

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, October 24, 2024, 6:30pm

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Sam Tucker, Vice Chair, John Standley, Emery Gentry and Andrew Morris

COMMISSIONER

PRESENT VIA ZOOM: Kim Gillet, Ann Minton and Malcolm Millar

COMMISSIONERS

ABSENT: Tami Green

PLANNING STAFF:

Robert Waldher, Community Development Director, and Shawna Van Sickle, 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 6:32PM and read the Opening Statement.

MINUTES

Chair Danforth called for any corrections or additions to the July 25, 2024 & September 26, 2024 meeting minutes. No additions nor corrections were noted.

Commissioner Standley moved to approve the draft minutes from the July 25, 2024 meeting minutes, as presented. Commissioner Gentry seconded the motion. Motion carried by consensus.

Commissioner Standley moved to approve the draft minutes from the September 26, 2024 meeting minutes, as presented. Commissioner Gentry seconded the motion. Motion carried by consensus.

NEW HEARING

COMPREHENSIVE PLAN MAP AMENDMENT P-137-24, and ZONE MAP AMENDMENT Z-324-24: HAAK HOLDINGS, LLC, APPLICANT & OWNER: The applicant requests to change the Comprehensive Plan designation from Rural Residential to Commercial and change the Zoning Map from Rural Residential – 4 Acre Minimum Parcel Size (RR-4) to Rural Retail Service Commercial (RRSC). The subject property is located on the west side of State Highway 11, approximately 1.5 miles north of the Milton-Freewater city limits. The situs address is 84722 Highway 11, Milton-Freewater, OR 97862. The site is identified on assessor’s map as Township 6 North, Range 35 East, Section 25B, Tax Lot 1900. The subject

property is approximately 1.97 acres. The criteria of approval are found in Oregon Revised Statute ORS 197.195, Oregon Administrative Rule Chapter 660, Divisions 12 & 15, and Umatilla County Development Code (UCDC) Section 152.750 – 755 and UCDC Section 152.251.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No other reports were made.

Chair Danforth called for the Staff Report.

STAFF REPORT

Mr. Robert Waldher, Community Development Director, introduced himself and the application before the Planning Commission that evening. He stated the applicant/owner, HAAK Holdings, LLC, has requested to change the Comprehensive Plan designation from Rural Residential to Commercial and change the Zoning Map from Rural Residential, 4-acre minimum Parcel Size (RR-4) to Rural Retail Service Commercial (RRSC). The subject property is located on the west side of State Highway 11, approximately 1.5 miles north of the Milton-Freewater city limits. The situs address is 84722 Highway 11, Milton-Freewater, OR 97862. He added, the site is identified on assessor's map as Township 6 North, Range 35 East, Section 25B, Tax Lot 1900. The subject property is approximately 1.97 acres. He stated the packet includes a vicinity map of the subject property marked as Exhibit A and a map showing the existing and proposed zoning of the subject property marked as Exhibit B.

Mr. Waldher explained that Umatilla County records showed the applicant/owner purchased the subject property in February 2022. Umatilla County Code Enforcement issued a 30-day warning to the owners of the subject property on June 15, 2022. He expressed that the warning was for the unpermitted operation of a business in the RR-4 zone. Subsequent to the warning, planning staff contacted the property owners to discuss property rezoning to help correct the violation. He stated, a second warning was issued to the owners of the subject property on July 12, 2023 due to continued operation of the business without land use approval. Planning staff again contacted the property owners to prompt them to prepare a plan amendment to correct the violation. He stated the subject property continues to be used by the applicant (in violation of the Umatilla County Development Code) to store RV's, trailers and campers in support of the applicant's business operations, Click-it RV.

Mr. Waldher added that an application for a Comprehensive Plan Map Amendment and Zoning Map Amendment was submitted to Umatilla County Community Development Department on June 12, 2024. In accordance with requirements of the Umatilla County Development Code and Oregon Transportation Planning Rule, the applicant has also submitted a Traffic Impact Analysis which is attached as Exhibit C. Staff have prepared Findings. The criteria of approval can be found in Oregon Revised Statute ORS 197.195, Oregon Administrative Rule Chapter 660, Divisions 12 & 15, and Umatilla County Development Code (UCDC) Section 152.750 – 755 and UCDC Section 152.251.

Mr. Waldher stated, a 35-day Plan Amendment Notice was provided to the Department of Land Conservation and Development (DLCD) on September 19, 2024. Notice of the public hearings were mailed on October 4, 2024 to the owners of properties located within 250-feet of the perimeter of Tax Lot 1900. He added that additional notice was published in the East Oregonian on October 12, 2024 notifying the public of the applicant's request before the Planning Commission on October 24, 2024 and the Board of Commissioners on November 26, 2024.

He concluded that the Planning Commission are tasked with making a recommendation to the Umatilla County Board of Commissioners whether or not to approve or deny the proposed Comprehensive Plan Map Amendment and Zoning Map Amendment. The recommendation of the Planning Commission will be presented in a public hearing to the Board of Commissioners.

Commissioner Morris asked about the date of the Development Code and why it has not been updated for 50 years. Mr. Waldher stated the UCDC is considered a living document. The original adopted document was recognized by the state and has had many changes over the years in land use and local decisions amending from the original adoption date. He stated this includes changes in the comprehensive plan as well.

Chair Danforth referenced page 18, Goal 9 Economic Development, "...by allowing the currently undeveloped and unused property be put to a more productive use through the continuation and expansion of the Applicant's existing RV sales and service facility use." She added that was conflicting because the property is developed as residential. Mr. Waldher stated her assessment was accurate because the property is indeed developed with a dwelling on it. He added that previous owners of the property had filed for a replacement permit to place the manufactured home and stated the applicant should be able to speak to that question. Chair Danforth stated she felt like the misstatement should be addressed in the findings.

Chair Danforth brought up page 41, Site Access within Exhibit C. She asked Mr. Waldher about this section which stated, "It is anticipated the (future) applicant will construct any necessary frontage improvements at the time of development (as part of a future, specific development land use application)." Mr. Waldher stated the application before the Planning Commission is to rezone the property and if successful the applicants would then have to file a subsequent application for a Conditional Use permit to establish the RV Sales business on this property. He explained at that point the Planning Department would require the owners to demonstrate they got the access permits from Oregon Department of Transportation (ODOT) and that access was approved for that location. Mr. Waldher stated the applicants could have reworded that statement to address their future goals for the property.

Chair Danforth asked if the questions regarding the home have been addressed if this is approved and what that would look like in the next step of the process. She asked if she was correct in assuming this would be something that would be addressed after this application were to go through. Mr. Waldher confirmed that was accurate and it was something that was raised by Staff

to the applicant. He explained if this rezone application was approved and the dwelling still exists we don't want to create a situation where there is a non-conforming use and we want to confirm what the applicant intends to do.

Commissioner Tucker asked if the Planning Commission were to approve this and recommend approval to the Board of County Commissioners would there a non-conforming use unless the applicant voluntarily decided to remove the dwelling. Mr. Waldher stated there could be a situation where this were to be approved to rezone and potentially not move forward with the conditional use permit, it could force a situation where there was a non-conforming use. Commissioner Tucker asked if we wanted to protect against that by adding a condition to the approval. Mr. Waldher stated he didn't have any conditions written in the sample motions or recommendations, but it could be a condition placed on the approval.

Applicant Testimony: Mr. Garrett Stephenson, Counsel for the Applicant, 1211 SW 5th Ave. Ste. 1900, Portland, OR 97204; Mr. Kevin Smith, Sales Manager Click-It RV, 53816 W Crockett Rd, Milton Freewater, OR 97862; Mr. Stephenson started by explaining some history of when the properties were purchased. The buyers were under the assumption that both lots were commercial and could be used for RV sales. It wasn't until notified by Code Enforcement there was a development issue and they were operating a business on a residential property on this particular tax lot. He stated when he was brought on to the case he contacted the Planning Department, stated they wanted to comply and asked how they could remedy the situation. It was determined that a Plan Amendment would be most appropriate.

Mr. Stephenson stated there are many advantages for the conversion to a commercial zoned property. The first was from a traffic and planning standpoint. Their goal is to reduce the number of access points from US Highway 11 down to one between the two properties. He added, they also looked at the compatibility with surrounding farm uses. According to Land Use, commercial businesses like theirs, do not produce emissions or disruption to farming. Vehicles are actually a better fit next to farmland than individual homes due to normal farm practices and inconvenience to rural neighborhoods. He stated, this compatibility is advantageous to both the business holder and farmer. As far as the County's inventory of Goal 9 versus Goal 10 lands, their conclusion shows better balance and positive impact on the Economic development goal, which is Goal 9 versus a very, very minor adverse impact on Goal 10, which is the housing goal. He explained that the reason for that is it's a 2-acre site, and it can only have one home. He stated these analyses are pretty well explained in the staff report and shows all the criteria had been met and asked the Planning Commission to approve the application.

Mr. Stephenson explained a few questions brought forth by Chair Danforth and Commissioner Standley. He stated there is no one living on the property currently. There is a manufactured home presently, but the intent is to either convert it into a sales office or to remove it entirely and replace with a new sales office. He reiterated, there would not be a non-conforming use on the property moving forward.

Mr. Stephenson stated another advantage is their potential access consolidation. He stated currently, the sales lot is located on a separate tax lot much further north, which they lease, and service occurs on the tax lot 1902, and tax lot 1900 serves for some storage of RVs. He added, their goal would be to consolidate all operations to one-site along Highway 11. They would use service on one tax lot and sales on the other making things a lot easier for Click-It RV. He expressed this would reduce trips between the sales and service locations that is also good for safety along Highway 11.

Chair Danforth stated she was aware of the sales lot to the further north location and asked if the goal would be to cease operation on the other lot with their plan to consolidate usage onto these two tax lots. Mr. Stephenson stated, yes, they can not only solve the zoning violation but can consolidate the business into these two parcels.

Mr. Kevin Smith stated the current set up causes a lot of confusion to customers and the cross traffic. He stated he hopes this will create a more seamless experience for customers and their facility operations. He added that there is a huge need for service, providing parts and sales of RV's, which has led to the growth of their operations. He stated that when they grew into the residential property, unbeknownst to them at the time was residential, they didn't know there was an issue until alerted by Code Enforcement.

Chair Danforth asked if they could explain their plan to reduce ingress and egress to the property and how that would be accomplished. She also added, on page 12 under Compatibility and Surrounding Land Use, it mentions the signalized intersection at Crockett Road and Highway 11. She stated she wanted to correct that for the record since this intersection does not have a signal. Mr. Stephenson agreed, he was aware this is no signal at this intersection and was not sure why the findings indicate that. He stated the reduction of traffic comes because they won't need to have the RV's towed onto Highway 11 from the two different sites. He stated there would now only be one access off of Highway 11, and one access to the north from Crockett Road.

Commissioner Gentry asked if they had approached the subject with ODOT yet or filed for permits. Mr. Stephenson stated ODOT received notice of this application and provided no comment. He stated, personally his dealings with ODOT, they like the reduction of access points on the highways so he didn't think there would be an issue. He reiterated the goal was to get the zoning change complete before moving forward with ODOT access permits once their operations are consistent with the Development Codes standards.

Commissioner Tucker had some questions about the flow of the property once the consolidation of the access points is complete and service and sales exist side by side. Mr. Smith demonstrated on-screen. He stated they would like to keep the centralized access point and allow it to funnel customers to one tax lot for service or the other for sales.

Commissioner Tucker asked how they intend to fit all of the RV's onto the property. Mr. Smith stated the shape of the property is much better accommodating to their needs and would allow for them to utilize the land to position their inventory.

Chair Danforth asked why it has taken them two years to get the application submitted and moving forward and why Click-It RV didn't do their due diligence with zoning before purchasing the properties. Mr. Stephenson stated they have been working solidly for at least a year to try to resolve the code violation. He expressed they have handled this situation like they would any other, with voluntary compliance approach. He stated the Planning and Code Enforcement team had asked them to meet benchmarks along this timeframe and they have been working towards them. He stated it took some time to gather the right materials and address the information necessary, including enlisting a traffic engineer whilst preparing the application. He also noted that this application was also not subject to the 120-day deadline or it may have been seen before the Planning Commissioner sooner.

Opponents: None

Public Agencies: None

Rebuttal Testimony: Mr. Garrett Stephenson, Counsel for the Applicant, 1211 SW 5th Ave. Ste. 1900, Portland, OR 97204; Mr. Kevin Smith, Sales Manager Click-It RV, 53816 W Crockett Rd, Milton Freewater, OR 97862; Mr. Stephenson stated he wanted to thank Bob and his team for helping them get to this point and the time of the Planning Commission for reviewing the materials. He added, the County Planning Department concluded they met all the applicable criteria and, on that basis, asked the Planning Commission to approve the application and do so without conditions of approval because it is a Plan Amendment and Zone change. He stated, if a condition of approval were imposed it would sit with the property forever, no matter how it is developed. He explained he feels if any condition were imposed it would be more specifically relevant to the use they would be conducting on site.

Commissioner Tucker stated the only risk would be in they never seek out a conditional use permit and someone decides to live in the manufactured home or they never convert the structure from residential use. Mr. Stephenson reiterated the risk was extraordinarily remote given the ownership and stated he thinks Mr. Waldher would agree, from a planning standpoint, they don't like to impose conditions on zone changes.

Mr. Smith stated as an operator for a business, logistically it makes more sense to operate within the same property. He added that they struggle at two different locations. The zone change would allow for them to operate the business simultaneously side-by-side.

Commissioner Gentry stated, in their position, whatever can be done to make this area more commercialized zone is the direction this community needs to head. He added, the reduction of limited access points could also help mitigate the cross traffic along the highway.

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

Chair Danforth closed the hearing for deliberation.

Questions were briefly exchanged between the in-person Planning Commissioners regarding if the property would be out of compliance if the owners used the manufactured home for residential purposes and it remains non-conforming if it is never converted.

Mr. Stephenson asked to reopen the record, so he could help answer their question.

Chair Danforth reopened the record for Mr. Stephenson to explain about the non-conforming use questions posed by the Planning Commissioners.

Mr. Stephenson stated if this were to move from rural residential to rural commercial, which is the type of zone they are requesting to move in to, there would not be an existing non-conforming use. He explained, unless the property were sold, and the house were occupied by another person, there would not be a non-conforming use. He stated there is a 100% intent to put a new sales office there, but simply having that non-conforming structure there does not make it a non-conforming use. It's a non-conforming structure in the sense that it is a residential structure on a commercial lot, but nobody's living in it.

Chair Danforth asked what if they wanted to use it for security years later. Mr. Stephenson stated the zone does allow for a caretaker dwelling. Mr. Waldher confirmed that is an allowed use for the zoning but would be accomplished through a conditional use application as a temporary caretaker dwelling.

Mr. Stephenson concluded stating, as a former planner himself, the profitability and marketable nature of this property favors commercial use far more than it would under residential use. He stated, it would have more value because it can be used for commercial use.

Chair Danforth again closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Tucker stated he understood the small risk still exists, but he was comfortable with approving this application without conditions of approval. He stated benefits were seen with the traffic impact analysis, enhancing the business operation itself, and reducing transportation access points.

Commissioner Standley made a motion to recommend approval of Plan Map Amendment P-137-24 and Zoning Map Amendment Z-324-24, to the Board of County Commissioners based on foregoing Findings of Fact and Conclusions of Law.

Commissioner Gentry seconded the motion. Motion carried with a vote of 8:0.

OTHER BUSINESS

Mr. Waldher stated there is no new upcoming business for the Planning Commissioner. He did hand out letters to the Planning Commissioners referencing the previous September Planning Commission from Mr. Garton and stated his appeal to the Board of County Commissioners was to be held on November 13th, 2024 at 9am.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:21PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

Minutes adopted by Planning Commission on December 19, 2024.