

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 24, 2012
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, OR

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COMMISSIONERS

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

ABSENT: John Standley, Tammie Williams, Don Wysocki.

STAFF: Tamra Mabbott, Carol Johnson, Connie Hendrickson.

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Call to Order:

Chairman Randall called the meeting to order at 6:31 p.m. and read the opening statement. He asked if there were any abstentions, bias, conflict of interest, declaration of ex parte contact or objection to jurisdiction. There were none.

Approval of Minutes:

Commissioner Lee made a motion to accept the minutes of the April 26, 2012 Planning Commission hearing as presented. Commissioner Kaminski seconded the motion. It passed unanimously.

New Hearing:

Chairman Randall opened the hearing for #LD-1N-103-12 the Henderer Replat. He called for the staff report. Senior Planner Carol Johnson began the staff report by describing the permit request and the property location. The replat would consolidate Lots 5 and 6 into a single lot. The steps of approval are found in the Umatilla County Development Code (UCDC) 152.697C for replats consisting of complying with the Comprehensive Plan, Zoning Ordinance and the development scheme of the area. The subdivision is zoned Rural Residential and the intent is to eliminate the lot line, creating a larger buildable lot which will accommodate a home, a septic system and a well but not encroach on the setbacks.

This replat is a matter of determining from the survey that the application meets all of the standards. There are no additional roads being created and no additional utilities being installed. There is a utility easement on the back of the property which will not be impacted. There was discussion about the dirt road which had never been recorded as a legal easement. Commissioner Rhinhart stated that if an issue arose regarding the dirt road, it would not be a land use matter but a civil matter. Mrs. Johnson said that a property owner who has used that road had asked if there was a “grandfathered” right for the use of the road. Unless it had been legitimately recorded as a legal easement there is not.

Planning Director Tamra Mabbott said normally this type of permit would be processed administratively but the Umatilla County Development Code requires that it be approved by the Planning Commission because it is a subdivision replat.

Chairman Randall called for comments from opponents and public agencies; there were none. He closed the hearing at 6:47. Commissioner Rhinhart moved to approve the application with the president and subsequent conditions that were set forth. Commissioner Reeder seconded the motion. It passed unanimously.

New Hearing:

Chairman Randall opened the hearing for # LD-5N-798-12, the replat request from Tidewater Terminal Company. He called for any abstentions, bias, conflict of interest, declaration of ex parte contact or objection to jurisdiction. There were none. He called for the staff report.

Senior Planner Carol Johnson said Tidewater Terminal Company is requesting a replat of lot 5 of the Port Terminal subdivision plat. The result of the replat will be a lot line adjustment between lot 5 owned by the Port of Umatilla and tax lot 600 owned by Tidewater Terminal Company. The location of the property is at the Port of Umatilla Industrial Park. The standards for this application are found in section 152.697C of the Umatilla County Development Code. This is a Type III land division which is commonly called a replat. She referred to maps that showed the area being adjusted. It was determined that some of the Port property was already being used by Tidewater so they are adjusting the line so it agrees with what has been in use. The property is zoned Industrial which will not change. There was discussion about the lot sizes. There will be 3/10 of an acre taken from the Port property and combined into the Tidewater property. Chairman Randall called for any proponents. Patrick Jensen from Tidewater Terminal Company was present but had nothing to add to what Mrs. Johnson had presented. There were no opponents. There were no Public Agencies present. The hearing was closed at 6:54 p.m. Commissioner Reeder moved to approve the application as presented. Commissioner Lynde seconded the motion. It passed unanimously.

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New Hearing:

Chairman Randall opened the hearing for #P-105-12 and #Z-295-12 for the City of Hermiston co-adoption of a plan and zoning map amendment. Chairman Randall called for any abstentions, bias, conflict of interest, declaration of ex parte contact or objection to jurisdiction. He stated that he manages property for one of the land owners who have property included in the City of Hermiston application so he recused himself from the hearing.

Planning Director Tamra Mabbott began the staff report by referring to a map which showed the location of the properties included in the application. The City of Hermiston determined during their periodic review that they needed more commercially zoned property. They took an inventory of the land and identified the tax lots named on the application to rezone it from industrial to commercial. According to the Joint Management Agreement the changes have to be co-adopted.

The draft findings included in the Planning Commission packets contain information about the potential impacts to traffic. This information was provided by a study done by the City of Hermiston to address the Goal 12 transportation issues. The study did contain

some recommendations but Mrs. Mabbott said that she also had a condition of approval. At the time the property is developed the spacing standard from the intersection of Highway 395 to the next public roadway must be 1000 feet and between the intersection of Highway 395 and a driveway must be 500 feet. Any future development would need to comply with that spacing standard. The Oregon Department of Transportation (ODOT) has an interest in this project and submitted a land use compatibility review. ODOT also submitted a letter requesting additional conditions. Mrs. Mabbott will address those conditions in the findings that will be presented to the Board of Commissioners.

Applicant Testimony:

Clint Spencer, Hermiston City Planner, 180 N.E.2nd Street, Hermiston, OR 97838. Mr. Spencer said this project started approximately three years ago when the city looked at their overall land inventory. These tracts of land are industrial tracts surrounded by commercial development and low density housing. Neither tract was deemed suitable for industrial development so they were slated to be amended from industrial to commercial. A Goal 9 analysis was completed in order to justify the change. Changing the parcels from industrial to commercial was well received by the community with no opposition. It was passed unanimously by the Hermiston City Planning Commission and the Hermiston City Council. In regard to the traffic study, when the property is commercially developed there will need to be some improvement to Punkin Center Road and Highway 395. The roads will need to be widened with dedicated turn lanes added. The details of the improvements will be determined at the time of the development.

Commissioner Rhinhart asked if the area was zoned industrial now; Mr. Spencer answered that it was. There was discussion about the types of businesses that were currently there. It was mentioned that any large commercial operation that would be developed on the property would need to be serviced with city water and sewer.

Commissioner Lee asked if there were additional industrial lands in the Hermiston area and Mr. Spencer stated that they had approximately 400 acres of bare industrially zoned land on the south side of town. He said what they were trying to accomplish was to create a commercial area and an industrial area. Hermiston will not be handicapped for industrial ground by rezoning these properties to commercial.

Commissioner Reeder asked how this commercial area would be buffered from the residential area. Mr. Spencer said commercial development standards in their code require screening and there is a minimum setback requirement of 25 feet between a building and a residential structure. The lighting has to be designed so that all light is contained entirely on the property. Discussion followed.

Mr. Spencer said they had done quite a bit of infrastructure work in their industrial area in order for water and sewer services to reach that 350 acre site. Pioneer Ag purchased 40 acres of the property which leaves 310 acres that can accommodate future industrial development. Discussion followed.

Commissioner Lynde clarified that tax lots 800, 900 and 1000 of the M1 zone on the maps they were viewing was being changed to a C2 zone and Mr. Spencer said that was correct and elaborated on the current structures and businesses that were on the property.

Chairman Randall asked if there were other proponents or any opponents that would like to testify. There were none.

Mrs. Mabbott stated that the Planning Commission could adopt the findings but since this was a recommendation from the Planning Commission to the Board of Commissioners she would feel more comfortable incorporating the recommendations from ODOT when the application was presented to the Board. She had made a note that the Planning Commission may recommend compliance with the County TSP and she would recommend that as well when the final findings are drafted to go before the Board of Commissioners.

Chairman Randall closed the hearing at 7:14 p.m.

Commissioner Reeder moved to adopt the application as presented including the suggestion by Mrs. Mabbott regarding the ODOT recommendations. Commissioner Rhinhart seconded the motion. The motion passed unanimously.

Chairman Randall called for a break at 7:16 p.m. The meeting reconvened at 7:26 p.m.

Other Business: Iberdrola Update

Sara Parsons, Iberdrola Renewables, 1125 NW Couch St., Ste. 700, Portland, OR 97209
Jesse Gronner, Iberdrola Renewables, 1125 NW Couch St., Ste. 700, Portland, OR 97209

Mrs. Parsons stated that their goal at this meeting was to update the Planning Commission on the status of the current Helix Wind Power project and discuss any concerns they might have. She noted they would be neighbors of the residents of Umatilla County for many years and their amendment request was asking for a two year extension on the original construction deadline.

Commissioner Kaminski stated that Umatilla County had not allowed extensions for any other company and said that Iberdrola could instead re-apply as a new project. There was discussion regarding the fact that the Planning Commission was not being asked to make a decision regarding the project and that this was an informational meeting only. The Board of Commissioners and the Energy Facility Siting Council (EFSC) would make the determination regarding the amendment request.

Commissioner Rhinhart asked if Iberdrola would abide by the two mile setback. Mrs. Parsons stated that the setbacks were determined by EFSC for the Iberdrola Helix project. Their permit was approved before the two mile setback was in place in Umatilla County.

Commissioner Lynde said there are standards which the Helix project originally applied under and there are standards in place in Umatilla County which the state looks at. The

Planning Commission has the responsibility of listening to the residents of Umatilla County when trying to address the noise that occurs after the project is running. As they have learned the noise doesn't necessarily come from the direction they thought it was coming from. They need to protect the citizens of the county. Mr. Gronner agreed that was why they were sitting on the Planning Commission. He also clarified that this was a matter before EFSC and they are looking at the timing of when the application was received and deemed complete relative to the laws that were in place at the time. If the extension to the project is granted, it will be granted by the EFSC.

Commissioner Rhinhart said they applied for the extension just before the new standards went into effect in Umatilla County. Mrs. Parsons said Iberdrola applied for the extension as late as they could and still meet the deadline. It had nothing to do with the local land use law changes. She also said the land use changes would have no affect as they were not applying to change the project they were just asking for a construction extension.

Commissioner Rhinhart said most people were not opposed to the first phase of the project but are opposed to the second phase. They have developed a distrust of the wind industry. Mrs. Parsons agreed there had been a lot of distrust because of another project in the state of Oregon that was not permitted by EFSC but by a county who did not have the acoustical, technical expertise to review the documents that were submitted. Their projects operating in Sherman and Gilliam counties have to provide evidence to the acoustical engineer of the Department of Energy stating that their project will comply. If someone believes the project is out of compliance they can complain formally to the State of Oregon and the Department of Energy will require them to demonstrate compliance.

Commissioner Lynde stated that there had been EFSC sitings where there had been noise complaints and the State said there was no money for sound testing. Mrs. Parsons said the State has the funding and when a project goes through EFSC they require the certificate holder to pay for the testing. Mrs. Mabbott confirmed that if the project was permitted by EFSC, as a condition of approval, they require the developer to pay for the studies. A site certificate is a binding contract and legally it puts the burden for the funding of the noise studies on the permit holder.

Mrs. Mabbott stated this is before the Planning Commission now because a group of citizens did not think the amendment was a good idea and requested the Commissioners become involved. A discussion ensued and Chairman Randall sent a letter to Iberdrola. Mr. Gronner said they had not been able to participate in that meeting so upon receiving the letter they wanted to come before the Planning Commission, not because they were seeking decision on anything, but just to give an update.

Commissioner Randall acknowledged that the Helix project has to abide by a different set of standards from those of Umatilla County but he does not feel that as a Planning Commission they are comfortable supporting an extension because the rules and standards in the county have changed and because of the opinions of the public they represent. He noted that the project has been four years in the making. Mrs. Parsons said the EFSC process takes a very long time because of all the studies that have to be

completed. The two year construction window does not match up with the length of the EFSC process.

Mr. Gronner stated that Iberdrola has invested a lot of resources here and they believe that this is a viable project. The possibility of it not going through was a big concern. There are challenges and they have been working hard to balance the impacts. They recognize everywhere projects are done there is development and change which in a rural area is extreme because it changes the natural look of the landscape. He mentioned the Strategic Investment Program (SIP). Discussion followed.

Mrs. Parsons referenced maps of Umatilla County which showed the dwellings in the project site, everything that could possibly be considered a house depending on how livability is defined. One of the maps showed the Helix project and the site boundary that is permitted by EFSC. The noise law says that you cannot raise the level of sound more than 10 decibels above background noise unless there is an agreement with the landowner. Discussion followed.

Commissioner Lynde inquired if there were tower sites that have to be moved once the construction on project is started. Mr. Gonner said there is micro siting done by the engineers and no digging is started until the area has the complete approval of the engineers. They also permit a range of turbine types so they can have some flexibility. Construction cannot start until they have a final layout and noise easements which have been given approval by the state. They cannot start construction and then figure it out as they go.

A question was asked regarding periodic noise testing of Iberdrola's projects. Mrs. Parsons and Mr. Gronner stated that they initially test their projects to be sure they are running within the manufacturer's specifications but do not do periodic testing. If prompted by a complaint they would have tests performed but to date there had not been any noise complaints about their projects that were operating in Oregon.

Commissioner Reeder stated that the 1320 foot setbacks for wind power projects sited under EFSC causes some property owners to feel trapped. If nothing else Umatilla County has demonstrated that the two mile setback makes people feel reasonably secure because they know they have options not offered by EFSC. Discussion followed about the differences between the scientific testing involved in the noise ordinance setback distance and the two mile setback.

Mr. Gronner said they know that the county has decided that future wind projects will be required to have a two mile setback. Having this setback requirement will drive up costs and be a deterrent to developers of new wind power projects in Umatilla County.

There was discussion regarding the transmission lines needed for the project. Mrs. Parsons stated that Iberdrola is required to follow National Electric Safety Code (NESC) standards just as Pacific Power & Light is. Although they could have permitted the turbines and the transmission line separately, they included the transmission line in their

application. Mrs. Mabbott said that Iberdrola's transmission line is privately owned so is not subject to the same standards as a public utility. Mrs. Parsons said that EFSC has a condition which states that they have to comply with the Public Utility Commission (PUC) standards. The Department of Energy requires that they demonstrate they have met with the PUC and shown them the final project layout before construction is started. Iberdrola has an executed Interconnect Agreement with Pacificorp for their existing line. Transmission however is a different issue because it is a separate process.

Public Comment:

Margaret Murphy, 71642 S. Park Lane, Pendleton, OR 97801. Ms. Murphy stated that she had been involved in wind projects from 1973 to 1979 during her time of service in the military. She talked about the different projects they worked on both over water and over land and the effects of those projects on humans and on animals. The military conducted studies in the 1940's and in the 1970's which showed adverse affects on both. She said the two mile setback is not enough and the project should not be allowed.

Sunni Danforth, 1103 Walnut Street, Milton-Freewater, OR 97862. Ms. Danforth stated that she was representing Blue Mountain Alliance. She distributed a document to each Commissioner and read a statement contained in the document. She then questioned how many turbines their project currently would have and how many it would have had if it had been required to comply with the two mile setback. Mrs. Parsons stated that it was a 200 mega watt project which would be 100 turbines at 2 mega watts each and about 80 at 3 mega watts each. If they were to voluntarily comply with the two mile setback, they would not build the project.

Robin Severe, 82422 Vansycle Road, Helix, OR 97835. Mr. Severe distributed a document to each Commissioner and read a statement from the document regarding what they (he and his wife Cindy) as rural residents think the impacts of the Helix wind project will be. After reading the statement he commented that the two rural fire departments they currently have are being tasked with all of the fire protection for all of the industrial wind projects as well as protecting the areas they were established to protect. He stated that he thought it was too much to put on them.

Commissioner Lynde mentioned that one of the wind projects in the area would be putting in bladders that will hold water so the fire trucks can draw water from them. Mrs. Parsons stated there was quite a bit of public comment regarding fire prevention when they were initially applying for the project so additional language had been added to their original site certificate by EFSC requiring them to beef up their fire prevention plan and to consult with the fire department, the state and the county about suppression before they built the project. The council (EFSC) found that the additional measures in the site certificate were sufficient to address the public comments. They have also talked to the city of Helix about buying water from them. Discussion followed.

Gunder Terjeson, 81281 S. Juniper Canyon Road, Helix, OR 97835. Mr. Terjeson commented that the roads created for the wind towers have actually given access to areas

that were not accessible before which helps in fire fighting. Also, the SIP funds have provided money to the fire districts to purchase fire fighting equipment and fire trucks which has helped the community.

Chairman Randall adjourned the meeting at 9:14 p.m.

Respectfully submitted,

Connie Hendrickson
Administrative Assistant

(adopted by the Planning Commission on 7/19/12)