

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, March 23, 2017
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Randy Randall, Chair, Gary Rhinhart, Vice Chair, Suni Danforth, Don Marlatt,
Don Wysocki, Clive Kaiser, Cecil Thorne, Tami Green

ABSENT: Tammie Williams

STAFF: Tamra Mabbott, Brandon Seitz, Bob Waldher, Tierney Dutcher

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

CALL TO ORDER

Chair Randall called the meeting to order at 6:34 p.m. and read the opening statement.

MINUTES

Chair Randall asked the Planning Commission to review the minutes from February 23, 2017. Commissioner Danforth moved to adopt the minutes as written. The motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

NEW HEARING

LAND USE DECISION FOR VERIFICATION OF NONCONFORMING USE PERMIT #LUD-213-17. STEVE SINOR, APPLICANT, JAMES & NEILA COFFMAN, OWNERS. The applicant/owners are requesting Verification of Nonconforming Use approval to continue the use of the subject property as a home occupation (trucking business). The subject property consists of approximately 4.67 acres of property located within the Rural Residential – 4 Acre Minimum (RR-4) Zone, and is described as Township 4N, Range 28, Section 21A; Tax Lot #302. The parcel is located outside the Hermiston Urban Growth Boundary on the west side of State Highway 207 (Butter Creek Highway). The applicable criteria of approval for Verification of Nonconforming Use are found in Umatilla County Development Code (UCDC) Section 152.600.

Chair Randall called for the Staff Report.

STAFF REPORT

Robert Waldher, Senior Planner, stated that the application is for a Verification of Nonconforming Use approval to continue the use of the subject property as a trucking business. The property is located on the west side of state Highway 207. It is on the west side of the Buttercreek Highway just outside the City of Hermiston’s Urban Growth Boundary (UGB). The application was submitted to the Umatilla County

Planning Department on February 21, 2017. However, Umatilla County permitting history and various communications about the subject property date back to 1979. Applicable criteria for a Verification of Nonconforming Use are found in UCDC 152.600. The Planning Commission (PC) is asked to refer to the preliminary findings and conclusions and supporting information to make a decision as to whether or not the use was lawfully created and that the use constitutes a Nonconforming Use. The decision must be based on factual evidence in the record and not conclusory statements.

Commissioner Rhinhart stated that it appears there are more structures present on the property than permits obtained to build structures. Mr. Waldher explained that the original Zoning Permit (ZP) was issued in 1979 for a Home Occupation. Mrs. Mabbott added that the structure predated 1979. Mr. Waldher stated that it is not a residential structure; it is more like a shop or office-type building. Records show that the property owners obtained a ZP in 1983 for a shop building, but there is no current residence on the property.

Commissioner Rhinhart asked if the application approval is based on whether or not the trucking business has been in continuous operation since 1979. Mr. Waldher stated that the decision must be based on the standards set as criteria of approval for a Nonconforming Use. He noted that those standards can be found in the findings on page 37. The use must be legally established, and staff believes it was, as they did obtain a ZP in 1979 for the use. The criteria of approval states that the use has continually existed for a 10 year period immediately following the date of the initial application.

Commissioner Danforth asked for clarification about documentation on page 14 in the packet that appears to show they finished operating a trucking in 2013. She asked if they had ceased operation at that time. Mr. Waldher stated that would be a good question for the applicant as the findings were based on information taken from the property file. The letter in question was written by an attorney, George Anderson, and the information that it was not in operation in 2013 is not supported by the property file records.

APPLICANT TESTIMONY

Neila Coffman, Property Owner, 74995 Washington Lane, Irrigon, Oregon. Mrs. Coffman stated that the ZP was issued in 1979 but the property has been used in the trucking industry since 1961. She stated that she and her husband have used the property to operate several trucking related businesses since they purchased it in 1999 and Juan Lopez has been operating Lopez Trucking at the location.

Chair Randall asked about traffic safety concerns on the corner. Mrs. Coffman stated that they have not experienced any safety issues and they are cautious when pulling out. To her knowledge, Lopez Trucking has never has an accident coming in or pulling out of the property. There have been accidents at the location, but they tend to occur in winter months when people are not being safe drivers.

PROPONENT TESTIMONY

Doug Cox, 150 Chelsea Lane, Stanfield, Oregon. Mr. Cox stated that he owns a trucking/ construction company and is working to obtain the subject property to operate his business at that location. He stated that he has 2 trucks and the equipment for his business is usually out in the field unless it requires maintenance. He believes the location is a perfect fit for the needs of his business and plans to have an office worker in the office space and a mechanic in the shop. Commissioner Danforth asked how many trucks come in and out of the property daily. Mr. Cox stated that the only time they have a truck coming or going is to move equipment a couple times a week.

PROPONENT TESTIMONY

Steve Sinor, Applicant, 845 W. Duane Avenue, Hermiston, Oregon. Mr. Sinor reiterated what Mr. Cox had said regarding truck traffic. He does not believe the corner is a safety problem but if needed, they would be willing to move the fence posts back and widen the corner so the property is more accessible. They plan to use the property for a lay down yard in the winter when they aren't working jobs and need to park the equipment.

OPPONENT TESTIMONY

Don Waters, 78594 Highway 207 S, Hermiston, Oregon. Mr. Waters stated that he is happy the Coffman's have found a buyer for the property. He has talked to Mr. Cox about an easement problem that exists between the Coffman property and Mr. Waters' property and he feels Mr. Cox will make a good neighbor. Mr. Waters identified his property as tax lot #400, directly to the north of the subject property. He stated that he is concerned about safety on the corner because in the 60 years they have lived on the property there have been 8 traffic fatalities. Chair Randall said the decision the PC makes will be based on the land use and we do not have jurisdiction over roads and traffic. Oregon Department of Transportation (ODOT) governs the road. Commissioner Rhinhart stated that they could consider a condition to work with ODOT to come up with signage or another way to help remedy the traffic safety issues.

Mr. Waters is concerned that issuing a permit for a trucking company to use the road will not account for how the road will actually be used for this activity. He believes they will be doing work more like a light construction company, which would not require a heavy truckload. Commissioner Wysocki asked if Mr. Waters had any suggestions for safety on the road. Mr. Waters stated that they should not let big trucks use the road. He believes light duty trucks are ok, but large, long, slow moving trucks should not be allowed to use the road. Commissioner Wysocki stated that those decisions would go beyond the jurisdiction of the PC. Chair Randall agreed that the PC does not have the right to ask ODOT to widen the corner or modify the entry. Mr. Waters said he knows there is no way to make ODOT make changes to the road, but he believes the PC can do something to keep the large trucks off the road by changing the title of the permit. Chair Randall stated that the permit for a Nonconforming Use does not necessarily title the permit and a trucking business has several definitions.

PUBLIC AGENCY

Mrs. Mabbott stated that there are comments in the record from ODOT. They are comfortable with the planned use of the road as long as the traffic is limited to 10 trips or less per day. She noted that ODOT did not set a limitation on the size of vehicle.

Chair Randall closed the hearing for deliberation.

Commissioner Danforth asked if they could change the Nonconforming Use permit to show it is intended for more light duty use than a trucking company. She feels that being more specific about the use could prevent issues in the future and eliminate the potential for more extreme trucking activities on the property. Chair Randall stated that trucking and moving equipment is often rated based on the poundage it is towing. Hauling large equipment can often be the same weight as a loaded semi-truck which would make it a complicated limitation to set. Commissioner Danforth is concerned that permitting a trucking business could later be interpreted as a long haul trucking yard. Chair Randall stated that, according to the data, it has continuously been a trucking operation for the last 10 years. Therefore, it meets the criteria for Nonconforming Use.

Mrs. Mabbott stated that a trucking operation with 2 dozen long haul trucks would be very different from what Mr. Cox will use the property for. The PC could consider placing a limit on the total number of trucks, trailers, etc. on the property. She suggested that the PC could ask the applicant what their needs are and give them room to grow, but limiting the size of a truck would not be reasonable from an enforcement perspective. She stated that approval of a Nonconforming Use would also be approval for like-uses. She pointed out that if limitations are not set, the property could be sold in the future to a long haul trucking company with idling refrigerator units being stored in the yard. If terms are not specified up front, the next owner could argue the intentions of the permit. Mrs. Mabbott recommended a condition that would allow for flexibility to perform regular business operations but also address the concerns on how the property will be used in the future. She suggested they could limit the vehicle parking to the yard in the back of the property and inside the building to ensure they will not be parked on the front of the parcel. She added that a condition could be set for no refrigerator trucks and clarification that the permit is intended for a light trucking/ construction business and not long haul trucking activities.

Commissioner Rhinhart made a motion to approve the Land Use Decision for verification of Nonconforming Use permit #LUD-213-17 with additional conditions of limiting the use to the existing storage yard that is currently being used and no refrigerator trucks stored on the property. The motion was seconded by Commissioner Danforth. Motion passed with a vote of 8:0.

NEW HEARING

COMPREHENSIVE PLAN TEXT AMENDMENT, #T-17-072, ZONE MAP AMENDMENT, #Z-311-17 & COMPREHENSIVE PLAN MAP AMENDMENT, #P-119-17, VADATA, INC., APPLICANT, LIBERATED L & E, LLC, OWNER. The applicant requests a rezone of approximately 120 acres of Exclusive Farm Use Zone land to Light Industrial with a Limited Use Overlay. The property

is described as Township 4N, Range 28E, Section 30; Tax Lot #1100. The applicant's request includes the following land use actions: 1) Amendment of the Comprehensive Plan Text and approval of an exception to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization); 2) Amendment of the County Comprehensive Plan Map from North-South Agriculture to Industrial; 3) Amendment of the County Zoning Map from Exclusive Farm Use to Light Industrial with a Limited Use Overlay.

The criteria of approval are found in Oregon Revised Statute (ORS) 197.732 and Oregon Administrative Rules (OAR) Chapter 660, Divisions 4 and 14, the County Transportation System Plan and UCDC Sections 152.019 and 152.750 through 152.755.

STAFF REPORT

Brandon Seitz, Assistant Planner, stated that the applicant is proposing to rezone tax lot #1100 which is approximately 120 acres (ac.) from Exclusive Farm Use (EFU) to Light Industrial (LI) with a Limited Use (LU) Overlay Zone. The application consists of 3 separate land use applications. First is a Comprehensive Plan Text Amendment to adopt a reasons exception to Statewide Planning Goal 3, Agricultural Lands and Goal 14, Urbanization. The Second application is for a Comprehensive Plan Map Amendment which would be an amendment to the Umatilla County Comprehensive Plan Map designation changing it from North/South Agricultural to Industrial. The third application is a Zone Map Amendment which would change the zoning designation from EFU to LI with a LU Overlay. The LU Overlay is intended to comply with the OARs requiring the County to limit the uses of the subject property to those justified in the exception. The applicant is proposing to develop the property for an industrial use including data centers, office, warehouse and utility substation. If the application were approved by the PC the use of the property would be limited to those uses. Any change in the use or intensity of the use would require approval of an application to amend the LU Overlay.

Mr. Seitz distributed 2 additional exhibits to the PC and Planning Staff. The first exhibit was a letter dated March 22, 2017 from Mark Morgan, Assistant City Manager, City of Hermiston. Mr. Morgan's letter adds more detail to a letter originally submitted from the City with more information about water usage and the regional water system. The second exhibit was a string of emails between Kittelson & Associates, who conducted the Traffic Impact Analysis for the applicant, and Jeff Wise, Traffic Study Engineer for ODOT. A summary of the email chain concludes that ODOT feels the site access point is far enough away from the interchange and they do not have any concerns about traffic issues with the proposed development.

Commissioner Marlatt asked about water rights connected to the property. Mr. Seitz verified that there is no current water right on the property.

APPLICANT TESTIMONY

Seth King, Land Use Attorney, Perkins Coie, 1120 NW Couch Street, 10th Floor, Portland, Oregon. Mr. King stated that he is representing the applicant; VADATA, Inc. Mr. King referenced the original application and 2 follow-up submittals which have been entered into the record. He noted that the

applicant concurs with the staff report and recommendation and requests that the PC adopt a motion recommending that the Board of County Commissioners (BCC) approve the applications presented.

Mr. King stated that the uses on the property will be limited consistent with the development plan that has been included in the record. That would consist of 4 data center buildings, a logistics warehouse, an administrative office and a future electric substation. He points out that it is considerably less than the options of uses they would be able to develop under the LI, and they are developing at a much lower density than they could under the LI Zone. The record includes a Traffic Impact Analysis which concludes that all the studied intersections will operate at acceptable levels consistent with the mobility targets and level of service standards both at morning peak and evening peak hours in 2018 which is the anticipated construction date, then again in 2031. They concluded that there would not be a significant affect under Oregon's Transportation Planning Rule (TPR) or UCDC to any existing or planned transportation facilities as long as the trips on the site were capped consistent with the number of trips that the proposed development plan is anticipated to generate. There are no transportation operations or safety based mitigation measures that were recommended with this particular use.

Mr. King stated that the use of water at the site will be served by regional water services. He referenced a letter in the record from the Regional Water Services Engineer dated February 28, 2017, stating there is adequate capacity in the regional water system to serve the subject property as well as existing users. He also mentioned a letter in the record from Mark Morgan, City of Hermiston, indicating that the development and use will not have an adverse impact on the City's water supply. In fact, there will be benefits from drawing from the regional water system because it will diversify the customer base and as a large user, will help stabilize rates as fixed cost will be spread out over more units of production.

Mr. King stated that the applicant is requesting a Reasons Exception to Statewide Planning Goals 3 and 14. The first standard that needs to be addressed under the exception criteria is that reasons justify why the state goal should not apply. There are 3 reasons the applicant believes the State policy in Goals 3 and 14 should not apply. First, the site is not a productive farm site. The site is not characterized by high value soils for agricultural production and there is no current water right on the site. Testimony from the current owner indicated they are not using it to grow crops. They have limited grazing activities on the property associated with the auction yard located across from the property. Mr. King pointed out that the Department of Land Conservation and Development (DLCD) submitted a letter indicating no concerns with the Goal 3 Exception. He referenced testimony in the Staff Report from an individual who farmed the land in the past. The previous farmer indicated the site was rocky and difficult to farm and he would not choose to farm again at that location.

Mr. King stated that the second reason the applicant believes the use justifies the exception is because the site is well situated for industrial uses. It is near the interchange of the 2 interstates and there are existing exception areas in 3 directions. He stated there are significant urban level industrial uses at the location.

Mr. King stated that the third reason the applicant would use to justify the exception is that the site will generate significant economic benefits, including new jobs and tax revenue. The applicant believes the

benefits offset the loss of agricultural land, which is not currently used for agricultural purposes and has shown to not be a productive farm site over time.

Mr. King stated that the standard requires that they consider alternatives and find that areas that do not require a new exception cannot accommodate the use. He referenced 2 letters in the record from Mr. Footh outlining the applicant's site selection criteria as well as the evaluation process they went through. In order to accommodate their data centers the site must be at least 100 ac. in size. It must also be located as close as possible to unique infrastructure needs like high-voltage (115 kilovolt (kV) or higher) transmission power lines. The site needs a high flow of water to help cool the buildings and must allow for reuse of the significant water discharge generated by the site. He stated that Mr. Footh supervised the site selection and evaluation process and concluded that this is the only site in the county that would meet these unique standards of the project. The applicants other data centers in the county are at capacity at this time and they have a need for smaller scale data center campuses. They are currently considering developing another data center campus that would be located inside the UGB. There was a question as to whether the applicant could site both campuses together, and the answer is no. The applicant has a need for the smaller scale campuses that are separate from each other to create redundancy and risk aversion into the network. If one site goes down, the others can remain in operation.

APPLICANT TESTIMONY

Diego Arguea, Kittleson & Associates, 610 SW Alder Suite #700, Portland, Oregon & Jim Footh, Real Estate Development Manager, VADATA, Inc., 210 Terry Avenue N, Seattle, Washington

Commissioner Rhinhart stated that for the project they require 120 ac. of industrial land, 115 kV power line, 400 gallons (gal.) of water per minute for cooling, a way to dispose of heated water, highway access, and flat usable land. He asked for information on what other locations have been considered by the applicant. Mr. Footh stated that they looked throughout the greater Hermiston/Umatilla area. Their facilities use a great deal of power so proximity to the high voltage power is their primary concern. The subject property is directly adjacent to the Hermiston Generating Plant which has 230 kV power lines directly to it. The applicant would need to extend the power lines approx. 1,500 feet (ft.) to serve the property. They considered an industrial property on Feedville Road, but the site did not have adequate power. The applicant would have been required to build power poles for approx. 2 miles to serve the site. Additionally, they would have needed to extend water to the site. The subject property met the criteria much better than any others in the area. Commissioner Rhinhart stated that, with land use issues like changing the zoning of a property, the PC does not consider cost in their decision making process. He stated that Pendleton has 525 ac. of sellable flat land up by the airport. Mr. Footh stated that the Pendleton location is geographically too far away from the existing data centers. There is 1 campus in Umatilla County and 2 campuses in Boardman. The data center campuses must be clustered together because they are connected by fiber and the Pendleton location is too far for the signal connectivity.

Commissioner Rhinhart stated that he is concerned about making an exception on farm ground when there is available land in Pendleton. He believes when the farmland is turned into industrial land it devalues the industrial ground. Mr. King stated that development of this site with industrial uses does not necessarily

work against development of the industrial land in Pendleton because industrial users have a variety of different needs.

Commissioner Wysocki asked for the applicant to summarize their water needs including details about where the wastewater water will end up and whether it will be distributed back to agriculture. Mr. Footh stated that there are 2 wastewater streams, sanitary sewer and process water. Commissioner Wysocki clarified that his question is about the process water. Mr. Footh stated that they are looking at several solutions for water reuse. He stated that they have a scheduled meeting with the Department of Environmental Quality (DEQ) to discuss multiple possible options. Their intention is to use the process water for agricultural purposes. The water is used for its cooling capacity only. There is no contact and therefore no contamination in the process.

OPPONENT TESTIMONY

Dan Burnam, 78001 Cottonwood Bend Road, Hermiston, Oregon. Mr. Burnam is a neighbor of the subject property. He stated that the land was farmed approx. 5-7 years ago. Mr. Burnam expressed frustration that he has been told there are no water rights on his property. He was also told there are no water rights on the larger piece of land but he has seen a well located in the corner. He does not agree with this proposed Goal Exception. He believes that just because someone sold the water-right doesn't mean the classification should be changed. If the BCC allows this he would like a buffer between the data center campus and the residences located on the east side of the lot. He stated that the subject property is located in a Critical Groundwater Area which prohibits him from digging an irrigation well, and he doesn't think it is fair that a large company is able to come in and put in a well. Commissioner Rhinhart clarified that the applicant will put an exempt industrial well which only allows for 5,000 gal. per day, not irrigation water. Mr. Burnam asked if that will affect his well. Chair Randall stated that DEQ or Water Resources will govern that decision.

Mr. Burnam asked when the soils on the property were last mapped. Commissioner Wysocki stated that the map they were using showed it was mapped in 1988. He said the soil type is Quincy loamy fine sand and often those soils are farmed productively when they have water. Mr. Burnam said this land can have water and can be farmland so he believes it should not be turned into industrial land. He is concerned about the location of the buildings on the property and their proximity to the residential lots. Chair Randall stated that the application is online and it includes detailed drawings on what the applicant plans to do. Mr. Burnham asked if they will be using Cottonwood Bend Road as an entrance and Chair Randall stated that the applicant testified that the entrance would be from the north side and he may benefit from the pavement on the road. Mr. Burnham said he will not benefit. He wants to build a house and the county has told him he cannot so he feels the land is going to waste. Commissioner Danforth asked what would be an acceptable buffer for him. Mr. Burnham stated that he does not know what would be acceptable because he just found out about this project and is quite upset. Mr. Seitz stated that there is a buffer in the LI Zone to residences and they would be required to adhere to the same standard. Commissioner Danforth stated that the PC does its best to take into consideration the protection of adjacent property owners.

OPPONENT TESTIMONY

Mary Buckallew, 77867 Cottonwood Bend Road, Hermiston, Oregon. Ms. Buckallew stated that she lives on the lot on Cottonwood Bend Road on the bottom corner, to the east. The county just contacted her about this project and she was very concerned. She stated that she appreciated the questions asked of the applicant by the PC because she had many of the same questions. Her house is located approx. 200 ft. off of Cottonwood Bend Road. She stated that she is concerned that they will build on the border of the land. She acknowledged that she has not yet reviewed the application online and plans to do so. She stated that Mr. Burnam covered many of the issues she is worried about. She is concerned about the increased traffic and how it may change her family's lifestyle. Commissioner Rhinhart asked how much traffic she currently sees on her street during the day. Ms. Buckallew said they see a car, at most, every 30 minutes. She stated that 2 years ago when the state was doing work on the interchange, they routed traffic through her driveway. At least 1 vehicle passed every minute causing thick dust and being outside was unbearable. Her property is downwind from the subject property which makes her extra worried about the dust.

APPLICANT REBUTTAL

Mr. King stated that the proposed plan is included with the application. The plan will come back through the Planning Department for a Design Review and some details will be worked out at that stage. It will be subject to the standard LI buffer requirement and the closest buildings will be located approx. 100 ft. off of Cottonwood Bend Road. Additionally, the buildings that are planned to be located on that side will be the warehouse, not data center buildings. Data center buildings will be located further back on the property.

Mr. King stated that the primary access is anticipated to be on the west side connecting to the new road. The Cottonwood Bend Road access will be reserved for alternate emergency and construction use. Commissioner Danforth asked how tall the warehouse building will be. Mr. Footh stated that it will be 30 ft. Mr. King stated that they will address those issues at the Design Review stage. He stated that there is no current water right on the property. He believes that, the testimony arguing that one could attain a new water right and then farm the property, is speculative. The decision made by the PC should be based on facts and circumstances that are in place today.

Chair Randall closed the hearing for deliberation.

Commissioner Wysocki stated that this is the second hearing the PC has had on changing farmland to other uses. He is concerned that we continue to remove farmland because there is no way to create more. He would like to be able to ask for mitigation when applicants make these requests because the only way to get more food is to get more food per ac. Therefore, money should go into agriculture research or other efforts to help to increase production. Commissioner Rhinhart stated that the State of Oregon loses an average of 150,000 ac. of farm and forest land yearly to industrial changes.

Commissioner Kaiser made a motion to recommend approval of the VADATA Exception to Statewide Planning Goals 3 &14, Comprehensive Plan Text Amendment #T-17-072, Zone Map Amendment #Z-

311-17 and Comprehensive Plan Map Amendment #P-119-17 to the BCC based on the foregoing findings of fact and conclusions of law. The motion was seconded by Commissioner Danforth. Motion passed with a vote of 7:1.

NEW HEARING

CONDITIONAL USE PERMIT #C-1283-17 & LAND DIVISION #LD-4N-1003-17. OSTROM'S MUSHROOM FARM, APPLICANT, SHELDON & TRACI KING (C/O BRANDON KING), OWNERS. The applicant requests to construct and operate a 450 ton-per-week composting facility. The compost is unique to mushroom growing and will support an existing farm located in Washington and a new mushroom farm yet to be sited. The applicant is also proposing a land division of the subject property to separate the composting facility (approximately 20 acres) from a cattle feeding and hay storage operation occurring on the same parcel. The subject property consists of approximately 64 acres of property located within the Exclusive Farm Use (EFU) Zone, and is described as Township 4N, Range 34; Tax Lot #7001. The parcel is located on the southeast corner of the intersection of Sand Hollow Road and State Highway 334 (Holdman-Helix Highway), approximately 5 miles north of the City of Adams.

The applicable criteria of approval for composting facilities in the EFU zone are found in UCDC Sections 152.061, 152.615, and 152.617 (E). Criteria of approval for Type IV, Review IV Land Divisions are found in UCDC Section 152.710 (E).

STAFF REPORT

Robert Waldher, Senior Planner, stated that the applicant has requested a Conditional Use Permit (CUP) to establish and operate a composting facility on EFU zoned land, as well as a Type IV Land Division. The composting operation is unique to mushroom growing and will support an existing farm located in Washington and a new mushroom farm yet to be located. The applicant is also proposing a Land Division on the subject property to separate the composting facility, which is about 20 ac. from a cattle feeding and hay storage operation occurring on the same parcel. The subject property is owned by the King family and is located on the southeast corner of the intersection of Sand Hollow Road and State Highway 334, the Holdman-Helix Highway, approximately 5 miles (mi.) north of the City of Adams. The property is mapped as Township 4N, Range 34; Tax Lot #7001.

Prior to the applicant submitting their Land Use Request application, pursuant to Senate Bill 462 adopted in 2013, the County hosted a preapplication conference with agencies and co-sponsored a community meeting in Athena. The preapplication conference was held February 22, 2017 at the Athena City Hall, Community Room and the community meeting was held the same day at Athena Elementary School. Following the preapplication meeting, the applicant submitted their Land Use Request Application and public notice of the Planning Commission hearing was provided to adjacent land owners on March 3, 2017. Preliminary Findings were concluded and made available to the public one week prior to the public hearing. Pending approval of the applicants Land Use Permit request a separate composting permit application will be submitted to DEQ. If approved, the applicant must comply with any additional standards placed on the facility by DEQ concerning air and water quality.

Since the packets were mailed out a week in advance, Planning Staff received an additional item to add to the project record. A letter from Greg Silbernagel, Oregon Water Resources Department (OWRD), District 5 Watermaster, indicated that the applicant will need to secure a water right for the proposed use beyond the exempt industrial groundwater use threshold of 5,000 gal. per day. The PC is asked to determine if the request does or does not meet the applicable criteria for approval. Approval or denial must be based on subsequent factual evidence in the record, not conclusory statements.

APPLICANT TESTIMONY

J.R. Cook, Cook's Land & Water Consulting, 3750 SW Marshall Place, Pendleton, Oregon. Mr. Cook stated that he believes the Memo and Staff Report were very thorough and he agrees with the recommended conditions of approval in the findings. The key criteria for approval for the Conditional Use request is that there will be no significant change, no increase in the cost of farming, and they will not change the land use pattern of the area. Mr. Cook stated that he became involved with the project approx. 2 years ago when he assisted in finding a suitable site for Mr. Knutzen and Ostrom's Mushroom Plant to relocate from Washington to Oregon. He feels this is an opportunity to find a value added business for the dry land and commodity industry on the east side of the county. He stated that he predominately works on the west side of the county because that is where most of the value added production takes place. The primary feed stocks utilized by the facility to produce their mushroom substrate are wheat straw and canola meal, which are both grown in the dryland agriculture industry east of the high-value area. Mr. Cook stated that he looked at a number of sites located in the west county but they settled on this location because it is in the heart of where he sources his straw, as well as the multimodal transportation network which allows for product to get to and from the site quickly.

Mr. Cook pointed out the conditions of approval set by planning staff that will help reduce the impact on the surrounding area and assist with compatibility. He stated that the activity relates to agriculture, is located in the EFU Zone, and compliments the dry land agriculture economy in the area. The applicant requests the PC's approval of the application. If approved, they will obtain a DEQ permit which requires approval by the Solid Waste Advisory Committee (SWAC) at their meeting scheduled April 4, 2017. They will also continue to work with OWRD to secure water for the site.

APPLICANT TESTIMONY

David Knutzen, President, Ostrom's Mushroom Farms, 8322 Steilacoom Road SE, Olympia, Washington. Mr. Knutzen distributed copies of his presentation to the Planning Commission. He stated that Ostrom's has been in the mushroom business for almost 90 years. They are 1 of 2 significant mushroom operations in Oregon and Washington, there used to be 5. The company is family owned and at this time they are considered the largest producer of mushrooms in the northwest. Ostrom's is vertically integrated, meaning they produce their own substrate, pick, pack and ship mushrooms fresh daily, 365 days a year. They distribute to Oregon, Washington, Alaska and Hawaii. Mr. Knutzen stated that they need to grow to stay competitive. In order to grow more mushrooms, they need more mushroom substrate or compost. The current site located in Olympia, Washington is maxed out in terms of production and the farm is using

older technology. They took this opportunity to think more about the future and direction of the company. They have had a long productive relationship with the King family as well as other companies and farmers in Eastern Oregon and Eastern Washington because wheat straw is fundamental to producing mushroom substrate.

Mr. Knutzen stated that site of the subject property was discussed as a possible composting facility approx. 15 years ago but the time was not right. They believe the time is right now and this is the right site to make mushroom substrate. Mushroom substrate is a 3 phase process. After it is used to grow the mushrooms it can be used as a great soil amendment. It has great structure and good nutrients which can be plowed back into the earth to benefit the soil. The mushroom growing and substrate process is very clean and sustainable. They use agricultural waste products like wheat straw, canola, dried poultry waste, and recycled gypsum wallboard. Whatever water is not absorbed in the straw is captured and reused. All raw materials that come on to the site also leave the site as mushroom substrate with no waste stream from the composting process. Every pound of mushrooms produced requires approx. 1.8 gal of water. Compared to wheat, which takes approx. 138 gal. of water to create 1 lb., mushrooms are a very efficient and high yielding crop. Ostrom's is excited about the new location and looks forward to being part of the community of Adams and Athena. The investment would be a phased process in which they would initially invest approx. \$7 million to build 3 bunkers and 4 tunnels, or 4 bunkers and 3 tunnels. In 5 years they hope to be at 5 bunkers and 10 tunnels which would amount to roughly a \$12 million investment. This will initially create 13 jobs which will eventually grow to 23 jobs representing an excess of \$500,000 in payroll annually and will approach \$1 million as it reaches the size as described. Mr. Knutzen stated that Ostrom's has a history of being a participant and contributor to the communities in which they work and live and they look forward to doing the same at this new location.

Commissioner Wysocki asked how much wheat straw they will use when the facility is fully developed. Mr. Knutzen stated that 10 tunnels would make roughly 900 tons of phase 1 compost, and that would require 13,000 – 14,000 tons of wheat straw. Commissioner Kaiser asked if it is Ostrom's intention to site the manufacturing facility in Umatilla County. Mr. Knutzen stated that was an option they are looking at. Commissioner Kaiser stated that he will be taking the organic matter out of the county and we would not benefit from the soil amendments. Mr. Cook stated that the organic matter would already be leaving Umatilla County, but instead they are keeping it in Umatilla County to create that value added product, and then shipping it to the current facility with hopes to bring a new facility to the area in the near future. He said they originally looked at collocating both facilities but trying to find a facility in the area with ready access to a gas line that is not a main gas line proved to be very problematic. If they had collocated the 2 locations they would not have been required to obtain a CUP because the operation would have been tied into a farm use. Commissioner Kaiser stated that he is concerned about the ponds being sealed properly to avoid contamination. Mr. Knutzen stated that is a questions best answered by the Civil Engineer, Michael Melder.

APPLICANT TESTIMONY

Mike Melder, HDJ, 5 North Colville Street, Suite 200, Walla Walla, Washington. Mr. Melder stated that, as Civil Engineer for the project they are assisting Mr. Knutzen with onsite run off. They will use a pond

to collect lichen, a clean water pond and a storm water runoff pond, for a total of 3 ponds on site. Each pond will be lined with a High Density Polyethylene (HDPE) or Polyvinyl Chloride (PVC) liner. They plan to have two layers of manmade materials with a sand cushion in between. They will use leak detection to look for moisture between the two layers. The goal is a zero-infiltration site which means that any water that falls on to the industrial portion of the site is captured and reused for compost. They take evaporation into account and there is a water budget calculation they use to manage that. Commissioner Kaiser asked if they have tested the nitrate levels in the water that is already on the site. He pointed out that it was used as a feed lot in the past. Mr. Cook stated that nitrate testing will be required in the process they will be going through with DEQ. The process is stringent and they require zero impact to groundwater quality. Mrs. Mabbott stated that a representative of DEQ is present at the hearing if the Commissioners have additional questions about their permitting process. Commissioner Danforth asked what the hours of operation will be. Mr. Knutzen stated that they have a day time operation starting as early as 5am and could be done as soon as 3pm. They basically operate 6am to 6pm, as the compost must be left alone overnight.

APPLICANT TESTIMONY

Brandon King, Property Owner, 50561 Wildhorse Road, Athena, Oregon. Mr. King stated that his grandfather started the business in the 1960's and they have had a longstanding relationship with the Ostrom's and their family for the last 18 years. His family's company has hauled straw from all around the area to the Ostrom's facility and he has been trying for years to get them to open a facility here. They currently spend a lot of money on freight hauling straw from this location, so it makes sense to have the process occur where the resource is. He believes the local farmers will benefit from the consistent need for straw. Ostrom's uses approximately 50% of the straw they produce in the area for their composting operations.

APPLICANT TESTIMONY

Susan Christiansen, Greater Eastern Oregon Development Corporation (GEODC), PO Box 1041, Pendleton, Oregon. Mrs. Christiansen stated that she is the Executive Director of the GEODC where they support economic development and job growth. Mrs. Christiansen is testifying in support of the CUP to allow Ostrom's to operate in the Athena/Adams area. She provided written comments to staff and shared her experience when she regulated composting operations in her previous capacity at DEQ. She stated that DEQ permitting regulations will address the concerns that most people have regarding odor and water. These 2 issues are addressed and require an engineer stamp of approval. Additionally, this is not the first composting operation by the applicant. Mrs. Christiansen has been working with Ostrom's over the last 9 months and her experience is that they fully understand what it takes to be a good neighbor. They will be providing jobs to the community so she encourages the PC to support and approve the application.

APPLICANT TESTIMONY

Jerry Baker, 410 N 4th Street, Athena, Oregon. Mr. Baker stated that he is a resident of both Athena and Umatilla County and he is in favor of the project. Mr. Baker serves as a Commissioner on the Port of

Umatilla and encourages economic development and family wage jobs, which he feels this project supports.

APPLICANT TESTIMONY

Travis Trumbull, 52754 Stephens Road, Milton Freewater, Oregon. Mr. Trumbull stated that he and his father own Quality Compost in Milton Freewater and when they heard Ostrom's was planning to open a composting facility in our county he was intrigued and wanted to learn more. After discussing the project with Mr. Knutzen he was impressed with his understanding. Mr. Trumbull is supportive of the economic benefit for the community and would like to encourage Ostrom's to bring their final phase of the process to Umatilla County as well, as he believes that would be great for us too.

Chair Randall closed the hearing for deliberation.

Chair Randall commended the applicant for their thorough explanation and presentation to help with the overall understanding of the request. Commissioner Danforth stated that the Umatilla County Planning Commission finds the application complies with the applicable standards of approval and made a motion to approve the Conditional Use Request #C-1283-17 and Land Division Request #LD-4N-1003-17 with the precedent condition for applicant to identify and submit a truck hauling route to County Planning and subsequent condition that truck traffic shall utilize the identified truck route as feasible. Commissioner Rhinhart seconded the motion. Motion passed with a vote of 8:0.

ADJOURNMENT:

Chair Randall adjourned the meeting at 9:42 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

Minutes adopted by the Planning Commission on April 27, 2017