

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, June 23, 2011
6:30 pm, Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Frank Kaminski, Clinton Reeder, Gary Rhinhart, John Standley, David Lee, Randy Randall.

ABSENT: David Lynde, Tammie Williams, Don Wysocki.

STAFF: Richard Jennings, Tamra Mabbott, Julie Alford.

NOTE: The following is a summary of the meeting. A recording of the meeting is available at the Planning Department office.

CALL TO ORDER:

Chairman Rhinhart called the meeting to order at 6:35 pm. He read the opening statement.

NEW HEARING:

TYPE IV LAND DIVISION, #LD-2N-182-11; Dennis and Deborah Davis, applicant/property owners. The applicants request a land division to divide a 271.51 acre parcel into two parcels – Parcel 1 being 161 acres and Parcel 2 being 110.51 acres. The property is located along Tutuilla Creek Road and McKay Drive and described as Township 2 North, Range 32 East, Section 27, Tax Lot 100. The property is zoned EFU, Exclusive Farm Use.

Chairman Rhinhart called for abstentions or objections of the Planning Commission. None were given.

STAFF REPORT: Richard Jennings, Senior Planner, presented the report explaining the two sets of criteria for the partition in the findings. One set of criteria was for parcels that are larger, equal to or greater than the minimum parcel size of 160 acres and the other set of criteria was for parcels between 80 and 160 acres, which is a Review II criteria. Jennings explained that the parcels must remain in farm use. No dwellings are being applied for. The 161 acre parcel meets the minimum parcel size.

Chairman Rhinhart questioned the report of the property being in CRP and commented that a small portion on the east side of Tutuilla Road was in CRP but the majority was in farm production. Tamra Mabbott, Planning Director, interjected that the staff report states the land was being used for agricultural purposes.

Jennings responded that as long as the land stays in farm practice the partition may proceed. It meets the standards for parcel size and the intent of the comprehensive plan and the statutes are met.

Director Tamra Mabbott explained that these partitions are typically processed administratively without referring to Planning Commission but after the EFU update in 2008 the Planning Commission asked to continue to review these Type IV partitions.

Chairman Rhinhart inquired of any questions for staff. Commissioner John Standley asked about the partition needing a land survey. Mr. Jennings answered that Bill Wells had submitted a survey for the Davis partition. Commissioner Randy Randall then commented about the 80 acre size threshold and questioned future partitions for the 161 acre parcel. Mr. Jennings replied that there was potential for a future partition but if the intent was for a dwelling, it would be harder to meet the required income test with the 80 acre size. Discussion followed regarding farm dwelling requirements.

Richard Jennings pointed out that prior approval had been given for a farm dwelling on the total 271 acres and it expires this year. Tamra Mabbott clarified that the approval was issued 6 years ago and will be obsolete when the partition is approved because it was based on the total acreage.

Applicant Testimony: None

Proponents: None

Opponents: Petition submitted with signatures of adjacent land owners asking the Planning Commission to consider the previous decisions made by the Board of County Commissioners and the Planning Commission in regards to the previous Davis application #P-102-10, #T-10-041 & #Z-293-10, which was denied.

No rebuttals or continuance. Hearing closed followed with deliberation.

Commissioner Standley motioned to approve the Davis Type II Land Division #LD-2N-182-11 with conditions as listed in the findings 1, 2, & 3. Commissioner Lee seconded the motion. Motion carried 5 to 1.

NEW HEARING:

TEXT AMENDMENT #T-11-042, Pendleton Grain Growers, Applicant.

The applicant requests a text amendment to Umatilla County Development Code Section 152.292 Conditional Uses in the Agri-business (AB) Zone to allow **“other buildings and uses similar to those specifically listed”**. Thus, other uses may be permitted in the AB Zone that are not listed in UCDC 152.292 but are similar to those allowed, such as incidental retail sales of agricultural merchandise. All property throughout the County within the AB Zone will be affected by this amendment.

STAFF REPORT: Richard Jennings, Senior Planner, explained that the text amendment would allow other buildings and uses similar to those listed in the Development Code in the Agri-Business (AB) Zone. Mr. Jennings then explained that Pendleton Grain Growers requested the amendment in order to sell items, other than those specifically listed in the ordinance, at their Feedville Road store location. Mr. Jennings commented that the County adopted those specific items and uses in the AB Zone to support farming practices. The amendment would affect all properties in Umatilla County with the AB Zone designation.

Tamra Mabbott, Planning Director, reminded the Planning Commission that several years ago during Periodic Review the Agri-business Zone was not included in the Goal 14 Exception. Those uses in the AB Zone must remain rural in nature and the building size in the AB Zone does not have a limitation.

Applicant Testimony: Rob Ray, PGG Director of Ag Supply, 10409 F Ave., Island City near LaGrande, Oregon, explained that because of certain circumstances at their retail store in Hermiston, they would need to move to another location. Their intent was to downsize the retail and move the ag supply out to the Feedville store. PGG's main focus on retail would be feed, livestock handling & fencing equipment. Mr. Ray commented that they will be giving the current store location in Hermiston six more months but they have another location in the City of Hermiston they are looking at.

Opponent Testimony: None.

Hearing closed. Deliberation and decision followed.

David Lee motioned to approve text amendment and recommend to the Board of Commissioners. Commissioner Reeder seconded. Motioned carried unanimously.

OTHER BUSINESS:

- ODFW Critical Winter Range Area : Tamra Mabbott reminded the Planning Commission about a request to have Chairman Rhinhart sign a letter to the Oregon Department of Fish & Wildlife asking for assistance to update the County's Critical Winter Range Map. Ms. Mabbott apologized for not sending Commission members a copy of the letter. Work on this project needed to wait until the HHH code update was finalized.
- Hermiston Foods Water Application: Commissioner Rhinhart opened discussion with comment on odor complaints regarding Hermiston Foods waste water land surface application. Ms. Mabbott explained some instances for the complaints. She commented that the land use permit is solid and cannot be disputed and the regulatory role is in the hands of the Department of Environmental Quality. Commissioner Reeder suggested looking at the conditions in the permit to see if all have been met and hold the applicant responsible for any promises that may have been made but not acted on. Ms. Mabbott said she would review the permit.

- HHH Standards: Ms. Mabbott updated the Planning Commission on the Board of Commissioner's HHH Text Amendment hearing. Commissioner Lee asked about the Wind Companies response to the recommended two mile turbine setback and Ms. Mabbot responded that they are clearly in opposition. She then explained the Board of Commissioners voted 2 to 1 at the meeting on June 14th to keep the 2 mile setback from a residence but the Commissioner in opposition may be in support if the Oregon Solutions Team reviewed the materials and determined the setback to be justified. The Oregon Solutions Team must agree to participate and Ms. Mabbott explained that after a meeting they felt the setback requirements should be a local policy decision.

Ms. Mabbot then said that at the meeting on June 14th , the Board of Commissioners reviewed and compared the Planning Commission's recommendation, the Board of Commissioner's May 4th version of the amendment, and the collective recommendation of the wind developers. The Boards consensus was to approve most recommendations except for four issues. The four issues discussed at the meeting were;

- the financial assurance standard - which all Commissioners agreed there should be a surety bond,
- the socioeconomic impact study - which the Planning Commission had voted to keep, the wind developers did not want and the Board of Commissioners agreed to keep.
- the setback requirements – which the Board agreed on all recommended setbacks except for the 2 mile setback from a residence,
- and special protection in the Walla Walla Watershed Sub-basin, subject to another set of standards such as highly erodible soils and conflicts with Goal 5 resources.

Ms. Mabbott relayed the message that all three Board of Commissioners acknowledged the hard work of the Planning Commission and expressed their appreciation.

Ms. Mabbott said that she and Commissioner Reeder had been discussing how to structure the setbacks in the development code. They recommended the County adding special terms for a variance to the setback for commercial wind facilities. Ms. Mabbott then explained the Board of Commissioners thought the developer and land owner should negotiate their own contracts for setbacks without the County's involvement.

Discussion followed with Commissioner Reeder's thoughts on mitigation for property owners with wind developers using property value formulas. He also commented on ways to enforce the state noise standards, since DEQ does not have the capacity for enforcement.

Commissioner Standley made motion to adjourn. Meeting adjourned at 7:52 p.m.

Respectfully submitted,

Julie Alford