

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, September 24, 2015
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Randy Randall, Gary Rhinhart, Tammie Williams, Suni Danforth, Don Marlatt, David Lee

ABSENT: Don Wysocki, Cecil Thorne.

STAFF: Tamra Mabbott, Bob Waldher, Gina Miller.

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 6:30 p.m. and read the opening statement.

NEW HEARING:

MICHAEL PARKER REQUEST FOR HEARING #ZP-14-109, Landowner, Eva Swain. On June 2, 2015, county revoked Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. Property is described as tax lot 300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

Chair Randall advised that the attorney for the applicant asked to speak.

Applicant Testimony: William Perkinson, attorney for applicant, 414 NW 5th, Pendleton, OR. Mr. Perkinson requested a continuance for this hearing. Discussion followed on how to proceed. The Planning Commission agreed by consensus to continue to the December 17, 2015 hearing at 6:30 p.m. in the Media Room of the Justice Center, so that it would not have to be re-advertised.

CONTINUED HEARING:

REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST #LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP,

applicant/property owners. During the public comment period, a “Request for a Public Hearing” was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97802. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

Chair Randall re-opened the continued hearing. Mr. Waldher advised the Planning Commission that the applicant had signed the 150-day waiver and had requested that this hearing be continued in order to complete the soils testing. Mrs. Mabbott stated that the applicant had contacted the neighbors present at the last hearing to let them know.

Commissioner Wysocki asked about the soils testing. He stated that he did a soils investigation in 2009 for a different land owner. He said he also wrote a letter to the Planning Commission for the current application that was in their packets. He asked if the problem being reviewed was the water table, and Commissioner Lee advised him that they were also considering the location of the cemetery. Chair Randall also said they had concerns about the soils caving in when attempting to dig a hole for the cemetery. They felt that the soils testing should go deeper than the 24 inches done. Commissioner Wysocki reported that the soils were mostly cobble, which would cave in when dug in. There were also concerns about proximity to adjacent wells. Discussion followed on the state’s cemetery code. Commissioner Danforth explained the applicant’s proposal to move the location of the cemetery on the property, thus requiring a different soils analysis.

Chair Randall confirmed that the Planning Commission approved by consensus to continue this hearing until the November 19, 2015 hearing.

NEW HEARING:

CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO MCNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant.

Planning commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

Chair Randall called for declarations of ex-parte` contact, biases, abstentions or objections to jurisdiction. Chair Randall disclosed that he is an adjacent land owner to the subject property, but he feels that this will not affect his participation in this hearing. Members of the Planning Commission did not object to his participation.

Staff report: Bob Waldher, Senior Planner, presented the staff report and read aloud from a prepared statement (see file). Chair Randall asked if there would have to be a separate hearing for the four (4) land owners who have not yet signed land leases with the applicant. Mr. Waldher replied that yes, the Planning Commission would have to have a separate hearing and vote on an amended land use application for those 4 land owners. Commissioner Danforth asked about the impact this project would present to the scenic areas along the highway, and Mr. Waldher said the applicant could better address this question. He advised that this project will be co-located within 500 feet of an existing transmission line, so it will be within 500 feet of established lines. Mrs. Mabbott stated that a scenic byway must be specifically named in the Comprehensive Plan in order to be protected.

Applicant testimony: Brian Fritz, 825 NE Multnomah St, Suite 1600, Portland, OR. Mr. Fritz works for Pacificorp and presented a Power Point about the proposed project (See file for copy of Power Point) The project connects the Wallula substation to the McNary substation. A portion of this proposed line follows the existing Pacificorp 230 kV transmission line, with similar structures to the existing line. He described the route of the proposed transmission line, and what kind of towers would be constructed. The proposed line would be 30 miles long, with 22 miles within Umatilla County in a right-of-way that would be 125 feet wide.

Commissioner Danforth asked why they were not upgrading the existing line. Mr. Fritz said they could not operate for long periods of time with that line out of service, as that existing line runs at full capacity. He also explained that it was cost prohibitive, as wood is cheaper than steel structures. He said that the company builds the line, and shares the cost of the line with all the customers who use the line. Mr. Fritz explained the state rate case and how that affects their customers. Commissioner Danforth asked for clarification on the proposed project. Mr. Fritz advised that Pacific Power is proposing to co-locate a 230 kV line within 500 feet of existing BPA and Pacific Power transmission lines. They do not want to cross crop circles, so they moved out to the maximum gap.

Commissioner Rhinhart asked about land owner rights in the right-of-ways. Mr. Fritz said that land owners were welcome to use the rights-of-ways for agricultural purposes, but they just asked that no structures be built and no tall trees planted there. Commissioner Rhinhart asked about the B2H line, and the subject of condemnation. Mr. Fritz said he didn't think that B2H had started this process yet. He said that they preferred to work with land owners but that they did have the right to condemn land for their use. Commissioner Rhinhart talked about how Umatilla County residents feel about wind power and transmission lines, and this was followed by a discussion on minimizing these footprints and the width for rights-of-ways depending on the construction of the

transmission lines. Mr. Fritz discussed the standards and codes for designing and building transmission lines, and described “blow-out”. These codes describe how much clearance there must be between conductors and the ground, conductors and lines, etc. They can shrink the right-of-way width, but this requires building more structures. Double circuits require a wider right-of-way to accommodate the lines.

Commissioner Danforth asked about the proposed line being built to parallel other transmission lines. Mr. Fritz referenced a map in the presentation and pointed out the blue line that represents the existing BPA line. He discussed liability issues that are created when placing lines too close to existing lines that are so big. They cannot put larger voltages in as they could actually melt wires if they had too much power going through them.

Commissioner Wysocki asked who will be benefitted by this project. Mr. Fritz said that they will be able to better serve requests from local wind farms, providing more transmission ability in the area that will result in supporting growth, benefits to the county in a larger tax base, and help meet the federal mandate for renewable power. Commissioner Wysocki then asked about wildfire dangers and how it would impact the wood poles. Mr. Fritz said that while wildfires are a considerable danger, the real issue was soot from the fires on the insulators causing the lines to ground out. He could not answer how they planned to work with local fire agencies, but he could find out.

Commissioner Danforth asked if they had any specific wind projects they wanted to tie in to their lines. Mr. Fritz said they had requests but have not signed agreements. He said that Federal law required them to entertain all requests for distribution on their lines. Commissioner Rhinhart asked if the wind projects were asked to help pay for the transmission lines. Mr. Fritz discussed how things worked in their industry on how wind projects pay for using the transmission lines through connect fees, and federal rules that guide their actions. He stated that Umatilla Electric Coop (UEC) has different rules, and do not have to adhere to same Federal rules that Pacificorp has to. Commissioner Rhinhart stated that most of the power generated here is sold out of the area, but local rate payers pay for the projects and this does not set well with county residents. Mr. Fritz said that in order to change this, people would have to go back to the Federal Energy Regulatory Commission (FERC). He explained the rate setting process through FERC and the “wheel-in” costs that are paid by utilities to connect to the grid.

Mr. Fritz discussed some of the problems with co-location. There are issues with putting more than one circuit on a tower, because if the tower is lost then both lines are down and the cost would be too high for the 6-8 month outage to replace that this would result in. Discussion followed on doubling up on lines to avoid too many lines, and the high cost of doing things this way. Mr. Fritz said they would have to purchase new rights-of-ways from land owners. They have to get a Federal permit to cross property owned by Bureau of Land Management (BLM), and have to shrink the span lengths to lessen the impact to high value farmland and irrigation practices.

Commissioner Rhinhart asked about lines going across the top of the Umatilla Ridge, and

how this would affect 31 acres of high value farmland. Mr. Fritz said they would use as many existing roads as they could for line maintenance. He talked about how they would deal with reclamation and said they would replant with native plants and grasses. He said there is a one-time compensation to the land owner for the easement. They hire a qualified appraiser to determine the routes and approach landowners to negotiate the payment. Commissioner Wysocki asked about weed control, and it was confirmed that weed control was a condition of approval already.

Mr. Fritz said there was no difference between the public and private wildlife impact studies and that they will cross under Bonneville Power Administration (BPA) lines and will have to submit an application to them. Commissioner Danforth asked about possible impacts to the scenic area. Mr. Fritz said they were up over the hump and the line would not be seen. Discussion followed on where the scenic byway is located and whether this project would cross through the area. Mr. Fritz said the minimum height for the wires would be 30 feet. They hope to have this line constructed and operational by 2017.

Mrs. Mabbott said there were no significant Goal 5 resources in the findings. She referred to the Technical Report for a list of outstanding scenic sites for Goal 5 resources and the Gorge and Wallula Gap is on this list for the Comprehensive Plan. She suggested that if the Planning Commission had questions on this, the applicant could come back with a more in-depth analysis of the impacts to Goal 5 Resources.

Public testimony: Joe Carderello: withdrew testimony.

Public testimony: Randy Rupp, 176 Granite St, Richland, WA. Mr. Rupp said that he is against another transmission line across his property. He said that no one from Pacific Power has contacted him, and he doesn't feel that they work with landowners. He bought his land in 2007, and discussed his farming practices and what water usage he has. He said he has 17,300 acres in the area where the proposed line would be. He said he was working on moving water rights from Baker County to this property. Mrs. Mabbott stated that Mr. Rupp has not signed a lease with PacifiCorp, and his property would not be affected by the decision made by the Planning Commission.

Patrick Gregg, PO Box 218, Pendleton, OR, attorney with Corey, Byler and Rew. Mr. Gregg advised that he was representing Mr. Rupp. He understood that his client would not be affected by the current application, but they wanted to make general comments for the record. He referenced County Code 152.617, that critical cost points cannot be the determining factor in permitting a transmission line. Mr. Gregg said that the applicant's testimony made it seem that cost was their main reason for creating the new line. He said that the applicant had not presented any analysis to show why they could not upgrade the old line to a double circuit line. He stated that the Planning Commission had the power to apply the county codes to protect agriculture and referenced the restrictions imposed by not allowing structures under the line would present a significant impact to farming practices. If the applicant was to meet the burden, they must provide more analysis of why the double circuit would not work and that cost wasn't the primary

factor. Another transmission line would pose a significant footprint on the land and cause effects to agricultural practices. Mr. Gregg discussed the matter of imminent domain. They are requesting that the application be denied for failure to meet the standards.

Commissioner Wysocki asked what other factors Mr. Gregg was referring to for consideration. Mr. Gregg said that other options should have been considered per ORS 215.275 such as technical engineering feasibility and they were not considered by the applicant. He referenced Staff Report, page 6, on alternative routes and stated that Pacificorp did not provide enough explanation as to why alternative routes weren't considered.

Public agency testimony: none offered

Rebuttal: Mr. Fritz advised that Mr. Rupp had signed the acknowledgement in 2008 so they have reached out and worked with him. He discussed again why they could not utilize the double circuit by putting the lines together as it present too great of liability issues. He said it was not just cost that led to their decision for the line route.

Commissioner Wysocki asked how many other land owners were involved with their application. Staff referenced the property owner list in the packet.

Mrs. Mabbott suggested continuing the hearing to allow staff and the applicant to respond to the Goal 5 issues and cost analysis that were brought up in the hearing. Discussion followed on how to proceed. Mr. Waldher advised that the completeness letter was signed on September 4, 2015.

The Planning Commission agreed by consensus to continue the hearing to October 22, 2015 at 6:30 p.m. in the Media Room of the Justice Center.

Mrs. Mabbott gave an update to the Planning Commission about the Board of Commissioners adopting the medical marijuana code update.

MINUTES:

Commissioner Danforth moved to adopt the minutes from August 27, 2015 Planning Commission hearing, and Commissioner Lee seconded the motion. Motion carried 7:0.

Chair Randall adjourned the hearing at 8:17 p.m.

Respectfully submitted,

Gina Miller
Secretary

