

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, August 26, 2010
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

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COMMISSIONERS

PRESENT: Rick Colgan, Frank Kaminski, David Lynde, Gary Rhinhart, John Standley, Tammie Williams, David Lee.
ABSENT: Clinton Reeder, Don Wysocki.
STAFF: Heather Haueter, Tamra Mabbott, Carol Johnson, Gina Miller, Ted Burrows.

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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:

Chairman Rhinhart called the meeting to order at 6:32 p.m.

The opening statement was read.

APPROVAL OF MINUTES:

Commissioner Lynde moved approval of the minutes of June 24, 2010 as submitted. Commissioner Lee seconded. The minutes were approved by consensus.

NEW HEARING:

CONDITIONAL USE PERMIT, #C-1166-10 & #C-1167-10, application submitted by Clinton Fordice, property owner. The applicant requests approval to establish an Outdoor Storage business and an Accessory Caretaker Dwelling. The property is described as Tax Lot 2000 on Assessor's Map 5N 28 22-BB and is located along the east side of Lind Road, south of the intersection of Lind and Power City Roads. The subject parcel is within the Urban Growth Boundary of the City of Umatilla and zoned M-1 (Light Industrial). The criteria of approval are found in Section 3.136 *Conditional Uses* (from the Umatilla County 1972 Zoning Code), 152.303, 152.615 and 152.616 (K).

Chairman Rhinhart called for any abstentions, or objections to the jurisdiction of the Planning Commission. There were none.

Staff Report: Senior Planner Carol Johnson explained that Senior Planner, Richard Jennings had prepared the staff report, memo and the Planning Commission packets for today's hearing. Because Mr. Jennings was unable to attend the hearing, she would be presenting the land use requests.

Ms. Johnson explained the history of the property, noting that the applicant and his wife own the subject property as well as two adjoining properties located to the south along Union Street. The three parcels were originally part of approximately 18 acres purchased by the Fordices. Through several land use approvals in the 90's the 18 acres was divided into three residential zoned parcels and three light industrial parcels. In 2001 two of the light industrial parcels were reconfigured and partitioned into the current parcel configurations. Presently, the Fordice tract of land includes three tax lots, numbers 2000, 2002 and 2004.

The permits on the Fordice tract include a zoning permit in 1978 for a mini storage business issued to Michael Dale, a previous property owner. This business, M & M Storage is now owned by Clint Fordice and continues to operate on tax lot 2002. In 1996 Mr. Fordice received approval for a caretaker dwelling in association with M & M Storage resulting in the placement of a mobile home next to M & M Storage.

Last year, on the adjoining tax lot, tax lot 2004, Mr. Fordice applied for and received approval for two conditional use permits, one to establish an outdoor storage business for storage of rv's, containers, van boxes, light and heavy equipment and new and old manufactured homes, and a second conditional use permit for a caretaker dwelling in association with the outdoor storage business. Although approved, as of this July the caretaker dwelling had not been setup and the business consists of two stored older single-wide mobile homes. Mr. Fordice has indicated to staff that one of the two stored mobile homes is still planned to be setup as the caretaker dwelling on tax lot 2004 and the second stored mobile home is planned to be used as the future caretaker dwelling on tax lot 2000.

The future caretaker dwelling Mr. Fordice referred to is the subject of one of the two conditional use permit requests before the Planning Commission today. Approval of the conditional use permit requests would establish another outdoor storage business for the storage of rv's, containers, van boxes, light and heavy equipment, and new and old manufactured homes, and would allow an accessory or caretaker dwelling associated with this business to be located on tax lot 2000.

The Planning Department has approved other caretaker dwellings associated with a permitted businesses established on multiple parcels that are defined as a tract land. If the current caretaker dwelling request is approved it would result in three caretaker dwellings on the Fordice tract of land. This has resulted in several staff discussions and questions:

- Would caretaker dwellings approved on each of the light industrial zoned parcels create a de facto residential pattern similar to the residential zoned property adjoining the parcel on the north?
- Is the objective for the property industrial or residential?

If the interest for this area is to develop residential rental properties then an application to rezone the properties to residential would give the Planning Commission the opportunity for a more thorough assessment of impacts including issues such as adequate water, etc.

If it is decided that the industrial zone and use of the property should be maintained and that industrial uses are the focus and desired land uses, then a determination needs to be made on whether the current conditional use request is a separate permitted use or whether the request is an expansion of the adjoining outdoor storage business approved last year on tax lot 2004. This decision will determine the process for the caretaker dwelling conditional use permit.

Ms. Johnson noted that the standards of approval for the outdoor storage business are found in Development Code Sections 152.303, 152.304, 152.615, copies of which were located in the Planning Commission's packets, and suggested conditions of approval were provided as well.

In addition, the standards for an accessory or caretaker dwelling are contained in Sections 152.303, 152.615 & 152.616 (X). If the Planning Commission determines that the conditional use request for the caretaker dwelling may be pursued, these standards would need to be addressed, including whether the dwelling would be for the owner or operator of the permitted use. Mr. Fordice would need to verify whether the accessory dwelling will be used by someone directly associated with the permitted business, such as an owner or business operator.

Ms. Johnson explained that this presentation is unusual because normally staff would have brought these questions to the Planning Commission before accepting the application, but in this case, the applicant wanted to submit his application prior to increases in application fees.

Chairman Rhinhart asked if a caretaker dwelling had been approved on tax lot 2004 last year. Ms. Johnson replied that it had been approved administratively, and Mr. Fordice had one year to act on the approval. He could say that the business exists because there are 2 dwelling stored there now, but the caretaker dwelling is not set up yet.

Applicant/Proponent Testimony: Clint Fordice, PO Box 653, Hermiston, OR, testified as applicant. He passed out materials to the Planning Commission and staff.

Mr. Fordice introduced himself and explained that he had purchased the property in 1996. At that time it consisted of one tax lot with one acre and a mini-storage building, and another tax lot of 17 ½ acres. The north half of the property was zoned residential and the south half was light industrial. Mr. Fordice noted that property taxes have increased dramatically since then, due to the development he has done. He now owns three tax lots from the original purchase.

Mr. Fordice felt that the real question is if his request is an authorized use or an expansion. Planning staff feels that he is expanding his use from tax lot 2004 onto tax lot

2000. Tax lot 2004 has two approved conditional uses; a service commercial business and a caretaker's residence. Those uses are not in question. At the time Mr. Fordice submitted the applications for tax lot 2004, he provided a sign request for B & C Outside and RV Storage, along with proof from the State of Oregon that he owns the assumed business name. Even though the property is approved to store manufactured homes he feels it is too small of an area to turn around and park double and triple wide homes.

The reason for applying for the conditional use this way was because at that time, Mr. Fordice needed to move two single wide mobile homes from the property next door. He believes this is the only property on the west side of Umatilla that has area for storage of mobile homes, other than on a mobile home sales lot.

Mr. Fordice explained that he requested the same type of conditional use for tax lot 2000 as he did for tax lot 2004. It does not mean that the business name will be the same, or that it will be the same type of storage business. He did not think that the conditional use was being denied, but he pointed out that he would be hired to protect personal property and his customers would need to be made to feel that their property is safe and secure. From past experience, he felt that a caretaker dwelling is the best way to do that. He also felt that the response time of the Umatilla County Sheriff's Department is "not the best" on the west end. He has invested a lot of time and money into the property.

Mr. Fordice noted that staff's report stated that the tract includes all adjacent property under the same ownership, but he thought that pertained more to larger parcels of farm ground with contiguous land on different map and tax lots. If ownership is the problem that is preventing the caretaker's dwelling from being approved, then he can amend his application and file a deed for change in ownership.

Mr. Fordice's understanding of accessory use, by definition, is that the caretaker's dwelling is to be located on the same lot as the principal use. The Planning Department wants his existing approved caretaker dwelling on tax lot 2004 to also service tax lot 2000. He emphasized that his current application is for a separate caretaker dwelling and he believed that his circumstance complies with county zoning codes. He requested that his letter and addendums be entered into the record.

Commissioner Colgan asked Mr. Fordice what his understanding was of the allowed use for the owner/operator because it sound like Mr. Fordice is both. So the resident of the caretaker dwelling may not necessarily be the owner or operator, unless Mr. Fordice can show that the resident has operating responsibilities for the property. Mr. Fordice replied that the "operation" is to notify him or the authorities if there is a problem on the property. Commissioner Colgan asked staff if there is a distinction to be made for owner versus operator relative to the use the caretaker dwelling because, for example, the owner could rent the property and have an operator that establishes a business on property leased from Mr. Fordice. Ms. Mabbott replied that one of the reasons staff brought the application before the Planning Commission was because, typically, we have an established business and it is either the owner or operator that sets up the dwelling. Often the caretaker is an employee of the established business, if not the owner themselves. In

this case, there is not an established business and Mr. Fordice will not be living there, so the question becomes, what would a caretaker be watching over because there is no business yet.

Commissioner Colgan clarified with Mr. Fordice that he is declaring that he has an established business entity for the property. Mr. Fordice agreed and explained that he hasn't put the sign up yet, but the application includes a sign request. He has not done that yet because he wanted to get the second caretaker dwelling set up first. It is much more secure if there are two caretaker dwellings. He had to store two homes right away, but his intent was not to store mobile homes on that site. He intends to move the stored homes off and set them up as caretaker dwellings, and use the lot for storage of RVs, boats, and more expensive items. The larger lot will be gated in a way that would allow easier entrance for storage of manufactured homes and heavy equipment. Commissioner Colgan clarified that if the conditional use permit for the dwelling was approved, Mr. Fordice would more formally establish the uses. Mr. Fordice agreed and added that the site is not quality land. It's really only good for storage anyhow.

Commissioner Standley noted that Mr. Fordice already has approval to set up a caretaker dwelling on tax lot 2004, but he has not done that yet. Mr. Fordice explained that he had recently paid a contractor to get approval from the Department of Environmental Quality (DEQ) for a cap and fill septic system, but he had told him to hold off. He is just now in a financial position to start moving forward. Each site will have to have its own septic, but the homes will have to be close together because of the type of septic systems approved. He is just trying to make the property worth something.

Commissioner Standley explained that the Planning Commission needs to determine a way to make sure that the caretaker dwellings don't turn into residential type uses and that they continue to be tied to a business. He asked if Mr. Fordice would be renting the homes or what his intent was. Mr. Fordice replied that he would probably find someone bonded and licensed, and give them a break on rent to look over the property. The person currently living in the single wide on the M & M Storage lot does his repair work on furnaces for his other rentals. He calls if there is a problem.

Commissioner Rhinhart wondered why that same caretaker couldn't also look after the other 6 acres Mr. Fordice owns. Commissioner Rhinhart was concerned that the area would just become a residential site. Lots of ranches have one caretaker covering thousands of acres. Commissioner Standley noted that they are not storing expensive RVs though. There is a need for secure storage in the area. Commissioner Colgan added that Mr. Fordice can establish a business for the separate tax lots, and the same rules should apply for each lot, regardless of whether or not he owns all of them. He could sell one of the lots, set up with an existing, operating business and the uses are already in place. How would the county know whether the person living in the dwelling is really an operator rather than just a renter? Ms. Johnson noted that the county conducts an annual review and it could be placed in the conditions that it be validated that the caretaker has a business relationship tied to the business on that lot.

Commissioner Lynde noted that one caretaker dwelling is already set up and wondered where water is coming from. Mr. Fordice explained that he has a well on tax lot 2002. Commissioner Lynde wondered if that well would provide the water for all three potential caretaker dwellings. Mr. Fordice replied that it would, and he explained how he had set the properties up with utilities. Commissioner Colgan asked about easements for the lines he's run for water. Mr. Fordice explained that as long as he owns all three parcels, he won't have to do a well agreement, but he has in the past and is aware that he might have to in the future. Commissioner Colgan just pointed that it was concerning because Mr. Fordice is saying his intention is to set up individual businesses and establish uses. With water and power set up for dwellings on all three lots, Mr. Fordice could go pretty far setting up a residential area.

Commissioner Lynde noted that the current caretaker dwelling is in a locked and chained area. Mr. Fordice replied that property with the dwelling for M & M Storage is partially fenced, but it is not gated. People have to drive by the dwelling to get to the property. The next lot is chain link fenced; gated and locked. There is a mobile home set up there for a caretaker dwelling, but it has not been connected to septic or inspected for occupancy. That same lot also stores the third mobile home, and has been approved for mobile home storage, although he has not been promoting that because he wants the third caretaker dwelling approved first. The subject property is not fenced. He is waiting for approval for a caretaker dwelling, and then he will start moving on getting the property rented for storage.

Commissioner Standley asked about tax lot 2003 and what uses are approved there. Ms. Mabbott replied that it is under different ownership. There is no caretaker dwelling, but there is a lot of equipment stored there. Code Enforcement is looking into it because it is looking like the start of a scrap yard. Commissioner Standley noted that there is no one nearby then who would have a concern with the caretaker dwelling adjacent. Mr. Fordice replied that the neighboring property owner would probably be happy because their fence has been broken into in the past. There are other residences in the area, but no one in the immediate vicinity.

Commissioner Lynde asked if the county had any limit to the age of mobile homes, and if so, if the proposed caretaker dwellings complied. Mr. Fordice and staff confirmed that there is an age limit, and the homes Mr. Fordice's is proposing to place comply.

Commissioner Williams asked if anyone had complained. Ms. Johnson replied that the only contact had been with the City of Umatilla, per a phone conference with Linda Gettman. The city questioned the need for three caretaker dwellings because it would give the area a more residential character. If that was actually the focus of the parcels, then Mr. Fordice should go through the process to rezone to a residential zoning.

Commissioner Williams noted her family and friends had property in storage units adjacent to each other in the area of Hermiston, and it was all stolen. The value was about \$80,000. The response was very poor, so she personally would not park an expensive RV in Mr. Fordice's lot with only one caretaker, because that person cannot

always be on the property 24/7. At least two caretakers would be necessary to break each other.

Opponent Testimony: None.

Agency Testimony: None.

Rebuttal Testimony: None

There were no requests for continuance or to keep the record open.

Hearing Closed; Deliberation and Decision: Commissioner Lee did not think Mr. Fordice was trying to create residential dwellings. More caretakers are probably better for a storage facility because enforcement response is poor.

Commissioner Standley stated he is pro business. He noted that the county has received substantial tax remuneration and perhaps the businesses will increase the property value more. Multiple caretaker dwellings would address the security issues mentioned by Commissioner Williams. His concern was that it could become residential, although he did not feel it was a good location and the housing proposed to be placed might be more likely to draw the type of person to live there who would be suited for Mr. Fordice's needs.

Ms. Mabbott noted that the Planning Commission could approve one or the other conditional uses, and could make establishment of the dwelling contingent on establishment of the business on both parcels first, which would show that it is an industrial use and there are caretakers. The annual review would require that there is a business there, since the concern is that it would turn into low income rental property. Commissioner Colgan suggested Mr. Fordice could be allowed to move forward with both applications, including siting of the caretaker dwelling, as long as the dwelling is not occupied until the business is in place.

Commissioner Lee asked about enclosed fencing. Mr. Fordice replied that he wanted to put cyclone fencing in the front on the subject lot. Fencing will take time because it is expensive due to the rockiness of the terrain.

Commissioner Lynde noted a memo sent to Mr. Jennings by Mr. Fordice that talked about a site obscuring fence, but the second paragraph seemed like he actually doesn't want that because he wants to see through it. Does it make a difference to the Planning Department? Ms. Johnson noted that a site obscuring fence was recommended along the property adjacent to residential zoning and roads. There are also limitations on use. Ms. Mabbott added that when you have outdoor storage there does need to be a site obscuring fence, which may be conflicting with security. Commissioner Standley pointed out that security would be inside the fence so that shouldn't be a problem.

Commissioner Colgan commented that the application can be approved, but it is important to make sure the conditions ensure the use as intended, with the caretaker as an affiliate or employee of the owner for the purpose of the business established. He suggested confirmation that the business is established before the caretaker dwelling is used. Commissioner Rhinhart pointed out that there is one caretaker dwelling already being used, which could service the other property until the others are set up.

Ms. Johnson directed the Planning Commission to pages 9 & 10 of the staff report, where staff had left open the criteria for the caretaker dwelling because moving forward with that rested on approval of the conditional use for the outdoor storage; whether it was going to be approved as an expansion onto the property or as its own separate business. For clarification, she explained that an accessory dwelling of this type is associated to each business. Potentially there could be three businesses on one parcel with three caretaker dwellings. Or, there could be three parcels with one business across them, and one caretaker dwelling. If moving forward with a separate conditional use that warrants a separate caretaker dwelling then we will have to address the standards. Ms. Mabbott added that Planning Commission did not have to come up with the exact standards; just address the questions of staff on page 9. Commissioner Colgan suggested that it be approved as a separate business, adding to the conditions that there is verification and an annual review to verify that the use of the dwelling is specifically for and associated with the business. Ms. Mabbott explained the annual review process. Commissioner Colgan added that attention to whether there is a business there or not could also be complaint generated.

Commission Standley asked if Mr. Fordice had something in mind that might address the concerns about the intent of the dwellings. Mr. Fordice said he just has a verbal agreement with the current caretaker. Commissioner Colgan explained that, in the event of a problem, the person in the dwelling could be approached as the operator because that's what the dwelling is there for. In this case, it won't be Mr. Fordice living there, so it will be his operator, which would imply some kind of responsibility. There needs to be some kind of agreement with the renter/caretaker that they are responsible for looking over the property. Commissioner Williams asked if revenue generated from the properties would be proof of a business. Ms. Mabbott replied that it wouldn't be proof that the person living in the dwelling is a caretaker.

Ms. Mabbott explained that enforcement will be difficult. For example, say in a year a letter goes out for annual review, and it comes about that there is no business on the property. It would then be difficult to force removal after all the investment on the property. As Ms. Johnson stated previously, the clear precedent in Umatilla County is establishment of a business first. Commissioner Colgan pointed out that the whole intent of the caretaker dwelling is to have the security that supports the storage business. Chairman Rhinhart and Commissioner Colgan suggested approving the business, and making it a condition that the caretaker dwelling cannot be occupied until the business is established. Ms. Mabbott added that typically caretaker dwellings are associated with businesses that have a building and maybe outdoor storage of materials, which is clearly a business.

Mr. Fordice stated that he was under the impression that the conditional use for the business was not under question. Ms. Mabbott explained that both applications were referred to the Planning Commission.

Commissioner Colgan moved to approve Conditional Use Request #C-1166-10 for the business with the conditions cited in the staff report, and hold #C-1167-10 in abeyance until the business is established. Ms. Mabbott suggested that #C-1167-10 can be approved with the precedent condition that the business be established. Commissioner Colgan agreed that was the intent of his motion. Commissioner Lee seconded. Question called. Commissioner Lynde voted nay. Motion carried 6:1.

OTHER BUSINESS:

Cargo container discussion: Tamra Mabbott explained that, historically, cargo containers are not considered structures as defined by county or state definition. The question then is whether or not they should be allowed if they are not a structure. They have become popular throughout the county, as Ted Burrows, Code Enforcement Officer can testify to. They have also generated a lot of complaints. Staff has treated them as solid waste because there is not a way to permit them, and they don't meet the definition of "structure" with State Building Codes either.

Staff took a poll of other counties to see how they are being handled elsewhere. Most are in the same position as Umatilla County. The containers can be unsightly, and they are sometimes converted to dwellings, etc. Commissioner Colgan wondered how they would be handled in urban growth boundaries where there is co-management between cities and the county; there could eventually be conflict as lands are annexed into the cities. Ms. Mabbott agreed, but noted that this was just a policy discussion, not a formal hearing. She urged the Commission not to take testimony about individual property because they would then be making a quasi judicial land use decision. Staff is simply looking to the Planning Commission for policy guidance; are they ok, and if so, how do we permit them?

The main concerns are safety, setbacks, and impact to the flood plain. Staff provided some policy options to consider. Most might feel they are ok, but we do have neighbors with complaints. Commissioner Kaminski asked if they could be limited according to zoning. Ms. Mabbott replied that they could.

Commissioner Kaminski noted that he personally has a 16 x 24 foot storage building he purchased from a company that builds them in La Grande. The Umatilla County Assessor's Office went out and looked at it and determined that it was personal property. So he wondered if staff was asking about just the metal types of buildings or any kind of prefab structures. Ms. Mabbott displayed some pictures of containers that staff was referring to. She noted that if policy is to allow them, they should be set back from

streams and meet the applicable set backs for the zone. They are typically metal containers. She displayed a picture of a rail car still on wheels.

Ms. Mabbott referred to policies she had laid out for Planning Commission to consider:

- Allow as “use” for storage only with compliance with setback and use of zone.
- Only allow in certain zones. (This would require a Development Code amendment.)
- Amend definition to include them.
- If the definition is amended, should it include things with wheels? Typically, wheeled vehicles that are not licensed and operable are considered solid waste.
- Don’t allow them at all and treat as a code violation.

The majority of people feel they are a good, inexpensive means of storage. Commissioner Standley suggested criteria such as requiring that they be painted, they don’t block views, and they meet setbacks. Ms. Mabbott noted that requiring them to be painted would be unprecedented.

Ms. Mabbott noted letters received from Bruce Naimy, who has containers on his property and attorney, David Hadley. Mr. Hadley is present to share his findings, but he is not representing a specific client.

David Hadley, 130 SE 3rd St, Hermiston, OR. Mr. Hadley explained that he had discussed the matter with Ms. Mabbott recently. He became very interested in the topic so he volunteered to see what it was about. He read his letter, dated August 26, 2010 to the Planning Commission into the record.

The issue is such a large arena, affecting most everyone in the county that it will take a lot of thought on how to design into the respective zones. Mr. Hadley noted several businesses that use cargo containers, including the Pendleton UPS facility, which is made of cargo containers, and several containers on the hill behind the Justice Center.

Ms. Mabbott explained that staff really just needs direction about whether we want them or not and how to treat them. Commissioner Colgan commented that he would be more comfortable if staff came up with a plan and brought it back to the Planning Commission.

Chairman Rhinhart asked Code Enforcement Officer Ted Burrows what kind of issues he sees with the containers. Officer Burrows replied that solid waste issues are sometimes improved because people can store their “junk” in the containers. However, he also sees those who don’t take care of the containers, so the containers look terrible, along with junk that remains on the property. He would be in favor of allowing them though because they are an inexpensive, secure means of storage. Commissioner Lynde commented that he liked the way Linn County regulates them.

Chairman Rhinhart asked staff to come up with a plan for allowing them, and Commissioner Colgan added that the size of the lot should be considered too; how many

per parcel? Ms. Mabbott replied that there is already a limit to lot area coverage in the residential zone of 30%.

Chairman Rhinhart asked if it would be best to have a work session. Commissioner Colgan noted a lot of public concern, and the code enforcement issue. Ms. Mabbott replied that we could hold a work session, but staff still needs guidance for those waiting to know what to do with them right now. Commissioner Williams agreed that a work session is needed and we need to take time on the issue to make sure that there are no unnecessary restrictions. A decision should not be made in the heat of the moment.

Ms. Mabbott asked what to do in the interim. Did the Planning Commission want her to prepare a draft proposal? The Planning Commission agreed. They were generally inclined to approve them, but wanted to make sure they are compatible. Ms. Mabbott suggested a sub-committee instead of a full work session. Commissioner Williams replied that she would like to see a full work session to get the whole Commission's input as well as the public. Ms. Mabbott agreed; staff would work in a date for a work session in the next couple of months.

Recess.

Re-adjourned at 8:35 p.m.

Idaho Power presentation: Planning Director, Tamra Mabbott referred to her memo to the Planning Commission, pointing out that this was not a public hearing. It is just for informational purposes. The Planning Commission and Board of Commissioners do not have authority to approve or deny the power line. The State Energy Facility Siting Council (EFSC) has that authority, although they do ask local agencies what criteria they would apply.

Planning Commission packets included a map of zones that the line will traverse. Those zones are mostly GF and EFU. Packets also include maps with resource and endangered species. Information and maps have been posted online, or staff can provide copies for the public.

Staff would make notes of concerns or issues that the Planning Commission expressed which would be included in a letter to EFSC.

Ms. Mabbott introduced Idaho Power representatives: Keith Georgeson, Project Manager; Kristi Purdue, Facility Siting Coordinator; and Donovan Walker, In House Counsel.

Kristi Purdue started off with a PowerPoint presentation. She explained that the project involves a 500 KV transmission line that will be approximately 300 miles long. The proposed route will be between a future substation located near Boardman, Oregon and the Hemingway Substation recently completed near Melba, Idaho.

The line will cross public and private lands in multiple counties in Idaho and Oregon, and will follow existing energy and transportation corridors as much as possible. It will also follow a federally designated utility corridor to cross the Wallowa Whitman National Forest. Idaho Power has filed an application with the Bureau of Land Management and Notice of Intent with the Oregon Department of Energy. Those agencies will review the proposal and ultimately approve or deny.

The purpose and need for the project includes transportation of low cost energy from a variety of generating sources. It will also increase system reliability, improve capacity, and ensure that Idaho Power continues to meet current and future customer needs in both Oregon and Idaho. It will allow distribution of electricity to wherever the most demand is occurring at any given time.

Ms. Purdue displayed a map of the proposed route, explaining that when Idaho Power started developing a proposed route, they convened a community advisory process (CAP) meeting with many communities to engage them in helping come up with the best possible route. They met for over 1 year and 49 potential routes were identified. All were analyzed. In developing the proposed route, Idaho Power tried to consider the communities' critical concerns equally to regulatory criteria. This particular route minimized impacts to farmlands and cities, view sheds, and sage grouse habitat. Idaho Power has also been working with the US Navy for permission to cross the bombing range in the Boardman area.

The proposed corridor shown is a 4000 foot wide study corridor, which allows them to work with landowner to adjust the line. When final it will be reduced to a centerline route, which will require 250 feet of right-of-way. For now the 4000 foot study corridor allows the flexibility to move the line if necessary.

Ms. Purdue displayed the different design specifications. The lattice tower will be the structure most used because it allows greater span between towers, which means fewer structures overall. Access roads will also have to be built, as well as materials storage yards, which will be removed or mitigated after construction is complete.

The history of the project began in 2008-09 with public comments. In 2009 they convened the community advisory process (CAP), and in 2010 they submitted revised applications to the Bureau of Land Management and the Notice of Intent to the Oregon Department of Energy. Even though the CAP has come to an end, Idaho Power wants to continue to work with communities.

Keith Georgeson handed out materials to the Planning Commission. Ms. Mabbott noted that a copy of the Public Notice of tonight's presentation had been included in the Planning Commission's packets. Even though it is not a hearing, staff wanted to be sure that affected property owners in Umatilla County were aware. Everyone within 1 mile of the corridor was notified.

Mr. Georgeson explained that the Citizen's Advisory Committees (CAC) came up with criteria used for siting the line. He displayed the original CAP routes. From there, they came up with three alternative routes. Those then were evaluated by the CAC criteria to determine the best route, which appeared to be the eastern route. He displayed the proposed final route, noting that they are still looking at alternatives, and things could still change. In the Pilot Rock area the north route appeared most reasonable, as did going west of the National Forest corridor through Umatilla County.

Mr. Georgeson asked for questions. Chairman Rhinhart asked how many total acres there would be within the 250 foot right-of-way. Mr. Georgeson did not have that calculated.

Commissioner Colgan pointed out that Umatilla and Morrow Counties both have significant critical groundwater areas. There will be future water infrastructure involved in recharging and there are many areas needed for underground water recharging that are not considered. That is a resource that needs coordination for build out in both counties.

Commissioner Colgan also noted that Idaho Power has a "micro siting" process and he wondered what that definition was. Mr. Georgeson explained that it related to moving the line within a specific landowner's property. It becomes major if they are moving onto another piece of property.

Commissioner Colgan added that, in the future, there may be need to be crossing for water infrastructure. Mr. Georgeson agreed that this is information that they need. Commissioner Colgan was aware that it was pretty conceptual at this point, but Idaho Power needs to be aware that there could be mitigation issues.

Chairman Rhinhart asked what uses will be allowed of property owners within the right-of-way. Mr. Georgeson replied that the footprint of most towers would be about 40' x 40', but there would be no restrictions otherwise. It is just an easement to allow access for Idaho Power. Chairman Rhinhart stated that property owners have expressed concerns that, even though Idaho Power will pay them for the easement, the property owner will have to pay that right back to local government for taxes. Mr. Georgeson agreed that the property owner would have to pay the taxes.

Chairman Rhinhart asked about the potential for a wider right-of-way. Mr. Georgeson replied that it would only be 250 feet. Commissioner Colgan asked about future plans to double circuit the line. Mr. Georgeson replied that it would be single circuit only.

Commissioner Colgan noted that the proposed line would go through or adjacent to an existing wind farm in Umatilla County. Mr. Georgeson replied that this is information they need. Construction probably won't begin until around 2013, so there will be a lot going on in that time that they need to know about.

Chairman Rhinhart was under the understanding that the line was to go directly from Boise to Boardman with no connections to it in between. Mr. Georgeson explained that

if another entity has the money to build a substation and wants to connect to their line they can. Chairman Rhinhart had heard that there was to be a substation built at Alkali Canyon, about 10 miles west of Pendleton. Mr. Georgeson was unaware of that. Donovan Walker added that if they do receive any such applications, they have to study them. Applications are not public initially, but if the application progresses to maturity they will be.

Chairman Rhinhart did not see that there would be much benefit from the line to Umatilla County. He wondered if there would be any compensation or mitigation money. It might make the line easier to stomach if there were monies for things like groundwater mitigation or environmental projects. Mr. Georgeson was not aware of any special compensation.

Commissioner Colgan commented that he believed PacifiCorp was going to be involved with ownership of the Idaho Power line. Mr. Georgeson replied that they have a Memorandum of Understanding with them, but there was no agreement yet. Commissioner Colgan pointed out that if it follows through then there would be a serving utility that could build a substation to dump off power to communities in the county.

Commissioner Standley asked if there was any way that lesser wattage could be strung underneath the line. Mr. Georgeson replied that Western Electric Coordinating Council (WECC) requirements will not allow that. When a critical and non-critical line are together like that, if they fall into each other there would be no back up. Commissioner Standley noted then that the non-critical power would have to go to a substation and boosted to Idaho Power wattage. For wind generation the next focus would be to build to an area where other facilities could come together to make it cost beneficial to connect to the Idaho Power line.

Mr. Georgeson noted that the route would be 300 miles, but there are only 366 landowners. Chairman Rhinhart replied that there are still small owners who feel they are getting stuck with the line because they happen to be located between large pieces of land. Those smaller owners should have better compensation. Mr. Georgeson explained that they are regulated by the Public Utilities Commission (PUC) on how landowners are compensated and how much. They have to have the land appraised by a private appraiser.

Umatilla County Commissioner Larry Givens hoped that Idaho Power would continue their CAP throughout the process. There is ongoing change with a new water commission to come up with projects in the west county that would find areas for recharge and build infrastructure for recharge. There is a good deal of communication necessary between Idaho power, the county, landowners, and the new water commission. Mr. Georgeson replied that BLM is going through the NEPA process for this project, so you can go to the BLM website and turn in any comments. Those comments will go into their draft environmental impact statement. He encouraged public and agency comments. They will keep the CAP group informed of what's going on. Chairman Rhinhart asked

about a final date. Mr. Georgeson replied that they anticipated it being the end of 2012 or 2013 before a final decision is made.

Commissioner Colgan asked about where Idaho Power is on their timeline. Mr. Georgeson explained that they have submitted their Notice of Intent to EFSC and their application to BLM for the NEPA process. They're trying to run the two processes together as much as possible so they can coordinate their public meetings.

Donovan Walker explained that it is important to keep in mind that Idaho Power is at the beginning of the state and federal processes. The scoping comments with BLM are due by September 27th. BLM will gather comments to generate the scoping report and begin EIS preparation from there. EFSC has 140 days to provide a project order from which their application will be generated. They are working closely with both agencies to coordinate. It is important that any issues, such as water, infrastructure, etc. are brought to state and federal attention. Mr. Georgeson added that if you don't comment by September 27th, the BLM won't ask for input later in the process. Ms. Mabbott noted that she was not planning on submitting comments directly to BLM, just to EFSC.

Commissioner Colgan pointed out that, because the water issue is not clearly defined, staff just needs to get the issue and need described so there is standing. Mr. Walker noted that comments made to the state and federal agencies separately are being shared amongst those agencies. Comments made to Idaho Power and during the CAP process are being considered in the BLM scoping process too.

Commissioner Standley asked if we have any opportunity to help with the selection of the type of towers. Commissioner Colgan stated that we would via EFSC because they take into account aesthetics. Commissioner Standley asked if there would be any criteria about where the poles are placed or if they would just build them to enhance the line and stay out of fields for less impact. Mr. Georgeson replied that the lattice towers are actually more expensive, but hold a longer span, so there are fewer of them. Commissioner Standley wondered if the public would see a solid line of structures or a mixture. Mr. Georgeson replied that it would probably be a mixture depending on engineering. He suggested submitting any comments regarding the poles.

Commissioner Lynde asked about use of the right-of-way for wind power. Mr. Georgeson replied that it would be Idaho Power's exclusive right-of-way, so they may or may not allow use. Commissioner Colgan added that it's based on voltage and proximity of what can be put in the corridor. It's a safety and liability issue.

Chairman Rhinhart noted that the Planning Commission had been discussing transmission corridors to limit lines. Mr. Georgeson replied that the proposed line will be high capacity, so it will help, but there are still criteria they have to follow.

Public Comments: A member of the audience asked who pays the property taxes where the line is crossing private property. Mr. Georgeson replied that it is still the property owner's land so the property owner would pay.

A guest asked if it will affect the value of the property. Mr. Georgeson replied that it depends. He's seen studies that show that lower voltage lines do not impact value, but he has not seen any studies on higher voltage lines. Commissioner Colgan commented that it could be a wash for the county because the county gets a small amount for each pole, but if landowners are going to the assessor's office and arguing that their property is devalued by the line they may be successful in getting their taxes reduced. Ms. Mabbott replied that it could play out that way.

Commissioner Colgan noted that a lot of people want to know what benefit the community will have by hosting the line. Ms. Mabbott added that what the Commissioners are concerned with is that the line will be more of a liability than an asset. Mr. Georgeson did not see it being a wash for the county. Significant taxes will be paid by Idaho Power for the line crossing the county. Commissioner Colgan suggested asking for estimates of the number of poles and how the state has handled similar assessments. Mr. Georgeson noted they have estimates of what tax revenue may be and they'd be happy to share that information.

OTHER BUSINESS:

Energy Generation Area: Ms. Mabbott passed out a letter from the state formally acknowledging removal of the designated energy generation area in Umatilla County.

Oregon Windfarms: Ms. Mabbott passed out a copy of her letter to Morrow County regarding Oregon Windfarms' proposed 40 MW project in Morrow County that would include a substation in Umatilla County, and new and re-routed transmission lines. They are in the permitting process with Umatilla County right now. The Planning Commission agreed by consensus that the application could be handled administratively.

New Goal 5 Application from Blue Mountain Alliance: The Planning Department has received a new Goal 5 application from Blue Mountain Alliance. Ms. Mabbott is in the process of reviewing the application for completeness. She will be asking for more information specific to administrative rules. She anticipated the first hearing would be late in the year, and would require notice to all the landowners in the proposed area, which consists of over 200,000 acres.

HHH Standards: Commissioner Colgan reported that a few more comments had come in, including a recommendation to reformat the changes to more closely follow and reference EFSC standards. But he felt that would just force a developer to go to the state. There is a balance, and the county could lose economically by losing the opportunity to be in more direct control and work with the developer. He was against adopting references to state standards. However, there could be more clarity in some of the language suggestions in the EFSC standards. Commissioner Colgan, Commissioner Reeder, and Planning staff would be meeting one more time and bring a draft back for

circulation to the Planning Commission. We can then get it on the agenda for a public hearing. The Goal 5 process will take a very long time and will require a lot of staff time.

Ms. Mabbott added that the county would go ahead with the wind siting standards before moving forward with the proposed Goal 5 amendment. The Planning Commission and staff made the commitment to the public, trying to address all the concerns about impacts to endangered species, streams, and erosion, by incorporating them. So, many of those issues are contained in the revisions to HHH.

Commissioner Colgan commented that there is no example that he is aware of in a Goal 5 case that wasn't much more contained in a much smaller area, and that only went after one to maybe three Goal 5 resources in that area. This application covers a huge area and goes after all Goal 5 resources. By law it is the applicant's obligation to provide a defensible analysis. Ms. Mabbott noted that she does not intend to spend county money, so one of the things that will be up to the Planning Commission is if they have adequately addressed the standards.

Ms. Mabbott again noted that we want to move forward with amendment to section HHH, being as comprehensive about impacts as can be. We can then address the other process. Otherwise, having both hearings at the same meeting will get confusing.

Sharkey Conditional Use: Ms. Mabbott updated the Planning Commission on the Conditional Use application they heard recently for Phil Sharkey. The Planning Commission had approved the Land Use Decision portion of the request for a non-farm dwelling, but denied the request for a trucking business. The denial was appealed to the Board of Commissioners, whose decision was split, so the Planning Commission's decision was upheld. It could be appealed to LUBA, but Ms. Mabbott did not think the Sharkeys would pursue it any further because they had already spent a lot of money.

Resignation: Commissioner Rick Colgan announced that he was resigning from the Planning Commission. He had a professional opportunity with his company that would require relocation to California.

ODFW Winter Range Area: Commissioner Lynde asked if the County had adopted the new ODFW elk and deer winter range areas. Ms. Mabbott explained that staff had asked that ODFW provide additional information. There are two times the County is obligated to address this type of issue. One is in Periodic Review, which we wouldn't get to for another 10 years, and then it's optional. The other is if the agency made an application. Ms. Mabbott felt that ODFW would ask the County to adopt the map with the next Code update and they would provide the analysis, data and map. She just followed up earlier this week. There are multiple parts, including adopting the new map, and reviewing the Critical Winter Range overlay zone for changes that might be necessary to address impacts other than logging and dwellings. Discussion followed.

ADJOURNMENT:

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Heather Haueter, Secretary