or products other than those produced by the major home occupation to fill customer orders placed via mail, telephone, or internet. That is, the direct retail sale of products is not allowed, but a customer may pick up an order that had been placed. Other types of wholesale or retail sales from within the dwelling or accessory structure as the primary activity or function of the major home occupation are prohibited.
- (f) The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling is permitted in an enclosed accessory building. Within the A-1 Agriculture, AO-1 Agriculture and Open Space, A-2 General Agriculture, RR-1 Rural Residence, and C-1 Light Commercial districts, the display, storage, or parking of materials, goods, supplies, or equipment is also allowed in a yard of the subject property provided the yard area used for such display, storage, or parking is completely screened from view from all public streets and adjacent property through a landscaped transitional yard as specified in Section 12.140.06(2)(d) and such activity does not occur within a minimum required setback area. The total outdoor storage area shall not exceed one-half acre in size.

1. Within the R-1 Single-Family Residence, R-2 Multiple-Family Residence, and R-3 Mobile or Manufactured Home Park zoning districts, only one commercial vehicle may be associated with the major home occupation. The commercial vehicle must meet the following conditions:

- a. Current on registration and license;
 - b. The gross vehicle weight rating shall not exceed seventeen thousand five hundred (17,500) pounds, including load;
 - c. The height shall not exceed nine feet as measured from the ground level, excluding antennas, air vents, and roof-mounted air conditioning units, but including any load, bed or box;
 - d. The total vehicle length shall not exceed twenty-six feet, including attachments thereto, such as plows, trailers, etc.
- (g) There shall be no advertising, display, or other indications of a home occupation on the premises other than as specified by the terms of this Chapter
 - (h) No major home occupation may involve the on-site sale, resale, repair, including body repair, salvage or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles.
 - (i) Conditional use permits granted for major home occupations shall be assigned only to a designated person who, at the time of conditional use permit issuance, resided at the residential address. Such permits do not run with the land, are not transferable from person to person, or from address to address.
 - (j) The Planning and Zoning Committee may restrict the number and types of machinery and equipment, limit hours of operation, or establish other conditions on the approval to meet the standards for granting a conditional use permit in Section 12.150.07(4).
 - (k) Within the A-1 district, such uses shall also be subject to the following additional limitations:
 - 1. Be conducted by the owner or operator of the farm.
 - 2. In the A-1 district, all owners and operators of the farm that are engaged in the major home occupation shall be included among the maximum of four employees engaged in the major home occupation, unless otherwise allowed through changes to the Wisconsin administrative rules or statute adopted after January 1, 2014.
 - 3. Require no buildings, structures, or improvements other than a preexisting farm residence, an agricultural accessory structure, or both.
 - 4. Not impair the current or future agricultural use of the farm or of other farmland that is within the A-1 district, legally protected from nonagricultural development, or both.

Recommended Conditions for the Decision:

- 1. The Conditional Use Permit is not transferrable to another owner.
- 2. At least one (1) zoning permit shall be obtained within 12 months of approval to secure the Conditional Use Permit.
- 3. Hours of operation shall be Monday through Friday, 8:00 am to 6:00 pm.
- 4. The home occupation shall employ no more than 2 individuals that are not permanent residents of the household.
- 5. A freestanding sign, no larger than 32 square feet in area, and no taller than 6 feet in height, shall be permitted.
- 6. The major home occupation shall occupy no more than one existing accessory structure and shall be developed in accordance with the approved site plan.
- 7. Parking shall be provided on-site. All off-street parking shall be on a paved or gravel surface and shall be arranged to facilitate easy ingress/egress of all vehicles.
- 8. The Planning and Zoning Department shall have the right of inspection for the purpose of determining compliance with this permit during normal working hours or upon reasonable notice outside of normal hours.
- 9. If the Planning and Zoning Committee finds that the review criteria of Section 12.150.07(4) of the Columbia County Zoning Code, or the conditions stipulated in the Committee Decision are not being complied with, the Planning and Zoning Committee, after a public hearing, may revoke the Conditional Use Permit.

10. Any agreement(s) or condition(s) pertaining to this Conditional Use Permit between the Town of Wyocena and Kyle D Herbert and Jessica R Herbert are hereby incorporated below as part of this Conditional Use Permit; however, the County is not responsible for enforcing said agreement(s) or condition(s), unless an individual point of the agreement(s) or condition(s) is specifically included above as a condition of approval. In the event that the Town submits a finding of noncompliance with any of these item(s), for which the County has not assumed direct enforcement authority, upon written request by the Town, the County reserves the right to review the Conditional Use Permit.

Section 12.150.07(4): Criteria for review of all Conditional Uses

Re: Public Hearing Item 1: Herbert Major Home Occupation

**Staff comments are italicized after each review item.*

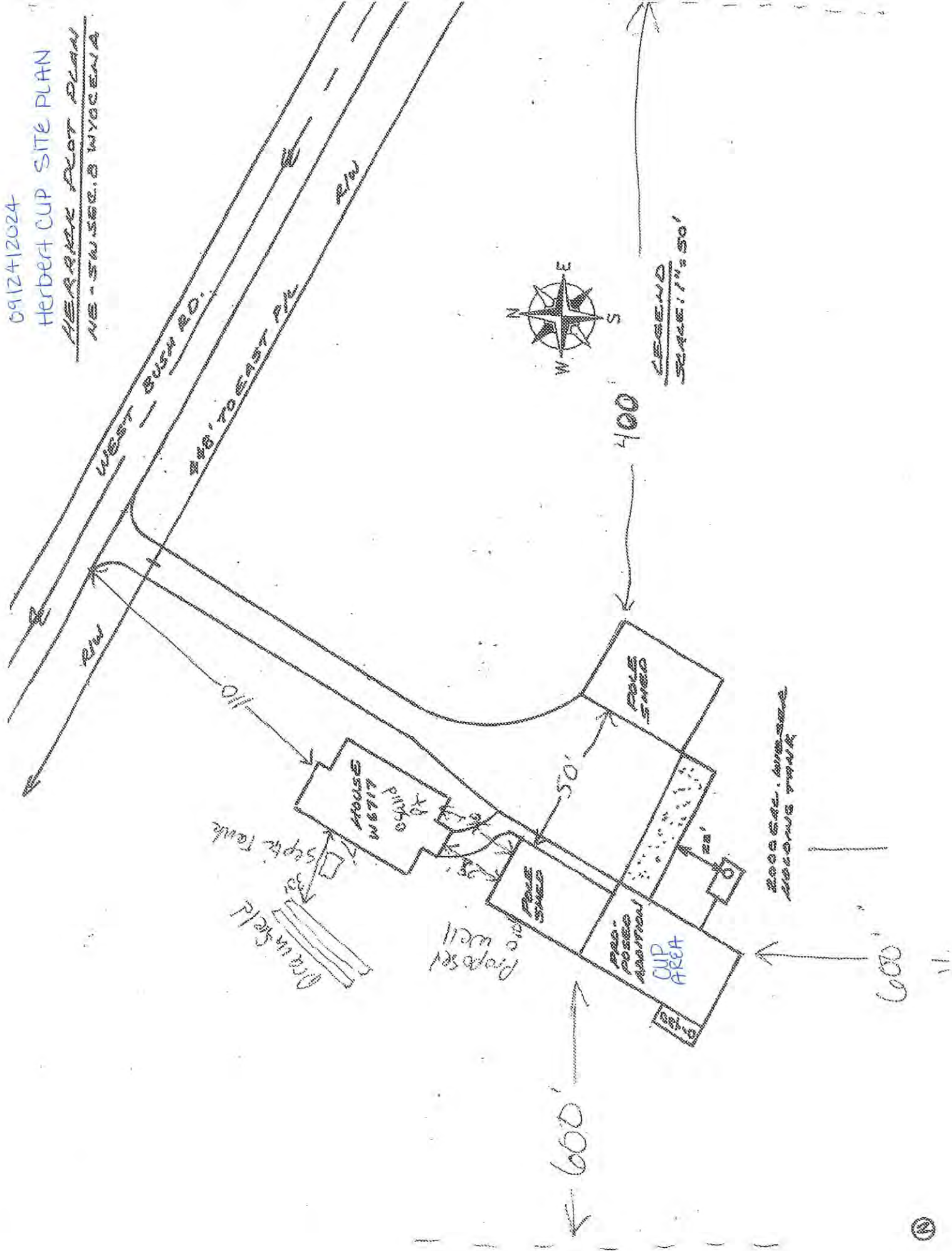
Review Criteria. In reviewing the conditional use permit the Planning and Zoning Committee shall use the following as guides for making a decision.

- (1) The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare of the occupants of surrounding lands. *The addition of a major home occupation to this property will not endanger the public health, safety, or welfare of the occupants of surrounding lands as home occupations are intended to be ancillary to the residential use. Hours of operation will be limited to typical weekday business hours. Issues which could be seen as having the potential to be detrimental appear to be able to be adequately mitigated by the application of Section 12.125.28(2) of the Columbia County Zoning Code and the conditions of approval.*
- (2) The use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area. *The single-family residence and accessory structures are existing. Internal modifications (such as new walls, etc.) will be made. The only visible change on the property will be the placement of small exterior sign noting the name of the home occupation. There will be no change to the physical character of the area. Operating within the conditions of approval will ensure that the proposed use will not substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.*
- (3) The erosion potential of site based on topography, drainage, slope, soil type, and vegetative cover. *The development is existing; therefore, the potential for erosion is limited.*
- (4) The prevention and control of water pollution including sedimentation, and the potential impacts on floodplain and wetlands. *The site is already developed. There are no mapped wetlands or floodplain near the proposed use.*
- (5) The site has adequate utilities, including if necessary acceptable disposal systems. *A sanitary system has already been provided for this use. If hours of operation are expanded, the sanitary system may need to be expanded.*
- (6) Access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow. *Ingress and egress to the site is from an existing driveway located on a town road. The level of activity from the proposed use will not create congestion or affect traffic flow above and beyond the existing use on the property as a single-family residence.*
- (7) The Conditional Use shall conform with the standards of the applicable district(s) in which it is located. *The proposed Major Home Occupation must comply with the conditions of approval as well as the standards set forth within the Columbia County Zoning Code, specifically 12.125.28(2).*

09/24/2024

HERBERT CUP SITE PLAN

HERBERT CUP SITE PLAN
NE - 34th St. & WYOMING



NE-SW SEC. 8 WYOCENT

HERBERT PLCT

CUP PLAN

PROPOSAL

50' = 3"

SCALE

