

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, April 25, 2019, 6:30 pm
Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, OR

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COMMISSIONERS

PRESENT: Suni Danforth, Chair, Gary Rhinhart, Jon Salter, Molly Tucker Hasenbank, Tami Green, Tammie Williams

ABSENT: Don Wysocki, Vice Chair, Hoot Royer, Cecil Thorne

STAFF: Bob Waldher, Planning Director; Elizabeth Ridley, Planner/GIS; Tierney Dutcher, Administrative Assistant

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NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:30 p.m. and read the Opening Statement.

NEW HEARING

LAND USE DECISION #LUD-247-19: THOMAS FINE, APPLICANT & OWNER

The applicant requests approval to construct a Primary Farm Dwelling on Non-High Value Farmland on 160+ acres of Exclusive Farm Use (EFU) Zoned land. The property is located approximately 8 miles south of Pendleton, north of Shaw Road and Holmes Road intersection, east of McKay Reservoir. The property is identified as Tax Lot 1101, on Assessor’s Map 1N 32A. The Land Use Decision standards applicable to the applicants request are found in Umatilla County Development Code (UCDC) 152.059(K)(2).

STAFF REPORT

Elizabeth Ridley, Planner/GIS, stated that the applicant, Tom Fine, requested approval of a Primary Farm Dwelling as allowed in the EFU Zone, pursuant to UCDC 152.059(K)(2). Primary Farm Dwellings may be approved on non-high value farmland where the local government, based on facts and record if the following standards are met; the parcel of land is at least 160 acres, the subject tract of land is currently employed for farm use, there are no other dwellings on the subject tract of land, and the dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. Ms. Ridley stated that property is located approximately 8 miles south of Pendleton, north of the intersection of Shaw Road and Holmes Road, east of McKay Reservoir. The surrounding tax lots are also zoned EFU.

Ms. Ridley stated that the applicant originally stated that he would be the person principally engaged in farming the land and partitioned 160 acres from his family farm with the intent to obtain approval of a dwelling. She stated that she requested additional information from Mr. Fine regarding the number and

type of crops as well as who would be working the farm and making the day-to-day decisions. Mr. Fine's responses indicated that the land would continue to be farmed under a lease with Jeff Shaw and Mr. Shaw would be performing the day-to-day functions associated with a traditional agricultural lease. The applicant explained that he will be involved in activities associated with perimeter weed control, fencing maintenance, consulting and assisting in decisions on chemical application and negotiation and market sale of crops. Mr. Fine stated that he may consider self-farming in the future when Mr. Shaw retires. However, at this time he holds a full-time General Management position with a local company.

Ms. Ridley stated that County Planning Staff questioned whether the applicant meets the requirements for who would be principally engaged in the farm use of the land. Therefore, the applicant's request has been directed for decision by the County Planning Commission. The decision made by the Planning Commission will be final, unless timely appealed by the Umatilla County Board of Commissioners.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none.

TESTIMONY

Applicant Testimony: Tom Fine, 612 SW 9th Street, Pendleton, Oregon. Mr. Fine stated that he appreciates the opportunity to appear before the Planning Commission and bring supporting testimony to his request. He stated that his request is to build on a piece of farmland that has been owned by his family for several generations. He was born and raised on a wheat ranch in Helix, Oregon and has farmed his grandfather's farms both as a youth and as an adult, developing deep ties to farming. Mr. Fine expressed his hope that the Planning Commission will rule in his favor and allow him to build a home on this 166 acre parcel. He added that he is recognized as an Agricultural Producer by the United States Department of Agriculture (USDA). Mr. Fine provided an official letter and Producer Farm Data Report from Justin Faulhaber at the USDA dated April 8, 2019. The letter states that Mr. Fine is a Producer and considered "actively engaged in farming" at this time. Commissioner Danforth stated that the letter from the USDA and Producer Farm Data Report will be added to the record as Exhibit A.

Commissioner Rhinhart asked more about the planned location of the home on the parcel. Mr. Fine stated that the dwelling will be constructed toward the northern end, bordering the Bureau of Land Management (BLM) property. He feels it is the best location because it offers easy access to the dwelling from the road and provides privacy both to him and the existing dwellings in the area.

Commissioner Hasenbank asked about the length of time the current lease with Jeff Shaw is effective. Mr. Fine stated that they only have a verbal agreement at this time. The verbal agreement includes an 8 year lease before Mr. Shaw plans to retire from farming. Commissioner Hasenbank asked if the agreement is a crop share and Mr. Fine confirmed that it is a 60/40 split with his responsibility being 40%. Commissioner Hasenbank asked to confirm that Mr. Mike Evans runs his cows or horses on the

property, as well. Mr. Fine stated that is correct. She asked more about the agreement between him and Mr. Evans for those activities. Mr. Fine stated that they have no formal or written agreement.

Mr. Salter asked if Planning Staff discussed other methods to site a home on the parcel. Mr. Fine stated that he learned the property was replatted and broken off into 166 acres. He understood that, as a result of the prior replat, a request for a Farm Dwelling was his only route to achieve a home on the property.

Commissioner Green asked if this request is approved, if Mr. Fine plans to live in the home. Mr. Fine confirmed that he does plan to live in the home. Chair Danforth asked for clarification that another person is working the farmland, but Mr. Fine is overseeing the management of the property. Mr. Fine confirmed this is correct.

Proponent Testimony: Betty Jean Holmes (accompanied by Tom Fine), 44728 Holmes Road, Pendleton, Oregon. Mrs. Holmes stated that she is here to show support for her Grandson's request for a dwelling. She stated that her husband passed away 2 years ago and subsequently, Tom purchased a portion of the ranch in order to keep the land in the family. She was thrilled to learn that he wanted to build a home on the site and she was under the impression that it would be possible. She hopes that the Planning Commission will consider the request and allow for the home to be built. Mrs. Holmes stated that she has wanted a home built on this piece of land for 50 years.

Proponent Testimony: Juan Jose Erice, 44728 Holmes Road, Pendleton, Oregon. Mr. Erice stated that a decision for Mr. Fine to build a home at this site would allow for him to keep it in the family. He feels it is a good fit for everybody.

Public Agencies: No additional comments.

Applicant Rebuttal: Tom Fine, 612 SW 9th Street, Pendleton, Oregon. Mr. Fine stated that having a Farm Dwelling on this farmland for which he is considered a Producer, allows for him to continue his family tradition of farming the land for years to come.

Chair Danforth called for any requests for this hearing to be continued or for the record to remain open. There were none. Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Williams stated that she believes that Mr. Fine has demonstrated that he is actively participating in the farm and marketing. As a result, she feels he should be allowed to construct a Farm Dwelling.

Commissioner Hasenbank stated that she was moved by the testimony of Mr. Fine and Mrs. Holmes. However, as a lawyer, she looks at the definition of a principal; it implies that they are more hands-on in the farming process, not just overseeing the work as a manager. She believes that a person who

maintains a full-time job during the day and leases out the land to be farmed by another individual does not qualify as a principal under the definition of the law.

Chair Danforth stated that she agrees with Commissioner Williams comment regarding the management of the land. She feels that Mr. Fine is the land owner and has proven that he is principally engaged in the farming process; therefore he qualifies for a Farm Dwelling.

Commissioner Rhinhart stated that he is swayed toward granting the Farm Dwelling based on the fact that the farmland has been in Mr. Fine's family for a very long time.

Commissioner Hasenbank acknowledged that the fact that the land has been in the family for many generations makes it a challenging decision. She feels that allowing a Farm Dwelling ultimately achieves the purpose of the law. However, she believes he does not qualify as a principal under the definition, so the decision is difficult.

Commissioner Green made a motion to approve Land Use Decision #LUD-247-19 for a Primary Farm Dwelling on EFU Zoned land, with a determination that the subject tract is currently employed for farm use, as defined in UCDC 152.003 and Oregon Revised Statute (ORS) 215.203. Additionally, Planning finds that the dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. Commissioner Williams seconded the motion. Motion passed with a vote of 4:2.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the March 28, 2019 meeting. There were none. Commissioner Green moved to approve the minutes as written. Commissioner Salter seconded the motion. Motion carried by consensus.

The next Planning Commission Hearing is scheduled for Thursday, July 25, 2019, 6:30pm at the Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, Oregon.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:08 p.m.

Respectfully submitted,

Tierney Dutcher,
Administrative Assistant

Minutes adopted by the Planning Commission on July 25, 2019