

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, February 28, 2019, 6:30 p.m.
Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, OR

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Gary Rhinhart, Vice Chair, Hoot Royer, Jon Salter
(**Attended via Phone**) Molly Tucker Hasenbank, Tami Green
ABSENT: Tammie Williams, Cecil Thorne, Don Wysocki
STAFF: Bob Waldher, Planning Director; Carol Johnson, Senior Planner; Doug Olsen, County
Counselor; Elizabeth Ridley, Planner/GIS; Tierney Dutcher, Administrative Assistant

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.

CONTINUED HEARING

COUNTY TEXT AMENDMENT #T-19-078, PLAN AMENDMENT #P-122-19, & ZONING MAP AMENDMENT #Z-313-19, to Co-adopt City of Stanfield Urban Growth Boundary (UGB) Adjustment.

The City of Stanfield requests the County co-adopt a proposed change to the city’s UGB that would remove 110 acres of industrial land and 28 acres of open space from within the UGB and replace it with 110 acres of land to be rezoned from Exclusive Farm Use (EFU) to City Industrial, and annexed into the City. The criteria of approval are found in Umatilla County Development Code 152.750-152.755 and the Joint Management Agreement between the City and County.

STAFF REPORT

Robert Waldher, Planning Director, stated that this is a continued hearing due to weather conditions on February 13th, 2019. We had scheduled a joint hearing with the City of Stanfield Planning Commission. The City of Stanfield requests that the County co-adopt a proposed change to the City’s UGB. The change would remove land from the UGB located along the west boundary of the City’s UGB. Mr. Waldher projected a map (included in Commissioner’s packets) to demonstrate that the request includes adding an equal amount of land to the UGB from the southeast side of the City. Mr. Waldher stated that the proposal will remove 110 acres of industrial land and 28 acres of open space from within the UGB and replace it with 110 acres of land to be rezoned from EFU to City Industrial, and annexed into the City.

Mr. Waldher stated that the UGB amendment is requested to support efforts to make the City Industrial Zone property more attractive to industrial site selectors and the industries they represent. Additionally, they will provide the City of Stanfield with large industrial parcels that are located closer to city utilities and ready for development. As part of the Joint Management Agreement (JMA) with

the City of Stanfield, the Planning Commission is asked to make a recommendation to the Board of County Commissioners (BCC) on co-adoption of the changes.

Mr. Walder stated that Mr. Blair Larson, Stanfield City Manager, was unable to attend this hearing this evening. However, Mr. Waldher attended the City's Planning Commission hearing on February 13th, 2019 where they unanimously voted to make a recommendation to the City Council to approve the co-adoption. There was no opposition the request at the hearing and the public participation period has ended. The co-adoption request will go for a second reading on March 5th, 2019.

Commissioner Rhinhart asked if the State of Oregon has minimum requirements for designated open space in the UGB. Mr. Waldher stated that he is not sure about state requirements for open space. He explained that the land received an open space designation because it is not suitable for any development. Commissioner Rhinhart asked if the parcels that will be added to the UGB have irrigation. Mr. Waldher stated that they do not have any record of the property having water rights. He added that when proposals like this are brought before the State they are expected to include information showing that the property being added and the property being removed have similar soil types. These properties have similar soils and they are not high-value.

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

TESTIMONY

Support Testimony: Arthur Prior, 32327 Oregon Trail Rd., Echo, Oregon. Mr. Prior stated that he is the owner of Windblown Ranch and would like to add his support of the change. Commissioner Rhinhart asked if he initially approached the City with this request, or if the City initiated this UGB change. Mr. Prior stated that he has had communication with Stanfield City Manager, Blair Larson for the past 6 years regarding this request. He said the City of Stanfield brainstormed and came up with this plan and he feels it would be a benefit to him.

Public Agencies: No additional comments.

Chair Danforth closed the hearing for deliberation

DELIBERATION & DECISION

Commissioner Rhinhart made a motion to recommend approval to the Board of Commissioners for Umatilla County Text Amendment #T-19-078, Plan Amendment #P-122-19 and Zoning Map Amendment #Z-313-19 to co-adopt the City of Stanfield UGB Amendment. Commissioner Salter seconded the motion. Motion passed with a vote of 6:0.

NEW HEARING

PLAN AMENDMENT #P-123-19, to amend the Exception for Local Access Improvements set forth in Umatilla County Ordinance 2003-09, which Ordinance is a part of the County's Transportation System Plan.

The applicant, TA Operating, LLC, requests to amend County Ordinance 2003-09 and the Umatilla County Transportation System Plan, consistent with the Land Use Board of Appeals' opinion on Space Age Fuel. The proposed amendment addresses concerns found in Express and Space Age Fuels v. Umatilla County, 54 Or LUBA 571,597 (2007) and Space Age Fuel, Inc. v. Umatilla County, 72 Or LUBA 92, 100-01 (2015). The criteria of approval for amendments are found in Umatilla County Development Code (UCDC) 152.750-152.755.

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

STAFF REPORT

Robert Waldher, Planning Director, stated that the Applicant, TA Operating LLC, requests to amend County Ordinance 2003-09 in the Umatilla County Transportation System Plan (TSP). The travel center was approved in 2006 for the property located at the northwest intersection of Westland Road and Interstate 84. Subsequently, the Planning Commission approved the request on January 31, 2006. The decision was appealed to the BCC, but the Board ultimately approved the development subject to conditions that Petro sign a Development Agreement obligating Petro to mitigate traffic impacts on nearby intersections. Space Age Fuel submitted an appeal for the Conditional Use Permit to the State of Oregon Land Use Board of Appeals (LUBA). The case was remanded back to the County because it was determined that a Development Agreement must be approved before the new access management standards of Ordinance 2003-09 become effective. After LUBA's determination, the BCC approved a Development Agreement consistent with LUBA's opinion. Space Age Fuel appealed this decision again, arguing that the Development Agreement proposed a different alignment of Northwest Livestock Road from that shown in Ordinance 2003-09. On September 1, 2015 LUBA remanded the Development Agreement to the BCC with orders to make findings addressing UCDC 152.753(B)(1) and the Development Agreement's consistency with Ordinance 2003-09.

Mr. Waldher referred to the Future Local Roads Configuration map on page 17 of the Commissioner Packets and explained that Livestock Road is proposed to be realigned. The intersection of Livestock and Westland Road would be used as the truck entrance for the truck stop.

Mr. Waldher stated that Staff recommendation is to approve the proposed amendment to Ordinance 2003-09 because it appears to be applicable with land use law. Additionally, the amendment is necessary to resolve LUBA's remand. The Planning Commission is tasked with making a recommendation to the BCC regarding amendment of Text Ordinance 2003-09 including findings supporting an amendment to Umatilla County's TSP and adopt a new map.

Commissioner Rhinhart stated that he believes there will be push back from land owners in attempting to realign Livestock Road. Mr. Waldher stated that he has consulted with the Umatilla County Public Works Director, Tom Fellows, and he supports the amendment. Livestock Road will be improved and the intersection will be moved further away from the interchange coming off of Interstate 84 which will help avoid stacking of vehicles at that location. Commissioner Rhinhart asked if these changes will have an effect on Lamb Road, to the north. Mr. Waldher stated that he is not aware of any change that will be made to Lamb Road. County Counselor, Doug Olsen, stated that when this development was originally proposed in 2006 there was not much development to the north and there was concern about the Lamb Road intersection. Today, that has changed and there is a lot more development in the area so some of the decisions made at that time are no longer applicable.

TESTIMONY

Applicant Testimony: Garrett Stephenson, Attorney, Schwabe, Williamson & Wyatt, 1211 SW 5th Avenue, Suite #1900, Portland, Oregon. Mr. Stephenson stated that he is an attorney representing TA Operating, LLC. He stated that there are two LUBA remands to address in this request. As the development needs in the area have changed over time the maps no longer match up. He stated that this amendment will benefit the County because it will force an update to the County TSP and therefore, better reflect what exists at the location today.

Mr. Stephenson stated that the goal for the hearing tonight is not to resolve the LUBA remands. The applicant will appear before the Planning Commission at a later date with a site plan and remand application. LUBA requires that the map and Text Ordinance 2003-09 be amended in order for the project to be approved. Approval of this request will allow for TA Operating to move forward in the LUBA process.

Support Testimony: Chris Brehner, Engineer, Kittelson & Associates, Inc., 851 SW 6th Avenue, Suite #600, Portland, Oregon. Mr. Brehner stated that he has been assisting with the transportation side of the request. He believes that the decision to change the map and allow for the realignment of Livestock Road up to the new connection is something the County should pursue regardless of the TA Operating project. The new alignment will allow vehicles to move in and out of the area in a safer way.

Neutral Testimony: Jayne and Terry Clarke, 1325 NW Horn Avenue, Pendleton, Oregon. Mr. Rhinhart stated that he is neutral on this issue. Mr. Clarke stated that they represent J TJ Enterprises, LLC, an adjacent property owner, as well as Pioneer Asphalt, Inc., which uses NW Livestock Road. His biggest concern is how this may impact his business. He stated that the realignment of NW Livestock Road will add a quarter mile to the haul off their property. In the spring and fall months they make approximately 200-300 trips daily so this will create an additional expense. They are willing to look past the additional expense associated with the change but they don't want to bear the cost in improving NW Livestock road. He believes the financial burden should be put on the developer. Mr. Olsen stated that there has been no mention of surrounding property owners being involved with improvement of the road. Mr. Clarke asked for some reassurance that he will not be responsible. Mr.

Olsen stated that there has been no mention of moving toward creating a Local Improvement District. He added that if they do in the future it would be required to go to public hearing and the Clarkes would have an opportunity to express opposition at that time.

Applicant Rebuttal: Garrett Stephenson, Attorney, Schwabe, Williamson & Wyatt, 1211 SW 5th Avenue, Suite #1900, Portland, Oregon. Mr. Stephenson stated that he understands the Clarke's concern, but does not believe this map change will change the funding structure. He stated that the funding will be embodied in the requirement for the Development Agreement. Additionally, he believes the Development Agreement previously adopted by the County is more like this new map in terms of requirements for TA Operating.

Public Agencies: No additional comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated that she feels this request is somewhat of a LUBA housekeeping issue before handling the matter of the LUBA decisions. She believes the goal is to get all parties on the same page and using the same map. She stated that she is happy the Clarkes have come to make their concerns known. Commissioners Tucker Hasenbank and Green both agreed it was good that the Clarkes were able to attend the hearing and express their opinion. Commissioner Rhinhart moved to recommend approval of Umatilla County Plan Amendment #P-123-19, to amend the Exception for Local Access Improvements set forth in Umatilla County Ordinance 2003-09, to the Board of County Commissioners. Commissioner Royer seconded the motion. Motion passed with a vote of 6:0.

NEW HEARING

UMATILLA COUNTY DEVELOPMENT CODE UPDATES, TEXT AMENDMENT #T-19-079.

1. Update Chapter Title UCDC Section 152.001
2. Update and Add to Definition Section 152.003
3. Clarify Statutory Provision Chapter Citing Section 152.004
4. Clarify Fence Section 152.019
5. Add Barnhart IAMP to Section 152.019
6. Update Dimensional Standards Section 152.119
7. Clarify Rural Residential Limitations for poultry Sections 152.133(B), 152.158(B), 152.163(B) and 152.338(B)
8. Update Rural Residential Height Limitations Sections 152.134 (C)(2), 152.159(C)(2), 152.164(C)(2) and 152.339(C)(2)
9. Update Residential Forest Zones Sections 152.171, 152.216 and 152.231
10. Update AR Overlay Zone 152.486
11. Clarify Subdivision and Land Partition Replats Section 152.695

12. Clarify Classification of Land Division Types Section 152.643
13. Update Required Survey Section 152.644
14. Update Delegation of Authority for Land Divisions, Section 152.645
15. Update Land Division Types Section 152.646
16. Update Property Line Adjustment Procedure Section 152.724
17. Update Temporary Hardship Homes Section 152.576
18. Update Churches Conditional Use Section 152.617(K)
19. Renumber Road Standard Section 152.648
20. Remove Duplicate Variance Section in UCDC 152.651
21. Clarify Language for the Type I Land Division Section 152.665
22. Clarify Type I Land Division Tentative Plan Contents Section 152.666
23. Clarify Type I Land Division Approval Section 152.667
24. Clarify Type I Land Division Hearing Section UCDC 152.668
25. Update Type I Land Division Final Plat Section 152.699
26. Update Type II Land Division Standards Section 152.684
27. Update Type II Land Division Final Plat Section 152.686
28. Update Property Line Adjustment Standards Section 152.722
29. Update Property Line Adjustment Procedures upon Approval Section 152.724
30. Remove unused Type VI Land Division Sections 152.725 – 152.739
31. Relocate Corrections and Amendments to Plats to Section 152.725

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

STAFF REPORT

Carol Johnson, Senior Planner, stated that while processing applications and reading through the Development Code staff sometimes comes across language that no longer makes sense for one reason or another. We note these changes and set them aside until we bring a group of them before the Board as a Text Amendment for approval. The purpose of this request is to update pieces of the Development Code in an ongoing effort to clarify the language and make it easier to interpret. The Planning Commission is tasked with making a recommendation to the Umatilla County Board of County Commissioners.

TESTIMONY

Public Agencies: Dave Krumbine, Umatilla County Surveyor submitted comments. Mrs. Johnson stated that the change Mr. Krumbine requested is located at the top of page 10 of the Proposed Code Updates document, update #11 (Clarify Replats for Subdivisions and Land Divisions; UCDC Section 152.695). He is requesting to add an additional sentence after the strikethrough text, before the part that states, “This subchapter is intended to implement the requirements of ORS 92.180 through 92.190.” For clarification purposes, Mr. Krumbine asked that we add a sentence stating, “A Replat

includes a change in an exterior boundary of a Subdivision or Partition Plat.” Additionally, on page 21, update #25 (Update Type I Land Division Final Plat; UCDC Section 152.669(A)(2)) and page 31, update #26 (Update Type II Land Division Standards; UCDC Section 152.684(B)(1)) of the Proposed Code Updates document, specifications for submitting the final subdivision or partition plat include, “...leaving a three inch binding edge”. Mr. Krumbine asked that this language be removed from both sections. The process has changed and the three inch binding edge is no longer necessary. Mrs. Johnson stated that the changes requested by the County Surveyor will be included in the final document sent to the Board for approval.

Commissioner Rhinhart asked if there are any Legislative changes included in this request. Mrs. Johnson replied no.

Chair Danforth asked for clarification about the language used on page 7, update #6 (Modify Dimensional Standards; UCDC Section 152.119(B)). She stated that buildings and dwellings are not the same. She pointed out the part that reads, “...except buildings may be constructed with two stories, not including a basement.” She suggested replacing the word *buildings* with the word *dwellings*.

Chair Danforth called attention to an error on page 23, update #26 (Update Type II Land Division Standards Section 152.684(F)(2), Clean Version (2)). The third sentence in the paragraph states, “Circle drives (cul-de-sac) are turnarounds shall be improved....” The word *are* should be changed to *and*. Mrs. Johnson made a note to correct this in the final document sent to the Board.

Chair Danforth asked for clarification on page 23, update #26 (Update Type II Land Division Standards Section 152.684(F)(3)) in the Clean Version of subsection (F)(3). The language states that, “A recorded easement providing access to four or more parcels, or that potentially will serve additional parcels or lots, or will be an extension of a future road plan, shall be required to meet the County Road Standards as provided in UCDC 152.648(D).” Chair Danforth asked how staff would determine if an easement might potentially serve other parcels. Mrs. Johnson stated that there have been challenges with access to properties after multiple land divisions are made over time. If we don’t plan ahead for potential development we may end up with a lack of substantial access to internal parcels, resulting in the inability for further development in the area. She added that this does not apply to EFU zoned parcels.

Chair Danforth called attention to an error on page 25, update #26 (Update Type II Land Division Standards Section 152.684(I)). The first sentence in the paragraph states, “The land division must considers energy conservation measures....” The word *considers* should be changed to *consider*. Mrs. Johnson made a note to correct this in the final document sent to the Board.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Rhinhart moved to recommend approval of Umatilla County Text Amendment #T-19-079, Umatilla County Development Code updates with additions from the County Surveyor and edits captured at the Planning Commission hearing, to the Board of County Commissioners. Commissioner Tucker-Hasenbank seconded the motion. Motion passed with a vote of 6:0.

MINUTES

Chair Danforth called for any corrections to the minutes from the January 24, 2019 meeting. Commissioner Salter stated that he was present, but not named in the *Commissioners Present* section. Tierney Dutcher, Administrative Assistant, stated that she would make that change in the final adopted minutes. Chair Danforth moved to approve the minutes as written. Motion carried by consensus.

ADJOURNMENT

Chair Danforth adjourned the meeting at 9:28 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

Minutes adopted by the Planning Commission on March 28, 2019.