

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Land Use Hearing
6:30 p.m., Thursday, May 27, 2010
Stafford Hansell Government Center
Hermiston, Oregon

** ** ** **

COMMISSIONERS PRESENT: Gary Rhinhart, Chairman; Don Wysocki, John Standley, Clinton Reeder, David Lynde, David Lee, Rick Colgan, Tammie Williams

COMMISSIONERS ABSENT: Frank Kaminski

STAFF PRESENT: Tamra Mabbott, Umatilla County Land Use Planning Director; Richard Jennings, Umatilla County Senior Planner

GUESTS PRESENT: Stan Foster, Principal for Public Affairs Research Consultants; Mike Robinson, Counsel for City of Hermiston; Kevin Kiernan, Principal for The Kiernan Companies; JoDee Williams, Echo resident; Roger Bounds, Property Owner of Tax Lot 300 of the Assessor's Map 4N 27 25

** ** ****

CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairman Rhinhart, who reminded all present that the meeting is a public forum. The business on the agenda was introduced and the chairman explained the policy and procedure of the public hearing, asked that those attending practice the standards of good etiquette and provided information on the appeal process.

BUSINESS ON AGENDA

Approval of Minutes: Chairman Rhinhart called for any changes or corrections to the minutes of April 22, 2010. None were expressed and Clinton Reeder moved to approve the minutes as presented. John Standley seconded. The motion carried on consensus.

Public Hearing:

Comprehensive Plan Amendment #P-100; Zone Change #Z290, Applicant, The Kiernan Companies:

Opening of hearing: Chairman Rhinhart read the hearing particulars as follows:

Applicant is The Kiernan Company. Landowner is Roger Bounds. Property is described as Tax Lot 300 of the Assessor's Map 4N 27 25 and is located at the junction of Interstate 82 and 84, at the west end of Westport Lane, west of Westland Road.

The request is to amend the Comprehensive Plan and Rezone 62.50 acres from Exclusive Farm Use to Light Industrial #P-100 and #Z-290 (UCDO 152.750-152.753). As part of the plan and rezone, the application includes an exception to Statewide Planning Goal 3 Farm Land (OAR 660-004-0020). Additionally, the application includes an exception to Goal 14 and rezone of 32.5 acres to Limited Use Overlay Zone, to allow for the construction of a Fed Ex Freight Facility (UCDO 152.530-152.535).

The request also includes a Variance to the Parking Standards, (UCDO Section 152.560 & 152.627) and Design Review for the Fed Ex Freight Facility (UCDO 152.305).

In accordance with Section 152.752 of the County Development Ordinance, Planning Commission will consider the Plan and Zone change application and make a recommendation to the Board of Commissioners.

The chairman asked for any declarations of conflict of interest after providing the definition of conflict of interest for the purposes of the hearing. There were no declarations of conflict of interest from the commissioners in attendance.

The administrative rules concerning the conduct of land use planning hearings were explained by Chairman Rhinhart.

Staff Report: Tamra Mabbott, the Umatilla County Land Use Planning Director, summarized the memorandum she submitted to the Planning Commission on May 20, 2010, a complete copy of which was attached to the hearing agenda. That memorandum and its attachments are attached hereto and incorporated herein by reference.

Tamra Mabbott referred to Map 2 to illustrate the dimensions and surrounding zoning areas that currently existed. Those surrounding areas were zoned light industrial and to a smaller extent, tourism. To further illustrate the location, she also referred to Map 1, which was an aerial photo dated from 2005. Access to the property would be made from Westport Lane as an arterial from Westland Road and from Lamb Road. In order to allow the planned project, the proposed development required a zone change and a comprehensive plan amendment, but also an exception to Planning Goals 3 and 14 would be needed.

The Goal 3 exception was justified for the entire parcel.

The Goal 14 exception was justified on just the east half of the property as a limited use overlay zone. The western half of the property could not be justified for a Goal 14 exception

Umatilla County Planning Commission

5-27-10

Page 2 of 9

because of the lack of appropriate studies. Therefore, staff recommended that the western portion could be re-zoned to Rural Light Industrial. A detailed analysis on the western half would be needed to accomplish the same action as was requested to be done on the eastern half of the property.

In response to a question about property access, Tamra Mabbott explained that Westport Lane ends at the property boundary and would allow access to the entire property. She went on to comment that County Counsel, the Public Works Director and she worked on review of the documentation provided by The Kiernan Company and discussed the need for improvements to accommodate the increase in heavy freight traffic at the Westport Lane and Westland Road intersection as well as at the Lamb/Westland/Walker intersection. As previously recommended in an independent study, turn lanes on Westland Road were needed and the applicant was expected to contribute a proportionate share of the cost for the traffic mitigation work on the Lamb/Westland/Walker intersection. The applicant also consented to participate in a Local Improvement District should the need arise. The proposed road design was provided by the applicant's engineer and was approved by the Public Works Director. If the Planning Commission should approve the applicant's request, it should include some form of approval of the proposed road design.

The cities of Stanfield, Hermiston and Pendleton submitted letters of support for the proposed development. Rick Colgan asked whether the City of Hermiston would have been consulted had the limited use overlay been located in the Urban Growth Boundary. Tamra Mabbott responded that certain types of developments that require City services would require City input. In this case, the Fed Ex representatives met with local officials to determine and address any objections and there was quite a large amount of information in the record regarding the topic. Additionally, ODOT was supportive of the proposal and did not ask for any improvement for the development.

Tamra Mabbott summarized the history of the interest in the parcel and that Fed Ex was interested in that specific parcel. She then reported that Jon Jinnings and the Department of Land Conservation and Development were supportive of the application and agreed that the property was not best suited to use as farm ground. The applications were to meet the provisions of law should they be approved.

David Lee had questions as to water use and permits. Tamra Mabbott answered that the property was permitted for an exempt well. Gary Rhinhart commented that he understood that to mean that there were no wells currently on the property. Tamra Mabbott affirmed that there were none.

In summary, Tamra Mabbott explained that the applications involved a legislative action, which was the Plan amendment in addition to a zone change. The action on these items would be in the form of a recommendation to the Board of Commissioners. The Planning Commission's decision on the parking and setback requests would be final. For specifics about

Umatilla County Planning Commission

5-27-10

Page 3 of 9

the development plan Tamra Mabbott deferred to Richard Jennings and the developer, Kevin Kiernan.

Applicants/Proponents' presentation: Stan Foster, Principal of Public Affairs Research Consultants, and Kevin Kiernan, Principal for The Kiernan Companies and applicant, presented the applicant's report. Kevin Kiernan began by clarifying that he was not a direct representative for Fed Ex, but a developer on the corporation's behalf. Stan Foster explained that the proposal was complicated, but that he would point out some pertinent points and then Kevin would address the site development.

Stan Foster stated that, although the information was not germane to the land use discussion, the facility would bring 60 family wage jobs to the area and increase the property tax revenue to the county. The facility would be unique, but would produce some synergistic results, such as corresponding repair facilities in the area.

Stan Foster reported that he also had communications with DLCD stating that the site was acceptable in terms of getting an exception. The site was determined to have class 7 soils and that moving equipment onto the property for use in dry land farming was not viable due to the landlocked situation of the property with the exception of Westport Lane.

Stan Foster addressed the facility, stating that it was designed to be energy saving and state of the art. A gray water reclamation facility was built into the design.

Stan Foster presented the argument that the development in the area pretty much pre-determined that the area would eventually be developed industrially. The applicant was proposing a very limited freight handling facility. The property's proximity to I-82 and I-84 made the property ultimately committed to industrial use. Both the county and DLCD have acknowledged that.

This made it a highly desirable industrial property under the criteria of the proprietary model developed by Fed Ex to determine its siting locations. That model pinpointed the subject property and the final criteria really come down to mileage and minutes in a highly competitive industry. It was proposed that doubles would originate from and depart to the north. Triples would do likewise from the south.

Stan Foster provided a brief explanation of the lack of those other possible sites in the area and reiterated that the siting of the development would enhance the local services. There were no residential properties immediately adjacent. Therefore, the employees would be residents in nearby towns.

The long term environmental impacts at site were minimal and the proximity to the interstates further increased energy efficiency. There would be long term economic benefit in having the facility there, due to the company's stability and the heavy shipping capability. The

impacts on the surrounding municipalities would be positive in encouraging commerce and industry.

Kevin Kiernan explained that he would provide an overview of the facility and its functions and then open his presentation to questions. Fed Ex has number of different divisions from overnight envelopes to ground delivery to critical (organ deliveries) division and to freight.

The freight division deals in pallet freight in which the carrier actually carries freight to multiple customers from multiple vendors in one trailer. Fed Ex Freight had been using the envelope model and carrying it to the heavy freight industry. The facility would carry point to point to transport freight from one point to another. Then another transport would pick up from that point.

The concept was designed so that the drivers would sleep at home at night. The primary employment generators would be those drivers in the trucks and in light of the proposed plan, no freight was to be dropped on the Westport side of the facility.

The facility would be wholly secured with 123 doors having cross docks. The purpose would be that there would never be any freight in the facility at the end of the day. Kevin Kiernan provided a brief explanation of the cross dock concept, clarifying that the facility would be a major facility as a designated hub for the Pacific Northwest. There was the capacity in the design to increase to 160 doors. The additional 32 acres would be leased from Fed Ex for expansion. The expected lifetime for the facility was 35 to 40 years.

The freight industry changed somewhat recently and Fed Ex determined that sensitivity to efficiency exists. Fed Ex has directed that the facilities must be constructed, sited and managed in an efficient manner and stressed the importance of I-82 and I-84 interchange. The decision to site in that location is a substantial commitment for Fed Ex. Stan Foster indicated that there were transportation numbers envisioned and provided by Fed Ex's operations based on current construction plans.

Chairman Rhinhart asked whether more information could be provided on the computer modeling process. Kevin Kiernan explained that the model was a joint venture between Fed Ex and the Cal Poly mathematics department, which models the freight system nationally to/from point to point to find to find cheapest way to move freight over the road. He believed that the formula was calculated to a cost of freight per mile, making anything dead ended or off track as a dead or sunk cost. The formula also factors in time costs and all input data considers development of a network while factoring the least cost.

Kevin Kiernan added that Cal Poly and Fed Ex had been cooperating for the entire time he had worked with the company to develop its sites, which was about 12 years. He provided an example of locations that would not ordinarily seem to be workable locations and explained that it seemed that the formula used was completely correct in its determination.

Chairman Rhinhart then asked for clarification that Fed Ex chose the area. Kevin Keirnan explained that his expertise was brought in after Fed Ex determined the location. That was how Fed Ex operated.

Don Wysocki stated that he assumed the area would be paved and have fueling stations. Kevin Kiernan showed the site of the fueling station, maintenance station and lube station on the design plan, explaining that these were included so that costs would be controlled by fueling and servicing equipment right on site.

Don Wysocki asked how hauling freight as hazmat rated below placard requirements would be handled. Kevin Kiernan explained that he did not have the answer to the Hazmat question as he was the development designer, but he was aware that Fed Ex was required to follow DOT regulations.

Don Wysocki then asked about the presence of fire service and security on the site. Stan Foster answered that Fed Ex had provided to community with the required right to know information and that fire suppression was designed into the facility. Kevin Kiernan continued, indicating that the design group and Fed Ex officials had also spoken with the local fire officials.

Rick Colgan asked whether the well on the property would support the facility's needs. Kevin Kiernan affirmed.

Rick Colgan also asked whether there was a primary power source back up in the event of a catastrophic event that would shut down power to fire suppression and other built in safety factors. Kevin Kiernan affirmed that a generator system was in place.

Don Wysocki asked what had happened to the water right for the property. Stan Foster explained that in his research, there was no evidence of a water right on the property. Tamra Mabbott explained that at one time there were limited water rights on the property. Roger Bounds, the property owner, commented that many years ago the property had about 12 acres of water right for a 150 acre property. Those rights had been terminated about 12 years ago.

Gary Rhinhart asked for clarification on the standard used to determine that the employment offered was actually family wage jobs. Neither Kevin Kiernan nor Stan Foster had data available for that determination. Clinton Reeder asked whether the total number of jobs cited included all positions at the facility. Kevin Kiernan affirmed that the total included the drivers based out of the hub as well as those working on site.

Proponents' Testimony: Chairman Rhinhart called for proponent testimony and Tamra Mabbott stated that there were letters of support in the record. Clinton Reeder asked for comment from counsel for the City of Hermiston. Mike Robinson responded that the City of Hermiston supported the request. Nor further proponent testimony was offered.

Umatilla County Planning Commission

5-27-10

Page 6 of 9

Opponents' Testimony: Chairman Rhinhart asked for opponent testimony and none was offered.

Public agencies: Chairman Rhinhart asked for testimony from public agencies and none was offered.

Plan amendment/zone change: Tamra Mabbott suggested that the Planning Commission could address the matter of the Plan amendment and zone change before addressing the additional requests. Don Wysocki asked how the wastewater treatment would be accomplished. Kevin Kiernan explained that it was a separate system and the majority of the reuse water would end up in the truck wash.

The public hearing was closed at 7:43 p.m. and the Planning Commission entered into deliberation.

Deliberation and Decision:

Clinton Reeder stated that he was supportive of the request. **Tammie Williams moved to amend the Comprehensive Plan and rezone 62.50 from Exclusive Farm Use to Light Industrial #P-100 and #Z-290, UCDO 152.750-152.753 to include an exception to Goal 14 and rezone 32.50 acres to Limited Use Overlay and accept the testimony of record. John Standley seconded. Question was called and the motion carried 8-0.**

Variance and design review:

Open hearing: Chairman Rhinhart opened the hearing on the variance to parking standards, UCDO 152.560 and 152.627 and design review for the Fed Ex Freight facility at 7:47 p.m.

Staff report: Richard Jennings, senior planner with Umatilla County, explained that the application was reviewed for the variance request and design. The review took in the standards required for off street parking and the facility dimensions.

The parking design submitted had a total of 66 spaces and the variance request called for waiving the requirement of one space per 200 square feet of facility. The parking design provides for off street parking and uses the parking well as seen in corporate models. The design met Umatilla County specifications.

In terms of the design review, the access to the parking lot was satisfactory and the signage clearance met standards. In fact, all standards were met with access to the property provided by Westport Lane.

The issue with the need for improvement to the intersections was to be handled through separate agreements as they would involve other entities in addition to the county and the applicant. The parking lot design required pavement and curbing and the off street parking standards would be addressed through the variance. Signage would be minimal and addressed under the rezone.

Chairman Rhinhart asked for a description of the design features of the parking lot. Richard Jennings explained that placing the parking lot in the location shown would allow the company to retain stormwater on site. Tamra Mabbott asked whether the parking spaces would be paved with asphalt. Richard Jennings confirmed that the parking surface would be asphalt.

The lighting standards were also addressed and would require annual review at a fee of \$25 to \$50.

Rick Colgan asked whether there would be a stormwater pond. Kevin Kiernan illustrated the location of the stormwater pond on the design map. Richard Jennings stated that the recommendation was to approve the variance and design, although the precedent condition would be dependent upon the Board's acceptance of that recommendation.

Applicant's and Proponent's Testimony: Chairman Rhinhart called for proponent testimony and Stan Foster stated that the applicant supported the staff recommendation.

Opponent's Testimony: Chairman Rhinhart called of testimony in opposition. There was none.

The public hearing on the variance request and design review was closed at 8:00 p.m.

Clinton Reeder moved to accept the findings and recommendation of staff relative to the variance request and design review. Dave Lynde seconded and the motion carried 8-0.

Other:

Performance bonds on wind farms: Tamra Mabbott commented that the only other business to share would be that a summary of research into performance bonds on wind farms prepared by Clinton Reeder and Rick Colgan would be available shortly. It would then be edited and posted for public comment online.

Flying J: LUBA most recently remanded the case for very minor matters. In one, opponents objected to a procedural piece done by the county, which was based on antiquated county code. So the Flying J decision returns to LUBA yet again.

Petro: The applicant needed to complete a revised traffic study and the effects on the Fed Ex decision would work into the studies for the other two decisions in the immediate area.

Survey: Richard Jennings reported that at the next meeting he would be presenting data from go-below survey. The reports and results were on the website at the planning page. At the meeting staff planned to ask whether the Planning Commission, using the information gathered from the survey, would go forward on the go-below for the three subject zones. Gary Rhinhart asked how many surveys were sent versus how many were returned. Richard Jennings responded that of 1300 sent, more than 200 responses were received.

Tamra Mabbott reported that Heather Haueter had an accident on Monday night that severed her thumb with tendon and nerve involvement. She was to have surgery on the hand and would be out of the office for an unknown period of time.

Finally, Tamra Mabbott also reported that the update to the flood plain ordinance was also on tap for next month's meeting.

ADJOURNMENT

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Laura Headley
Executive Secretary
Umatilla County
Board of Commissioners