

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, April 26, 2012
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

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

ABSENT: None.

STAFF: Tamra Mabbott, Richard Jennings, Julie Alford, Connie Hendrickson.

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

Approval of Minutes:

Chairman Randall asked the Commissioners if they had read the minutes of March 22, 2012. Commissioner Rhinhart made a motion to approve the minutes as written. Commissioner Lee seconded the motion. The minutes were approved unanimously.

Continued Hearing Staff Report:

Chairman Randall said that because this was a continued hearing he would not be reading the opening statement. He called for any abstentions, bias, conflict of interest, declarations of ex parte contact or objection to jurisdiction. There were none. He called for the staff report. Planning Director Tamra Mabbott said that she and Senior Planner Richard Jennings would be presenting the staff report together. Mrs. Mabbott had prepared a discussion outline for the hearing starting with number 1, a recap of the first “go-below” hearing on February 23rd. Then number 2, the preliminary staff findings after a field trip to the EFU areas in the west county; number 3, a review of the EFU maps which were posted on the wall in the room; number 4, a review of the applicable Oregon Administrative Rule (OAR) and number 5, the next steps for Central and West County.

Chairman Randall, Richard Jennings, Grant Young and Jon Jinings from the Department of Land Conservation and Development (DLCD) and Tamra Mabbott had taken a field trip to the west part of the county to view the EFU areas there.

Mrs. Mabbott asked Chairman Randall for his thoughts about what they had seen during the field trip. He answered that having previously resided in the Milton-Freewater area and comparing that with the large farming areas on the west side of the county, especially in the irrigation district, the “go-below” would probably not be as great a benefit to the west county and it would probably not meet the criteria. Commissioner Lee mentioned the changes that have taken place in the orchard district over the last ten years and asked about what may happen in the west county in the future. There was discussion about the

types of crops that were being grown in the west county and the difference in the acreage and the irrigation of the farms. Chairman Randall said when looking at the maps there was a definite contrast in what is happening in the orchard district/Milton-Freewater area and the west county area and they needed to decide if they wanted to move forward with the “go-below” county wide or just focus on the orchard district.

Mr. Jennings said during their field trip they viewed alfalfa and watermelon crops in the EFU 40 and the EFU 20. What has to be determined for the go-below is if the small parcel size benefits the crops being grown. Those types of crops can be grown on small as well as large parcels. Orchards are typically grown on 10 acre parcels. Commissioner Lynde asked if there were more truck farms today than there had been in the past. Chairman Randall said he thought the small truck farms are the coming thing. The truck farms and farmers markets provide pesticide-free vegetables and fruits which is what the consumers wanted and were turning to. Commissioner Lynde said that was one reason he would be reluctant to not allow those who wanted to farm smaller parcels to be able to do it. Commissioner Standley asked if the smaller farms required more water usage and Mrs. Mabbott said it depends on what is being grown as some crops require more water than others. Discussion followed.

Mrs. Mabbott said in the west county all of the property that is in the EFU 20 and 40, with very few exceptions if any, is in an irrigation district so they have surface water rights. She referenced an area on one of the maps that followed an irrigation district boundary and pointed out the dry land and the irrigated land.

Commissioner Rhinhart said that many of the Milton-Freewater residents came out in support of keeping the small parcels where as the west county/Hermiston residents didn't provide much comment or feedback so it would seem as though it does not make a difference them. He said for that reason he thought they should focus on the Milton-Freewater/orchard district because the residents there are very involved. Mrs. Mabbott said that she and Mr. Jennings came to the same conclusion. In the west county there isn't a lot of difference between the way the smaller parcels and the larger parcels in the EFU 40 are farmed. The Milton-Freewater EFU 10 area is very parcelized and is distinctly its own region. This is important because the planning staff has to write findings showing that the criteria have been met in order for the state to approve the EFU 10, 20 and 40.

Grant Young, DLCD, said if you can quantify the reasoning behind the “go-below” you are justified in doing it. Orchards and vineyards need smaller parcel sizes.

There was discussion about the parcelized areas in the west county. It was noted that the law states that parcels remain parcels unless they are subdivided or partitioned or otherwise legally changed. Commissioner Standley asked about the parcels that would be impacted by the “go-below”. Mrs. Mabbott referred to the maps on the overhead screen and a list of the EFU 40 parcels in the area which showed land owner and parcel size. Commissioner Standley confirmed that the property owners in the area did not seem concerned about changes being made. The maps showed that around Hermiston there was

a lot of acreage that was already in the Rural Residential (RR) zoning that could take advantage of the truck farming industry. Discussion followed.

The subject was raised about determining what sort of crops are grown on each parcel. Mr. Young said the only way to accurately determine the farm operations would be to talk to every individual which would require a lot of leg work. Mr. Jennings had spoken with the Oregon State Extension office and the Farm Service Agency (FSA). He said the FSA has data on crops, field sizes and some ownership and farming operation sizes. Their information is based on reporting so if the people don't report they don't have the data. The FSA was working on answers to the questions that Mr. Young had recommended that they ask and would let them know when they had that data.

Commissioner Reeder asked for clarification of what problem they were being asked to solve. Mrs. Mabbott said that these areas have been zoned the way they are for almost 40 years and if someone wants to partition their land and go below 80 acres right now the Planning Department has tell them no. Their purpose is to try to answer questions and meet the criteria to establish the "go-below" process. Mr. Young said the same parcel pattern existed when the EFU was adopted years ago. When they initially classified the land it was done based on how the land was being used at the time.

Commissioner Lynde also asked what decision they were being asked to make. Mrs. Mabbott said that in large part the Administrative Rule is written so that you can justify smaller parcels if you already have smaller parcels and those parcels are commercial farm units. The rule says you have to determine the minimum parcel size for new parcels that will maintain the commercial enterprise so what is there justifies what can be there in the future. Some maps were shown on the screen and discussion followed about the different parcels.

Mr. Young talked about the trend toward locally grown crops especially vegetables. The new local movement has made things happen that have not happened before. In Clackamas, Washington and Multnomah counties the Metro is the governing agency and all the land use is approved through Metro. They did an urban reserve expansion recently and for the first time in history, they included land in their urban reserves as rural reserves inside that area for the express purpose of growing food that would be consumed locally. That land will be a part of the city someday and it will still be farmland. If the trend continues and more people are growing crops and there is more local consumption the pattern in the west county area might look very different from the way it does now.

He went on to say the issue was whether or not the agriculture in the west county in the EFU 40 areas was as different as the agriculture in the Milton-Freewater district. Commissioner Lynde and Commissioner Lee asked why it had to be different. Commissioner Williams clarified that if the EFU 40 was put in place it would limit the boundary line adjustments and that would be a negative. Mrs. Mabbott confirmed that it would. Commissioner Williams said according to her count there were eleven 160 acre parcels; twenty-eight 40 acre parcels and the rest are thirty-eight and thirty-nine. She is in favor of potential for everyone and that would take away the potential for land owners to

request boundary line adjustments. Commissioner Rhinhart said if the west county and the Milton-Freewater areas were grouped together and they tried to establish the “go-below”, the state would oppose it because they would not be able to show that different crops were being grown. Chairman Randall suggested that they focus on the “go-below” for the Milton-Freewater area which would solve a lot of the problem. There is no EFU 10 on the west side. There is a little bit of EFU 20 on the west side but mostly EFU 40 and above. The main drive behind the go-below was the people who own property in the Milton-Freewater area. Commissioner Rhinhart said it would be good to get this accomplished and address the west county area when the county had more time and money to spend on researching the types of crops there.

Mr. Young said that if the truck farm movement keeps growing the west county area could look a lot different in 10 years. If people lease 10 or 20 acre pieces to be used for truck farms, orchards and vineyards there would be justification needed for the “go-below”. The parcel sizes would be the same but the aerial photos would look completely different. Discussion followed.

Chairman Randall said it was his understanding that this subject is being revisited to fulfill promises made to land owners 10 years ago. He asked if they should see if they have a consensus with the Planning Commission at this point. Commissioner Rhinhart asked if they needed to make a motion. Mrs. Mabbott said they could start with a motion but that she and Mr. Jennings had hoped that they would give some direction on which areas to focus on for the “go-below”. She said that it would be hard to justify the EFU 40 and 20 in the west county based on the Administrative Rule.

Commissioner Reeder said you facilitate a flexible land market if you make the minimum lot size smaller, then undivided interest can be divided. It allows a person to sell their parcel while a sibling can keep ownership of theirs. It can remain in agriculture use because there is no house on it. Mr. Jennings said another option is that someone who owns property with undivided interest can sell their portion to another person who has interest in the property without the parcel being divided. Discussion followed.

The Administrative Rule forces them to justify a minimum parcel size based on what is there now. It does not give the flexibility to say there are other types of farming that might do well if we were able to create some smaller parcels the rule does not allow that to be done. Discussion followed.

Commissioner Williams asked if they can approve the Milton-Freewater area go-below and put the Hermiston area on hold for a later day to look at it again in the future and see what has changed. Commissioner Lynde asked Mr. Young if that were an option and he said that it was. He said that staff was asking the Commissioners whether they should go ahead and do the work on all of the areas or should they just concentrate on the areas that have the potential to be done successfully now.

Commissioner Reeder said they need to do what was practical and right regardless of the cost or things will be worse instead of better. He said the two areas are different because

the rainfall totals are higher in the Milton-Freewater area and the soil is different because it has silt in it from the Missoula Floods during the ice age. On the other hand, the Hermiston area has soil containing a lot of sand, receives less rainfall and is dependent on irrigation districts.

Commissioner Williams said she was comfortable with EFU 10 and 20 for the Milton-Freewater area. Commissioner Rhinhart suggested that there was still a lot of work to do in order to get that approved by the state and Mrs. Mabbott confirmed there was.

Commissioner Lynde said his motion was to take a consensus vote and give staff permission to work on justifying the east side of the county and leave the west side alone until further information can be gathered. Commissioner Williams seconded the motion.

Mrs. Mabbott clarified they were speaking of going forward with the “go-below” in the Milton-Freewater/Umapipe area. She said when placing the central and west county areas on hold until a later time it may be best to change the maps and call that area EFU. If not they could continue to call the area EFU 40 and explain to people they are not in a 40 acre minimum lot size zone, just as they have for many years. Mr. Jennings said the majority of the people did not care whether it was EFU 40 or 60. When the survey was sent out, very few people in that area even commented on the “go-below”. Commissioner Rhinhart asked if all of it could be put back into EFU with an overlay zone showing the “go-below” areas. That would allow the county to keep a record of what the zones were and the changes being made. Mr. Jennings said they could keep the Comprehensive Plan designation in place and then change the zoning to EFU; the Comprehensive Plan designation would be the overlay that he was referring to and it would be a good way to track it.

Commissioner Williams commented that they should be careful about making abrupt changes in wording so people would not think zones had been changed when they had not. Mrs. Mabbott said they could add language to the annual code update and leave the maps as they are. Commissioner Reeder agreed that would help to preserve the history. Discussion followed.

The planning commission agreed by consensus to go forward with the “go-below” efforts in the Milton-Freewater/east county area and leave the Hermiston/west county area as it is until a later time. Mr. Young said they should keep watching the trends toward the smaller farms and try to figure out a way to keep the land in crop use. Mrs. Mabbott asked Mr. Young if he had any ideas on how to accomplish that and he said it would be worth talking about because it is happening state-wide. Discussion followed.

Commissioner Randall read from a hand-out that Mr. Young had referred to earlier regarding the number of consumers in north eastern Oregon purchasing food for home use from the farmers in this region and the amount of farm income that would be generated. Discussion followed.

Mrs. Mabbott asked that before the hearing was closed for the Planning Commission to decide on a date to continue this hearing. The date chosen was September 27, 2012 at 6:30 p.m. in the Media Room of the Justice Center. No public notice is necessary.

Chairman Randall closed the hearing at 7:58 p.m.

Mr. Jennings referred to a memo that he and Carol Johnson, senior planner, drafted which had been emailed to the commissioners regarding continuing to bring to their attention in a public hearing setting the 80 acre minimum parcel size. There had been comment from several of the commissioners and he asked if anyone else had any questions or concerns. He said since no one had any objections, the planning department would start dealing with those applications administratively. Chairman Randall said he agreed that handling things administratively as much possible would be a positive thing.

Mrs. Mabbott told the Commissioners the WKN transmission line which they had denied and the Board of Commissioners had denied had been appealed to LUBA. She said the argument from the attorney had not yet been received and the county is not actively defending this because it is a quasi-judicial, administrative type of decision and not a legislative policy action. The two intervener attorneys are Dan Kearns, representing the Blue Mountain Alliance, who filed to intervene and Peter Livingston who filed to intervene on behalf of the Umatilla Electric Co-op.

The Board of Commissioners heard the remand from the wind turbine standards. They adopted two ordinances and two orders and the two ordinances were appealed to LUBA. There are procedural things are being challenged. There was no word on when those arguments would be made.

The issue sent back to the Planning Commission by the Board was the reconsideration of the variance or the adjustment process for the two mile setback. The work session on that topic is scheduled for May 4, 2012. This committee consists of people who are in favor of wind turbines, opposed to them, legal counsel, staff and land owners. She said she hoped they would be able to reach a consensus at that time. This topic is scheduled to be heard by the Planning Commission at their regular June hearing. Discussion followed.

Chairman Randall adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Connie Hendrickson
Administrative Assistant