

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 26, 2022, 6:30pm

Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, OR

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COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Sam Tucker, Cindy Timmons, John Standley & Emery Gentry

ABSENT: Tammie Williams, Tami Green & Jodi Hinsley

STAFF: Bob Waldher, Planning Director; Carol Johnson, Senior Planner, Megan Davchevski, Planner/ Transit Coordinator; & Tierney Cimmiyotti, 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 6:30pm and read the Opening Statement.

NEW HEARING

UMATILLA COUNTY DEVELOPMENT CODE TEXT AMENDMENT #T-090-22. The County is proposing a Post Acknowledgment Plan Amendment (PAPA) to amend the text of the Umatilla County Development Code (UCDC) Chapter 152 to conform to State Statues and Oregon Administrative Rules (OAR) guiding uses permitted on farm land zoned Exclusive Farm Use (EFU) and mixed farm and forest lands zoned Grazing/ Farm (GF) in Umatilla County.

UCDC Section 152.751 requires that an amendment to the text of the UCDC comply with provisions of the Umatilla County Comprehensive Plan, the Oregon Transportation Planning Rule, OAR Chapter 660, division 12 and the Umatilla County Transportation Plan. Statewide Planning Goals 1, 2, 3 & 4 also apply.

The Planning Commission will make a recommendation to the Board of County Commissioners (BCC). A public hearing before the BCC is scheduled for Tuesday, July 19, 2022, 9am at the Umatilla County Courthouse, Room 130.

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

STAFF REPORT

Carol Johnson, Senior Planner, presented the Staff Report. Mrs. Johnson stated that the purpose of today's hearing is to consider a PAPA to amend the text of the UCDC. She explained that the amendments are necessary due to several years of legislative changes and to incorporate OAR Chapter 660, Divisions 6 and 33 for uses affecting lands zoned EFU & GF. Some of the

proposed changes result in the grouping or reorganizing of similar uses, and some uses (such as those involving construction of structures) would be approved after the review and issuance of a counter permit. Additionally, some uses were relocated into the Land Use Decision (LUD) or Conditional Use (CUP) sections and will now include a public notice process.

Mrs. Johnson pointed out that the Commissioner's Packets include the Staff Memo, Draft Findings of Fact and Conclusions of Law (Findings), a presentation with information for the proposed changes and a copy of the code changes inserted into the code sections for the amendment. Subsequently, two emailed comments were received; one from the Oregon Department of Transportation (ODOT) and one from the Umatilla County Road Department. Both comments expressed satisfaction with the amendment proposal.

Mrs. Johnson directed the Planning Commission to the Findings on page 7 of the Commissioners packet to make a correction. She explained that Policy 8 contains language copied from the recent Planning Commission hearing consisting of a reference to 'youth camps'. Instead, this Finding should read, "The County finds Agriculture policy 8 and finding 8 is met by the proposed text amendment and the effect of upholding the policy with the inclusion of conditional use permit standards."

Mrs. Johnson directed the Planning Commission to page 178 of the Commissioner's Packet and explained that one of the proposed amendments captures the Planning Department's current practice to record a covenant stating that an approved Temporary Hardship Residence must be removed once the person who qualified for the hardship is no longer present or in need of care. She further explained that Temporary Hardship Residences have become a problem when it comes time for removal, as many of these approvals do not seem to go away. Once the justification for the hardship no longer exists and the property owner is asked to remove the temporary dwelling, they may introduce a new hardship request with hopes to keep the hardship dwelling and perpetuate the use. She added that, some of these new hardship requests are legitimate while some are not. Other property owners may try to justify an existing Temporary Hardship Dwelling for a different need, such as a second Farm Related Dwelling, regardless of whether or not they work fulltime operating a commercial farm or have a need for a fulltime farm worker to reside on the property. Properties with Temporary Hardship Dwellings have been sold to new owners who believe they are purchasing a property with two permanent dwellings. Thus, the recorded covenant is a tool that Planning can use to remind property owners and applicants that the Temporary Hardship Dwelling must be removed. This action also provides a recorded document attached to the property which may be gathered in a title search to inform prospective buyers that one of the dwellings on the property is not permanent and must be removed.

Mrs. Johnson concluded that, UCDC Sections 152.750 - 152.755 govern the local Amendment hearing process, with the first hearing held before the Planning Commission followed by a second hearing before the Board of County Commissioners. This amendment process is

legislative and the Planning Commission's action today is to make a recommendation to the BCC.

Commissioner Standley asked Mrs. Johnson if she feels that the new language is written in a way that allows for Planning Staff to adequately enforce the standards. Mrs. Johnson stated that the criterion comes from the State of Oregon's Administrative Rules. She added that the Planning Commission has some latitude to be slightly more restrictive on certain things. She used the example of the recorded covenant the County has implemented as part of the process of approving requests for Caretaker Dwellings and Temporary Hardship Dwellings, but is not required under the State's standards. It's an additional tool the County uses to help to make potential property purchasers aware that the second dwelling on the property must be removed.

Chair Danforth asked if it would be possible for a buyer to purchase a property that already has a Temporary Hardship Dwelling in place, and then continue the use of the second dwelling on the property under a new qualifying CUP approval for a Temporary Hardship Dwelling. Mrs. Johnson stated that Planning Staff has approved such applications when the applicant demonstrates that they meet the standards for approval and are able to justify the request. Discussion continued about the Hardship Dwelling approval and renewal processes.

Chair Danforth asked if there is any opportunity for the Planning Commission to implement stronger standards or additional criteria as part of this update. Mrs. Johnson stated that standards applied to a CUP can be changed but they cannot lessen the criteria or make fewer restrictive standards than the state has imposed. Chair Danforth asked clarifying questions about existing and proposed code language and the group discussed.

Chair Danforth asked more about what it means for a request to be approved via administrative review. Mrs. Johnson explained that staff processes applications under administrative review by generating a Staff Report demonstrating that the applicant has met the standards for approval. Then, public notices are issued and that starts a timeframe in which the public and other agencies have an opportunity to provide comments or request a public hearing before the Planning Commission on the matter. She added that most applications are handled administratively. Furthermore, applications can be directed to the Planning Commission by staff when the matter is considered controversial or staff is uncertain or uneasy and would like the Planning Commission to provide additional guidance in the decision making. Additionally, certain requests such as Comprehensive Plan, Map and Development Code Amendments, Subdivisions, Replats, Lot of Record Dwellings on High Value Farmland and others are required to go before the Planning Commission.

Chair Danforth asked for more information about new proposed language in a few sections of the Commissioner's Packet. Discussion continued about various language changes, omissions and new language inserted in the code for consideration.

Chair Danforth asked for more information about 152.085(S)(1) (Conditional Uses Permitted; Utilities) on page 144 of the Commissioners Packet. Specifically, she asked for details pertaining to the new inserted language adding restrictions on maximum acreage size for power generating facilities which reads, “[a] power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660 division 4.” Mrs. Johnson clarified that this rule only applies to forest or mixed farm/forest lands, not EFU land. She agreed that it is a limitation but added that the State of Oregon has imposed this limitation and the County needs to adopt the new language into the UCDC to comply with their standards. Discussion continued about proposed new language in a number of areas of the code.

Chair Danforth pointed out a grammatical correction under 152.710(E)(3)(v) on page 204 of the Commissioner’s Packets which states, “[t]he non-farm/ non-resource parcel may not be later be used to rezone...”. Mrs. Johnson agreed to remove the additional ‘be’ from the sentence.

Commissioner Tucker directed the Commissioners to 152.059(K)(7)(a) on page 119 of the Commissioner’s Packets which reads in part, “[a] relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator.” He asked if there is a way for these type of requests to be treated more like a CUP for a Hardship Dwelling so when the need is no longer there, or the dwelling is no longer occupied by a relative, the dwelling must be removed. Mrs. Johnson agreed that it is difficult to apply enforcement to changes in occupation that may occur because there are no restrictions to specify that Relative Farm Help Dwellings must be temporary. As a result, applicants can choose to place a frame built or a manufactured dwelling at the site. She explained that the Planning Commission cannot add additional restrictions to this particular language.

Commissioner Timmons pointed out a grammatical correction under 152.617(I)(E) on page 57 of the Commissioner’s Packets which states, “[c]omposing facilities for which a permit has been granted...”. Mrs. Johnson agreed to change the word ‘composing’ to ‘composting’, as intended.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Tucker made a motion to recommend approval of Umatilla County Development Code Text Amendment #T-090-22 to amend the text of the UCDC Chapter 152 to conform to State Statues and Oregon Administrative Rules guiding uses permitted on farm land zoned Exclusive Farm Use and mixed farm and forest lands zoned Grazing/ Farm in Umatilla County, to the Board of County Commissioners. Commissioner Gentry seconded the motion. Motion passed with a vote of 6:0.

A public hearing before the BCC is scheduled for Tuesday, July 19, 2022 at 9am, Room 130 of the Umatilla County Courthouse.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the April 28, 2022 meeting. There were none. Commissioner Timmons moved to approve the minutes as presented. Commissioner Gentry seconded the motion. Motion carried by consensus.

OTHER BUSINESS

Mr. Waldher stated that he will distribute a copy of the Planning Commission Handbook along with other training materials to the Planning Commissioners. He added that he has reached out to the Oregon Chapter of the American Planning Association (OAPA) to request a recording of the virtual training we participated in last fall.

Mr. Waldher stated that he attended the Oregon Department of Energy's (ODE) public hearing to provide comments pertaining to the Draft Proposed Order for the Nolin Hills Wind Power Project. He added that he attended a driving-tour of the site and concurred that the location is appropriate for the proposed wind and solar energy generation facility. The proposed project will be a large facility located within a site boundary of approximately 48,196 acres of private land primarily zoned exclusive farm use. Mr. Waldher provided comments to ODE to call attention to the fact that the project fails to meet one standard related to land use; the 2 mile residential setback from a wind turbine to a rural residence. Other proposed components include two 230 kilovolt (kV) transmission lines, two substations, an operations and maintenance building, a battery energy storage system, electrical collection system (underground and overhead collector lines), access roads, and up to three meteorological towers.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:45pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant

Minutes adopted by the Planning Commission on June 23, 2022.