

**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, April 22, 2010**  
**6:30 p.m., Umatilla County Justice Center, Media Room**  
**Pendleton, Oregon**

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**COMMISSIONERS**

**PRESENT:** Rick Colgan, Frank Kaminski, Clinton Reeder, Gary Rhinhart (Chair), John Standley, Tammie Williams, David Lee.

**ABSENT:** David Lynde, Don Wysocki.

**STAFF:** Heather Haueter, Tamra Mabbott, Carol Johnson.

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**NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. HOWEVER, A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.**

**CALL TO ORDER:**

Commissioner Rhinhart called the meeting to order at 6:30 p.m.

**NEW HEARING:**

- TYPE IV LAND DIVISION REQUEST, #LD-5N-765-10, application submitted by Powerline Ranch, LLC, property owner. The applicant requests approval to divide 187.21 acres of EFU zoned land into two parcels, Parcel 1 = 86.22 acres and Parcel 2 = 100.99 acres. The property is known as Tax Lot 400 on Assessor’s Map 5N 35 and is located along the east side of Lower Dry Creek Road, southeast of the intersection of Seven Hills and Lower Dry Creek Roads. The criteria of approval are found in Umatilla County Development Ordinance (UCDO) Section 152.710.

There were no abstentions or objections to the jurisdiction of the Planning Commission.

**Staff Report:** Carol Johnson, Senior Planner presented the staff report, explaining the location and request. Approval of the land division would result in two farm parcels; parcel 1 would be approximately 86 acres and parcel 2 approximately 101 acres.

The request is processed as a Type IV, Review II Land Division. The Type IV standards are found in Development Code Section 152.710, and focus primarily on three matters:

- whether the land division would promote or continue an agricultural operation on the new parcels
- insuring that the parcels meet access requirements
- that the resulting parcels are equal to or greater then 80 acres in size

The applicant's 187 acre parcel is currently used for agricultural purposes and is presently in grapes, grass and wheat fallow, all accepted farm uses. Both resulting parcels have access via two previously established 60-foot access easements and each new parcel would exceed 80 acres in size.

Ms. Johnson asked that the Planning Commission consider that Powerline Ranch's proposed land division meets the Type IV, Review II Land Division approval criteria and could be approved with the condition of approval requiring a Survey Partition Plat.

**Applicant/Proponent Testimony:** Bob Buchanan testified as general manager of Powerline Ranch LLC, which is the property owner. Mr. Buchanan pointed out that the application meets the criteria and further promotes the production of present crops, which will remain on the parcels. After approval, one parcel will be deeded to one of the owners of Powerline Ranch, who have been planting orchards on portions of that property under a lease. The remaining parcel will continue to be farmed and will go to a fifth partner in Powerline Ranch ownership.

**Opponent Testimony:** None.

**Agency Testimony:** None.

**Rebuttal Testimony:** None.

**Hearing Closed; Deliberation and Decision:** Commissioner Williams moved approval of Land Division Request #LD-5N-765-10, Powerline Ranch LLC, applicant, with conditions of approval as proposed by staff. Commissioner Kaminski seconded. Question called. Motion carried 6:0 (Commissioner Lee was absent for this hearing.)

#### **NEW HEARING:**

- NON FARM DWELLING AND CONDITIONAL USE REQUEST, #LUD-113-10 AND #C-1161-10, application submitted by Phil and Lora Sharkey. Landowner is Community Bank. The applicants request approval to permit the existing structure as a Non Farm Dwelling, and to allow the operation of a farm commodity trucking business as a Commercial Use in Conjunction with Farm Use. The property is described as tax lot 800 of Assessor's Map 4N 28 31, and is located at 29689 Noble Road, south of Interstate 84, approximately one mile east of Colonel Jordan Road. Criteria of approval are found in UCDO Section 152.059 (K)(VI) and 152.617 (I)(B).

There were no abstentions or objections to the jurisdiction of the Planning Commission.

**Staff Report:** Planning Director, Tamra Mabbott presented the staff report. The Land Use Decision Request is a proposal to convert what was originally permitted as an office

structure. Community Bank currently owns the property and the applicant proposes to purchase if the office can be used as a dwelling.

The majority of the 36 acre parcel is in circle crop irrigation. The apparent dwelling to the south was never actually permitted as a dwelling, but as an office structure, and it was very explicit in the county permit that it was not to be a dwelling. When staff noticed the property on the foreclosure notice, Community Bank was notified that the structure was not permitted as a dwelling. In addition, Planning received numerous complains from neighbors that it was being used as a dwelling. The current owner states that the current residents have been asked to leave. Commissioner Kaminski asked if it was the Sharkeys who were living there now. Ms. Mabbott replied that they do not live there, but they are proposing to purchase the property if they can acquire the proper permits.

Ms. Mabbott explained that, to qualify for a non-farm dwelling, the dwelling has to be placed on a portion of the property that is not farmable. Staff made that conclusion in a couple of ways. First, the property has existing structures, and second, there are only 29 irrigated acres. According to the ASCS Soil Book, non irrigated soils are considered Class VII. By Statute, Class VII soils are considered non-farm soils.

Ms. Mabbott referred to the 2000 acre impact area on a map used to determine that the cumulative effect of similar non-farm dwelling parcels would not have a negative effect. Out of 70 parcels in that area, 57 contained Class VII soils. The objective of the standard is to see what the impact would be if all parcels in the area that are qualified were to develop.

Ms. Mabbott noted that this is an application that would normally be handled administratively, but due to the Code Enforcement violation, and questions and concerns from neighbors, she chose to refer it directly to the Planning Commission.

Ms. Mabbott continued that, of the 70 parcels in the impact area, 28 of the parcels already have a dwelling. It was concluded that 29 possible non-farm dwellings could be created from the balance of the parcels in the impact area.

Lot of Record is another test that is very time consuming because it has to be shown that the property has been in the family since 1985. Staff did a "thumbnail" sketch of some of the parcels in the area and concluded that between the Class VII soils qualification and Lot of Record, there could be 33 non-farm dwellings in the area, total. It is the Planning Commission's job to decide if there would be a cumulative effect.

Ms. Mabbott explained that, if the original owner, Mr. Christian, had gone through the same application process to begin with, he could have qualified as well. She noted that the home was not inspected by State Building Codes as a dwelling, so there is a letter for the record from State Building Codes Division. It basically states that, if the non-farm dwelling is approved, BCD would require inspection and necessary retrofitting to make sure the dwelling meets code.

The second part of the application is the Conditional Use Permit to allow a farm commodity trucking business as a commercial use in conjunction with farm use.

Ms. Mabbott read through her recommended conditions of approval that address the mitigations she thought might come before the Planning Commission:

Precedent

1. Sign and record a Covenant Not to Sue
2. Disqualify the non-farm dwelling from farm deferral
3. Pay taxes on property taken out of farm deferral
4. Obtain proper permits from the State Building Codes Division to permit the structure for use as a dwelling, and submit copies of those.

Subsequent

5. Obtain a zoning permit for the dwelling and trucking operation
6. Apply seasonal dust abatement to Noble Road along the entire frontage of the subject property.
7. Limit the trucking operation to 10 operational tractor/trailer units.
8. Limit outside storage.
9. The Conditional Use Permit will be subject to annual review, which may be waived after 5 years if in continued compliance.
10. The zoning permit to approve the dwelling is valid for four years.

Ms. Mabbott passed out two letters received from neighboring property owners.

Commissioner Standley asked about the history of the LI zone in the area. Ms. Mabbott explained that there is a small area of LI near the intersection of the interstate. The property is owned by the Bartons and the county had issued a conditional use permit and zone change for a piece of the property to allow a light industrial business. Commissioner Standley stated that his point was that this use might be a good fit because it is nearby to another large truck establishment.

Commissioner Reeder asked if there was appropriate access for Mr. Sharkey's trucks. Ms. Mabbott replied that it was a prerequisite to the zoning permit for the office structure, so yes; they do have a legally permitted road access permit from the county.

**Applicant/Proponent Testimony:** Sally Anderson-Hansell testified as the attorney representing Mr. and Mrs. Sharkey. Their interest in the property is conditioned upon approval. It is the only tract owned by Community Bank in the area, and was acquired by foreclosure. The current tenant is to leave by Monday, April 26th.

Ms. Hansell noted that the request comes at a price to both the Sharkeys and Community Bank to make a legal dwelling. It fits most of the criteria, is an existing structure, and there are no water rights in the frontage area. The price is that the structure must be taken out of farm deferral, making future taxes higher, and the structure may need quite a bit of construction to properly permit. The area is unique, as there are already a lot of ranchettes along Noble Road and Colonel Jordan Road.

Ms. Hansell referred to the proposed dwelling on a map, and the shop. She noted the legal entrance, which is near the shop. This would also be the access used by the trucks.

The Sharkeys are prepared to meet all conditions recommended, other than the following small changes:

- Add “on site” to condition #7 regarding maximum truck inventory.
- Change condition #6 regarding dust abatement to read “along the west half of the frontage of the subject property”. They won’t be traveling along Noble Road to the east where there is a wooden crossing bridge for the canal, so all trucks would be entering and exiting from the west.

Commissioner Kaminski asked if they would be willing to add a condition that they would only access the property from the west. Ms. Hansell replied that it would not be a fair request because things could come up that force them to use the road to the east on occasion.

Ms. Hansell explained that the Sharkeys currently apply dust abatement at their present location and already had planned to do it at this location as well. She noted that wind direction would blow dust back towards the subject property. Westwinds Nursery is also to the east of the subject property and generates a fair amount of traffic too. Neighbors are already used to traffic associated with commercial farm use. The Sharkeys feel, for these reasons, that it is reasonable to ask for dust abatement only on the west half.

Commissioner Kaminski asked what the crop circle is in right now. Ms. Hansell replied that it is currently in alfalfa and the circle is irrigated, but the corners are not. The dwelling area itself is non high value farmland, generally unsuitable for farming, but not the entire property.

Commissioner Colgan asked what the daily truck traffic is expected to be, and referred to the scale. Mr. Sharkey replied that the scale on the property is a livestock scale, not a truck scale. It will be more of a parking and maintenance area.

Commissioner Standley asked if it is a 24/7 operation. Mr. Sharkey replied that it can be, but his operation usually goes out in the early morning, and they are often down during the weekend. Hours depend on whether they are loading or delivering. They pull out sometimes as early as 4:00 am, and other times they might pull out at 4:00 pm.

Commissioner Rhinhart noted that the property previously had an alfalfa harvesting operation though, and they were operating at all hours during the summer for that. Mr. Sharkey added that he will be living there, and he’ll want some time to sleep too.

Commissioner Williams asked how much area the dust abatement would cover. It was estimated that it would cover just over half of the west side of the frontage of the subject property, which would be approximately 600 feet in length. Ms. Mabbott asked if they had an estimate of cost. Mr. Sharkey stated that they currently abate 300 feet and it costs

about \$1000.00 annually. But that is also for only 12 feet in width. Ms. Mabbott noted that she had conditioned for both travel lanes. Commissioner Standley pointed out that the neighbor to the west would still be dusted. He suggested abating strips in front of neighboring homes.

Commissioner Lee asked about the additional traffic it would add on the road. Mr. Sharkey explained that they haul farm commodities, and his current fleet is only 7 trucks. He is not a local hauler, so his trucks may be gone for several days at a time. They are not in and out every day. And some drivers take the trucks home. He estimated it would add about 5-6 trips per day maximum during the height of the local season. During the rest of the year, even less. Commissioner Reeder commented that it sounded like it would be more of a dispatch and maintenance site for long haul trucks, so it wouldn't generate much more traffic than there currently is on the road.

Commissioner Reeder suggested that condition #9 be altered because we don't want just complaints to be the trigger. There should be reference to enforcement action rather than just complaints.

Mr. Sharkey noted that they do sometimes park trucks at other locations. They're not all on site at once. Ms. Mabbott noted that none are refrigeration trucks that have to sit and idle. They haul dry commodities.

Ms. Mabbott noted that the Planning Commission can ask that staff refer the application back to them if concern about interpretation ever came up.

**Opponent Testimony:** Paul Gelissen testified that he lives on tax lot 1200 across the road from the subject property to the west. He passed out a letter from another neighbor, and referred to his own property on the map.

Mr. Gelissen explained the history of the subject property. He moved to his property in May 1997. He was told that the frontage of the subject property was at one time in irrigation with pack lines, but was converted around 2000.

He described the office structure/dwelling, noting that it has multiple bedrooms, living areas, and a complete kitchen and dining room. There are sprinklers on the southeast corner of the property near the pump house. A previous owner put in the livestock pens with a cattle scale, and would purchase cattle from neighbors.

Mr. Gelissen's biggest concern was with dust. There is already a lot of farm equipment on the road. He wondered what would happen if a large piece of farm equipment meets up with one of Mr. Sharkey's trucks. He also noted that the road was primarily built for farmers to get to their fields. If they're going to have a trucking business they need to pave the road. He felt the business actually belongs on Light Industrial land. There are too many safety issues and it doesn't account for impacts to neighbors. The applicant basically wants three zones on one piece of property.

Mr. Gelissen described the frontage area of the subject property, noting that, in order to park his trucks there, Mr. Sharkey will have to remove existing trees, and cattle pens, removing land from farm use. It will reduce the quality of living for the neighborhood, reduce property values, and increase dust and danger on the road.

Mr. Gelissen also noted that the road is only about 18 feet wide and the shoulders are very steep, making it very difficult to pull off. Commissioner Standley asked how it impacts neighbors if trucks are leaving on Sunday nights and early mornings. Mr. Gelissen agreed that only using the road to the west would reduce the number of neighbors impacted. But he still felt the road should be brought to the same standard as Colonel Jordan Road if it's going to be used for trucking.

Mr. Gelissen concluded that the original owner built an office and the county allowed it to be used as a residence. If they want to permit it as a residence then the trucking business should not be allowed.

Tresia Frederickson, property owner of tax lot 1400 to the west of the subject property testified that her son has to walk the road to get to the bus stop every day. There is no where for him to get off the road.

Ms. Frederickson also explained that they tried using the Dust Doctor on the road in front of their house to control dust, but it did not help. Her home sits only about 300 feet off the road. There is often not enough room for even a small vehicles and a tractor to pass each other.

Commissioner Standley asked if Ms. Frederickson would have a problem if the property were used just as a residence, without the trucking business. She replied that she would not have a problem with the dwelling. The road is just not adequate for the business.

Bert Curtis, neighbor down the road to the west testified that the property is zoned EFU. He did not understand why the business should not be located in an industrial zone because it is an industrial operation.

Mr. Curtis also pointed out that the building to be converted to a dwelling was barely legal to begin with and now we're trying to make it valuable for the bank to sell. And the barn will probably be used for the business and it is not properly constructed or ventilated for that type of use.

Mr. Curtis further argued that the proposed dust abatement would only protect Mr. Sharkey, not the rest of the people on the road. Commissioner Standley asked how Mr. Curtis would feel if Mr. Sharkey were required to abate a 500 foot strip in front of each driveway. Mr. Curtis did not feel this would help because there is a large distance between driveways so there would still be issues with dust in between. There would still be a safety issue.

Commissioner Williams pointed out that it sounds like dust is already a big problem. She suggested that dust abatement of any kind would only make the situation better. So Mr. Sharkey's business might actually be an advantage to the area. Mr. Curtis still felt that a commercial business on a farm road would not be an advantage. Mr. Gelissen added that when the roads are oiled they can't be graded. They just get "ratty".

Jeff Compton, neighbor on tax lot 1000 testified that his biggest concern was safety. The road is not wide enough, and there is no place to pull over. Also, there is not much room for more than a couple of trucks to park on the subject property at any given time.

Salem G. Salem testified that he lives to the east of the subject property on tax lot 5802. He understood that they proposed to only go west, but he noted that there are two wood bridges to the east. He felt the business should be conditioned to go only to the west because of concern about length and weight of trucks crossing those bridges.

Mr. Salem also noted that the dust is terrible regardless of which direction you go. The intersection of Noble and Colonel Jordan Roads is not very wide for truck swings. They already have problems with inadequate space for farm equipment that travels the road. The subject property is just not the right location for a commercial trucking operation.

He suggested that Mr. Sharkey's trucks be parked at the Shell station and the property be left as a farm. There is no room for multiple trucks on the property. They already have a lot of big farm equipment on the road. Mr. Salem also pointed out that when trucks like Mr. Sharkey's use their brakes, they pull gravel and would create washboard. The business would just be a big safety issue.

Erik Frederickson, son of Tresia Frederickson, testified that he walks the road to the bus stop, and has to walk on edge of the road. He has been on the road in his little car when there is farm equipment on the road and has had to find a driveway to pull into to get past. The road is not wide enough and it can't be widened without a lot of grading and investing a lot of money to have it paved or oiled, and if it's oiled it can't be graded.

**Agency Testimony:** None

**Rebuttal Testimony:** Ms. Hansell noted that the concerns expressed are all part of living on a gravel road. She herself lives on Colonel Jordan Road. The problems are preexisting, and Mr. Sharkey's trucks are only 8 feet wide. Ms. Hansell pointed out that all the criteria for both requests have been met, and it is just a question of what are reasonable conditions. She asked that the Planning Commission consider the existing status of the road and cost. She also pointed out that the paved portion of Colonel Jordan was done through a local improvement district (LID) so all bordering property owners paid a share of paving.

Mr. Sharkey agreed with neighbor concerns, but pointed out that his trucks are only 8 feet wide and would only be up and down the road a few times a day. He has occasion when there are no trucks in or out. They would not be adding undue burden to the road.

Commissioner Kaminski asked where Mr. Sharkey is operating from currently. Mr. Sharkey replied that his business is currently located northeast of Hermiston on Punkin Center Road. Commissioner Kaminski asked why Mr. Sharkey was interested in this parcel. Mr. Sharkey explained that it has close access to the freeway and would save significantly on fuel expenses.

Ms. Hansell asked Mr. Sharkey if he saw the intersection of Noble and Colonel Jordan Roads to be a problem. He did not.

Lora Sharkey testified that they also have an 11 year old son who would be walking to the bus, and she had no concerns for his safety.

Commissioner Rhinhart asked why there were no comments from the road department. Ms. Mabbott replied that they were sent notice, but staff had not received response. That typically means that they have no comments or concerns. Commissioner Rhinhart was concerned that the road department should take a look and determine if the bridges are safe. Ms. Mabbott replied that if the bridges are not safe for Mr. Sharkey's trucks then they are not safe for others. The county also cannot enforce limitation to using one direction for ingress/egress. The real issue is whether this business is appropriate as a commercial use in conjunction with farm use, or if it should be a light industrial use.

Commissioner Standley commented that he could handle the dwelling by itself, but the business is not appropriate for the zoning. It would just be adding to the problem. Were it a better, wider road, or had pull-outs, he would feel a lot better about it, but not as it is.

Ms. Mabbott noted that there are two separate applications and the Planning Commission will act on each separately, so they do not have to approve or deny both parts. She pointed out that roads are often a tough issue, but if a road is publicly available for one truck, unless it exceeds weight capacity, it is open for any. This use would be an incremental addition to the existing roadway.

The reason Ms. Mabbott proposed dust abatement just on the frontage of the subject property was because she thought it might exceed the county's boundaries to ask for abatement for half a mile of the road. But the Planning Commission can also say that the road isn't of a condition to allow this use.

Ms. Mabbott disagreed that it is clear all standards have been met, because one of those standards is that the business be of a size to reduce noise, odor and other detrimental effects. She drafted language in the findings regarding this and it is up to the Planning Commission to accept, not accept, or make modifications.

Commissioner Standley concurred with Mr. Salem that there is not really a farming business associated with the proposed use of the property. Ms. Mabbott explained that "commercial use in conjunction with farm use" doesn't necessarily require that the "in conjunction" be on the subject parcel. It is in conjunction with other farm use.

**Hearing Closed; Deliberation and Decision:** Commissioner Williams commented that dust and safety are big problems, but she also hears that this is a valuable piece of property that could be used for a more economical reason and promote job opportunity, with a connection to agriculture. She suggested that, if both sides worked together and there were some kind of dust agreement or paving agreement, it would actually increase values of all the homes on the road and increase safety. It would benefit both sides.

Commissioner Reeder noted the saw mill that started in Milton-Freewater in conjunction with farm use. It grew and ended up being closed down because conditions made it no longer feasible for it to continue.

Commissioner Reeder also noted a case similar to this regarding property that was being used for trucks, which was also shut down because conditions forced the applicant to move their trucking yard. This application is basically starting something we shut down. He commented that his own road has issues with machinery and dust, so this is not unique in that sense. The difference is that no one is making a living on Noble Road now that we're going to stop from making a living by saying no to this application. But we can protect the interest of those who already live there by saying no and putting the trucks at a site where they are less of a problem. He could say yes to the non-farm dwelling, but he would encourage the trucks to go to another site where there aren't the conflicts.

Commissioner Colgan stated that, based on the way the applicant has characterized the business, it would be no more of an impact that what is already out there. There has been a lot of testimony validating the dust problem that exists, and there is already large equipment using the road. This isn't really new. Having an owner who is also onsite makes a big difference because he has to see his neighbors every day and travel the road himself to his home.

Commissioner Standley stated that the road was a safety issue, and he was just not comfortable approving the business at this location.

Ms. Mabbott asked that the Planning Commission make two separate motions for each application. Commissioner Reeder asked what the implications would be if they approved the non-farm dwelling, but not the business. Ms. Mabbott explained that it would simply mean that there is permission for a non-farm dwelling if conditions are met, but not the business.

Commissioner Standley moved approval of Land Use Decision Request #LUD-113-10 with any applicable precedent conditions not related to the proposed commercial activity. Commissioner Kaminski seconded. Question called. Motion carried 7:0.

Commissioner Standley moved denial of Conditional Use Request #C-1161-10. Commissioner Kaminski seconded. Ms. Mabbott clarified that the finding for denial was that it doesn't comply with the "noise, odor, and detrimental effects on adjoining properties" standard. Commissioner Reeder added that, while it is a marginal addition, it

seems to be a significant addition to an already overloaded road, given the current conditions. Ms. Mabbott also clarified that the motion would also be to modify the findings to reflect the record that the conditional use application did not comply. Question called. Motion carried 5:2. Commissioner Colgan and Commissioner Williams voted against denial.

Ms. Mabbott added that, in addition to the findings, the conditions of approval #6-9 and the last four words of #5 would be stricken because they relate to the conditional use.

### **NEW HEARING:**

- LOT OF RECORD DWELLING REQUEST, #LUD-111-10, application submitted by Neal Simpson. Landowner is Cold Springs Grange. A Request for a Public Hearing was submitted by an adjacent landowner during the public comment period of this application. The applicant requests approval to permit the existing grange as a Lot of Record Dwelling. Property is described as tax lot 1000 of Assessor's Map 3N 32 and is located on State Highway 37, approximately 6.8 miles north of the intersection with Westgate Avenue. Criteria of approval are found in UCDO Section 152.059(M)(II)(2).

There were no abstentions or objections to the jurisdiction of the Planning Commission.

**Staff Report:** Planning Director, Tamra Mabbott explained that the application involves an old grange hall that the Grange has elected to sell. The applicant, Neal Simpson, would like to purchase the property if he will be able to convert the hall to a dwelling.

Ms. Mabbott noted that a lot of record is a pretty sure pass if you can show that you owned the property since prior to January 1, 1985. Mr. Simpson is the applicant, but the Grange owns the property and has since 1933. The Grange could pass approval on one time; for example, to Mr. Simpson.

**Applicant/Proponent Testimony:** Larry Rea testified, representing Oregon State Grange as President elect. The decision to sell was based on the fact that the Grange could not maintain the necessary minimum membership. They are non-profit and would normally keep the property, but the building is vacant and subject to vandalism. They also cannot carry liability or property damage insurance on a vacant building.

Commissioner Standley asked what other activities these buildings are typically used for after selling. Mr. Rea replied that they would prefer to see it go to another non-profit, but there are not many around this area.

Commissioner Kaminski asked if there had been interest by adjacent owners. Mr. Rea replied that there had; Mr. Phillips. Commissioner Standley asked if there had been any family interest from those who owned the property prior to donation to the grange. Mr. Rea replied that there had not.

Neal Simpson, the applicant, explained that he had made an agreement to purchase if he can convert the hall to a dwelling. He personally plans to live there, and would be using the existing structure as his dwelling. It is a very sturdy structure and has nice hardwood maple floors. He is not planning any changes in terms of footprint. The property is surrounded by farm ground, but configuration of the parcel would make it very difficult to farm.

Mr. Simpson noted that he had contacted the Grange previously, but they were not ready to sell at that time. He had received a letter from the bus company regarding the present bus stop at the property, and he is willing to maintain a bus stop. He would even set up a bench for the kids. He had also talked with the County Road Department because they park a grader there occasionally, and he is willing to let that continue as well. He had received a letter from the County Sheriff stating that having a home there would deter the crime that is going on now, and a letter from Larry Terjeson in favor of improving the building.

Ms. Mabbott noted that she had erred. She should have characterized that a request for hearing had been filed. The people that filed were present.

**Appellant/Opponent Testimony:** Jim Phillips, adjacent property owner, testified as the appellant. He was concerned that the bus stop might have to be moved, and felt that the land around the hall could be turned back to farm use. He also uses the property to access his field.

Mr. Phillips was also concerned about farming liability due to spraying and dust if a dwelling is located there. He noted that others have been interested in purchasing the hall to turn it into something for the community. It was never intended for a residential building.

Commissioner Standley asked if Mr. Phillips had an easement to cross the property. He replied that he does not.

Commissioner Williams asked if the property went to public bid. Mr. Phillips replied that it had. He won the bid the first time and the Grange was going to carry the contract, but they decided that CRP was not good collateral. So he had 30 days to come up with the money. Because it is not presently a residential structure he could not get a loan. Commissioner Williams asked if it went up for re-bid. It had.

Brian Jones, nearby property owner, asked about the Covenant Not to Sue. Ms. Mabbott explained that it is a recorded document that goes with the property, preventing a property owner from suing for farming practices. Commissioner Reeder noted that it does not include chemical trespass, but there has not yet been a problem with that, and the Covenant has otherwise been a good protection.

**Agency Testimony:** None.

**Rebuttal Testimony:** Mr. Rea explained the marketing of the property. They had sent out a mailing asking all those in the neighborhood to come to a meeting, but only four people attended. Mr. Phillips exhibited the most interest and has helped protect the property. However, the executive committee voted to accept Mr. Simpson's offer.

**Hearing Closed; Deliberation and Decision:** Commissioner Standley commented that this appears to be an opportunity to make the property useful and sounds like an adequate use.

Commissioner Standley moved to approve Land Use Decision Request #LUD-111-10 with conditions as presented. Commissioner Reeder asked for clarification that the application is for a lot of record dwelling, which requires approval to convert an existing structure. Ms. Mabbott added that it also authorizes a completely new dwelling. Approval does not limit the dwelling to conversion of the existing structure. Commissioner Reeder seconded the motion. Question called. Motion carried 7:0.

#### **OTHER BUSINESS:**

Report from Commissioner Reeder and Colgan about modifications to the wind ordinance. Ms. Mabbott asked how much public involvement the Planning Commission wants from here on out. She would prefer to avoid more public for and against. We need fair and objective criteria. She proposed just scheduling the modifications for public hearing, or adding an area on the Planning website for comments about specific standards. Staff could assimilate those comments and present them to the Planning Commission, or just schedule a hearing.

Commissioner Colgan noted that the only areas left to define were setbacks and retirement obligation. He was concerned that too much detail might make the ordinance difficult to navigate.

There was some discussion about utility easements and who has the obligation to serve, and liability.

Commissioner Reeder asked about the bonding issue. Ms. Mabbott replied that County Counsel, Doug Olsen is comfortable with the existing language, and she was uncomfortable with Planning determining what an adequate amount is. There was discussion.

Commissioner Williams felt comfortable with the job that Commissioner Reeder and Commissioner Colgan had done in reviewing and revising the Ordinance. She would feel good about them looking it over one more time, posting the changes on the website for public view, and putting public comments into a draft to take to a work session. We would just let the public know that the next step is a hearing. The Planning Commission agreed.

Administrative Question: Ms. Johnson explained that Planning had received an application for partition by Powerline Ranch, which would involve a portion of land that is not in the go-below area. She felt she should address the Planning Commission first because they had previously asked that all partitions between 80-160 acres be brought to the Planning Commission for review. She asked if the Planning Commission would still want to review this application, since the majority of the land involved is within the previously approved go-below area, or if the Planning Department could handle it administratively. It was the consensus of the Planning Commission that it could be handled administratively.

**ADJOURNMENT:**

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Heather Haueter,  
Secretary