



PLANNING DEPARTMENT

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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, January 20, 2009 7:00 p.m.

Morrow County Planning Commissioners Members Present: Tucker Rice, Jim Key, Mifflin Devin, David Sykes, Pam Schmidt, Jeff Wenholz, Justin Nelson

Members Absent: none

Morrow County Staff Present:

Carla McLane, Planning Director; Lori Timmons, Associate Planner, Ryan Swinburnson, County Counsel

Vice-Chair Sykes called the meeting to order at 7:00 p.m.

Roll call was provided by Planning Director McLane.

Election of New Officers:

Motions were taken for the Planning Commission Chair. Commissioner Devin moved to nominate David Sykes as Chair. Commissioner Key seconded his motion. Motion Carried.

Motions were taken for the Planning Commission Vice-Chair. Commissioner Schmidt moved to nominate Jeff Wenholz as Vice-Chair. Commissioner Devin seconded her motion. Motion Carried.

Approval of Minutes:

Minutes of the December 2, 2008 hearing were reviewed by the Planning Commission. Commissioner Wenholz made the motion to approve the minutes as presented. Commissioner Rice seconded the motion. Motion Carried.

Chair Sykes read the Planning Commission Hearing Procedures.

Hardship Variance V-N-008-E09: Anna Jacoby, applicant, and Ellen Hendergart, owner. Property is described as tax lot 1409 of Assessors Map 4N 25 15 and is located south of Boardman on Hendergart Lane. Request is to allow continuation of a Hardship Variance. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) Article 4.130. Planning Director McLane presented the staff report. This application for continuation of a hardship variance is required as a Condition of Approval in the original Variance, which was approved in September 2005. A letter was provided to the Commission and other interested persons from the West Extension Irrigation District (WEID) indicating that the subject property is in the West Extension Irrigation District boundaries. Planning Director reviewed the letter for the audience.

Opened the Public Hearing:

No one spoke either in favor or in opposition to this application.

Closed the Public Hearing:

It was commented that the 60-day removal time frame for the manufactured home was sort of confusing given that the permittee has a 120-day time limit after not living at the permitted hardship dwelling to determine status of the permit. Planning Director McLane suggested a way to lessen the confusion by noting the code reference to the Conditions of Approval for each required time frame. The Commissioners noted the confusion yet decided to not change the language.

Commissioner Wenholtz moved to approve the application as presented and Commissioner Schmidt seconded his motion. Motion Carried.

Hardship Variance V-N-009-E09: Gloria Childers, applicant and owner. Property is described as tax lot 801 of Assessor's Map 4N 25 20 and is located south of Boardman at the intersection of Paul Smith Road and Canal Lane. Request is to allow continuation of a Hardship Variance. Criteria for approval include the MCZO Article 4.130.

Planning Director McLane presented the staff report. This application for a continuation of a hardship variance is required as a Condition of Approval in the original Variance, which was approved in April 1993. A comment letter was provided to the Commission and other interested persons from the WEID indicating that the property is inside the WEID boundaries, that there is a canal easement involving the property and that the Childers are using the canal road as access to their property and the District would like a Road Use Agreement to be signed by the Childers.

Mrs. Childers had expressed concern about the Condition of Approval for a Rural Address for the Hardship Dwelling in that it could cause undue hardship for Ms. Foster, her daughter and caregiver. Planning Director McLane indicated that in this case a Rural Address for the hardship dwelling was not required back in 1993, but the policy of the County now is that all dwellings be provided an emergency response address when they are permitted. She recommended the applicant should obtain a proper rural address for the hardship dwelling.

Opened the Public Hearing:

Vickie Foster - Gloria Childers' daughter

Ms. Foster spoke in favor of the application and did request the address for the hardship dwelling remain the same. She also indicated that if the Commission requires the address to change, she will not have a problem with it. Mrs. Foster shared that there is one address marker at the property. Planning Director McLane said that the Ordinance indicates that the Childers must apply for a rural address and there really isn't a way around it given the language of the Rural Addressing Ordinance.

Closed the Public Hearing:

Commissioner Rice moved for approval with one minor correction to the application number on the Staff Report title and the requirement that the applicant work with WEID as requested by the WEID manager in her letter. The Commission discussed that request and decided that this request would be outside the approval criteria and therefore not enforceable. Commissioner Rice amended his motion to approve the application as presented with the minor correction. Commissioner Wenholtz seconded his motion. Motion Carried.

Land Partition LP-N-399 and Conditional Use Permit CUP-N-262: City of Irrigon, applicant, and Anacapa Land Company, owner. Property is described as tax lot 100 of Assessor's Map 5N 27 31 and is located approximately two miles south of Irrigon on Depot Lane just north of the Army Depot. Request is to partition a 418.71-acre parcel into two parcels. Criteria for approval include the Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

Planning Director McLane presented the staff report. She reminded the Commission that this application is connected to a previous land partition (LP-N-368) and Conditional Use (CUP-N-233) of the water reservoir the City of Irrigon perfected that was approved by the Planning Commission in December 2006. This application is based on a requirement from the Oregon Department of Water Resources for an overflow area. Planning Director McLane indicated that Planning Staff considered this application as being connected to the approval for the reservoir. This particular application will cause no impact to the transportation system or parking and no structures are proposed.

Opened the Public Hearing:

Leann Rea, Rippee Road, Boardman

Mrs. Rea asked if there was a way for this overflow area to be marked to be sure it will not be developed. She asked this question because WEID had land designated as a spillway which was not kept as such; houses ended up being built on it. Planning Director McLane indicated that the Planning Department would keep a notation of its status in the maps. Additionally, this land has been deed restricted by the Army as it is adjacent to the U.S. Army Depot.

Commissioner Wenholtz commented that the crossing agreement which has expired as commented on in the Findings and the WEID letter are a matter of County concern and need to be a part of the record. Planning Director McLane indicated that it is part of the record and the need for dealing with the expired road use agreements in that area have probably gotten lost during staffing changes at the County level. This agreement is probably one of maybe half dozen crossing agreements the County needs to deal with and it is not the responsibility of the applicant or the land owner to accomplish.

Armand Kluehe, Ione

Mr. Kluehe had some questions for the Commission. Is the water reservoir already there and will the overflow area be engineered to catch the overflow area? Planning Director McLane responded that it has been completed and the overflow area will not be engineered; the sand at the area will absorb the water if it overflows.

Closed the Public Hearing.

Planning Director McLane told the Commission that there has been no actual sign-off from Anacapa Land Company as the land owner for this action. She believes, because there has been correspondence with Anacapa's legal counsel, there won't be a problem getting permission from them. At this point the Commission had two options for this application. They could decide to condition the approval upon receiving written signoff from Anacapa, or the Commission could continue the hearing to a later date in order to receive the written signoff. Commissioner Nelson's opinion was that Staff should wait for approval of the owner by continuing the application to the next hearing. Commissioner Wenholtz made the motion to approve the application with the Condition that the County receive approval in writing from the owner. His motion was seconded by Commissioner Schmidt. Ays: Key, Devin, Wenholtz, Schmidt. Oppose: Nelson, Rice. Motion Carried.

Zoning Amendment AZ-010-08: Space Age Industrial use zone. Morrow County, applicant, and Threemile Canyon Farms, Inland Land Company, City of Boardman, Umatilla Electric Cooperative, and BAIC, Inc., owners. Property is described as tax lots 119, 120, 121 and 122 of Assessor's Map 4N 24 and tax lots 100 and 112 of Assessor's Map 3N 24. The properties are located west of Boardman along Tower Road south of Interstate 84. Request is to modify the use zone language to allow the siting of utility facilities necessary for public service meeting the criteria found in Oregon Revised Statute (ORS) 215.275. Criteria for approval include MCZO Article 3 Section 3.072, Space Age Industrial, and Article 8 Section 8.050, Burden and Criteria.

Commissioner Wenzholz stated for the record that he is a member of the Umatilla Electric Cooperative, but believes he will be able to be unbiased in this situation.

Planning Director McLane presented the staff report. She told the Commission that this application came about as part of the consideration of the work to be done by the County to facilitate transmission lines through the Space Age Industrial (SAI) zone. The Space Age Industrial zone was codified in Statute in the 1960s and the language allowing its uses does not include transmission of electricity. The language proposed to be included in the SAI zone is from the EFU zone. The initial request by the County was to add language allowing utility facilities necessary for public service. Secondary additions to the language was the result of the request of the manager of Threemile Canyon Farms, Marty Myers, to add language allowing wind farms. Additionally, language was aligned with updated language in other resource zones requiring a zoning permit and Site Development Review as required by the Zoning Ordinance.

Opened the Public Hearing:

David Gottule, 980 W. Elm, Hermiston, Umatilla Electric

Mr. Gottule asked the Commission and Staff to explain exactly what Utilities Necessary for Public Service means. Planning Director McLane explained that this means big transmission lines. Generated power would be transmitted via this process. This is not meant to affect his ability to provide service to the local landowner.

Scott Allen, 2724 Stone Creek Drive, Richland, WA

He had a question about the intent of the use of this land and what other uses could fall into this category. Planning Director McLane referred to the attached map and explained that development is severely restricted within this zone, in fact, farming wasn't allowed until it was added subsequent to the zone's creation. As staff, this action will make life easier for future actions. He then asked how the decision would affect the City of Boardman and the current businesses that are there. Planning Director McLane said probably no impact, because it is used as farmland and to not allow uses that are allowed on farmland would be problematic. Commissioner Sykes indicated that this body is not considering a wholesale change in the zone. The only thing the Commission is looking at is whether or not to allow utility facilities. There is no one asking the Commission, or the public, to make any other changes to the SAI zone and that would be a subject for a possible future action. Planning Director McLane also mentioned that the industrial designation also holds, albeit weak, ability for development of uses other than agricultural uses that could be supported within an "industrial" zone. Commissioner Nelson asked Mr. Allen to clarify his question. Mr. Allen clarified his concern about a "Walmart effect" happening to the city of Boardman. Could this decision cause some unforeseen detrimental effects? Commissioner Wenzholz clarified for Mr. Allen that this action only changes the ability to place utility facilities and power generation facilities. Any other changes would most likely require a complete zone change. Commissioner Nelson told Mr. Allen that future

actions may well address his specific concerns better than this particular action.

Armand Kluehe, lone

Mr. Kluehe asked what BAIC means. He also asked some questions about the transmission lines that are being proposed. Planning Director McLane provided a history of the area, including the information that BAIC means Boeing Agricultural Industrial Corporation and of how many and where transmission lines could be located. The definition of "public service" does not include a wind power facility or other facility for commercial use.

Closed the Public Hearing.

Commissioner Devin moved and Commissioner Rice seconded his motion to continue this application to the next regularly scheduled hearing date. Motion Carried.

Continued from December 2, 2008, Transportation System Plan (TSP) minor amendments. The TSP requires amendments to update the Roadway Systems Projects list, bridge deficiency list, add language to support the Blue Mountain Scenic Byway, include the Forest Road Agreement Map and Forest Highway Segment Map, update the functional classifications as needed to reconcile with State information, and adopt a five lane road standard. This is the second of two Planning Commission public hearings to be followed by at least one County Court public hearing prior to adoption. Criteria include the Morrow County Comprehensive Plan chapter on amendments and the Transportation System Plan.

Planning Director McLane presented the staff report. She indicated that the only changes to the TSP from the last hearing date were changes to the estimated cost of the East Industrial Area Access. The Port is considering a new interchange which is planned for in the next few years, but will necessitate an increase in the dollar amount of the work. Planning Director McLane requested the Commission forward this action to the County Court. Planning Staff will wait to receive information from ODOT for the federal classification maps before scheduling the hearing with the County Court.

Commissioner Wenzholz asked about the requirement for engineers for TIA work. Planning Director McLane indicated that state law does not require traffic engineers, but only that the person be an engineer. Commissioner Wenzholz questioned this lack of requirement and promoted the benefit a traffic engineer would provide. Planning Director McLane expressed her fear that an engineer, such as Ron McKinnis of the Port of Morrow, would then be precluded from the process, but would still be perfectly able to perform the work.

Opened the Public Hearing:

In Favor: no one spoke in favor of this application.

In Opposition: no one spoke in opposition to this application.

Closed the Public Hearing:

Commissioner Wenzholz moved to approve the application and to forward it to the County Court for approval with the addition that the engineer who will perform the work be a traffic engineer. His motion was seconded by Justin Nelson. Motion Carried.

Audience Participation:

None

Planning Commissioner Training:

- Planning's Seven Dirty Words
 - Planning and Religious Land Use-Lessons from South Dakota
- Planning Director McLane explained the two articles provided. She went through the Seven Dirty Words and explained the religious land use lessons.

Other Business/Correspondence

- Legislative Update: There are 6 bills being tracked: HBs 2225 (affordable housing), 2226 (Exemption of destination resorts in the Metolius Basin), 2227 (destination resort concepts proposed to limit the development of destination resorts as 2nd home communities and associated traffic impacts), (affordable housing for destination resort housing), 2228 (transfer of development rights), 2229 (big look task force recommendations), 2230 (state agency coordination program, LUCS).
- Threemile Canyon Farm Permit Update
 - Threemile Canyon Farm Tour? Planning Director McLane suggested May or July. The Commission thought it was a good idea.
- Speedway Update. A map and newsletter was provided.
- February Agenda. Multiple applications at this point.
- County Court Happenings: Planning Director McLane discussed Regional Haze rulemaking, City-County-Port meeting and Enterprise Zone, wages in Morrow County, wind (noise) (transmission grid), and water (the County will probably need to move toward adopting a guidance plan). Code Enforcement Ordinance update work. Planning Director McLane offered to provide a copy of the draft document.
- Review of Hardship Variances: Planning Director McLane requested the Commission allow Staff to review Hardship Variances ministerially. The Commission agreed to an amendment to the Hardship Variance language to allow for ministerial review of Hardship Variance permits.
- Review of Home Based Businesses is underway.
- Wind: Staff is working on language for a Wind Ordinance.

Adjournment:

The meeting was adjourned at 10:15 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, February 24, 2009 at 7:00 p.m. in Lexington, Oregon.

Respectfully Submitted,
Lori Timmons



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**Minutes of the Public Hearing of the
Morrow County Planning Commission
Tuesday, February 24, 2009 7:00 p.m.**

Morrow County Planning Commissioners Members Present: Pamela Schmidt, David Sykes, Justin Nelson, Jim Key, Jeff Wenholz, Mifflin Devin, Tucker Rice

Members Absent: None

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner; Burke O'Brien, Public Works Director

Chair Sykes called the meeting to order at 7 p.m.

Roll call was provided by Planning Director McLane.

Minutes of the January 20, 2009 hearing were reviewed by the Planning Commission. Commissioner Devin mentioned an error on the first page where we indicated that Vice Chair Sykes read the Planning Commission Hearing Procedures; at that point David Sykes was actually the Chair. Commissioner Rice made the motion to approve the minutes as presented with the one correction. Commissioner Devin seconded the motion. Motion Carried.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Planning Director McLane asked the Planning Commission to re-arrange the agenda sequence in order to accommodate the few audience members attending the hearing. The Commission agreed to this request.

Continued from January 20th, Zoning Amendment AZ-010-08: Space Age Industrial use zone. Morrow County, applicant, and Threemile Canyon Farms, Inland Land Company, City of Boardman, Umatilla Electric Cooperative, and BAIC, Inc., owners. Property is described as tax lots 119, 120, 121 and 122 of Assessor's Map 4N 24 and tax lots 100 and 112 of Assessor's Map 3N 24. The properties are located west of Boardman along Tower Road south of Interstate 84. Request is to modify the use zone language to 1) allow the siting of utility facilities necessary for public service meeting the criteria found in Oregon Revised Statute (ORS) 215.275 and 2) to allow the siting of commercial energy facilities conditionally. This is the second of two Planning Commission public hearings to be followed by at least one Count Court public hearing prior to adoption. Criteria for approval include MCZO Article 3 Section 3.072, Space Age Industrial, and Article 8 Section 8.050, Burden and Criteria.

Commissioner Wenholz declared that he is a member of the Umatilla Electric Co op but will be able to be unbiased concerning this action.

Planning Director McLane reviewed the Staff Report for the Commission. She explained that the formal application for the proposed transmission line has not been made to the State yet. Application to the State could potentially be made a bit easier as this new language would provide clear and objective standards in the SAI zone. The City of Boardman owns some property in the SAI zone, and the balance is owned by BAIC. Boeing Company could potentially carry out activities compatible to the zoning, but ironically Boeing's operations in the general area occurs on land zoned General Industrial. Planning Director McLane covered every change made to the language of the zone. She then distributed to the Commission and the audience a letter provided as comments from the City of Boardman.

Commissioner Wenzholz asked why the change was made in the part from CUP to allow for ministerial review. Carla explained that this comes from the new Resource Related Industrial use zone. She went over the new sections one more time and explained that this language allows for more flexibility for decisions within the zone and treats it, in some respects, like a resource zone.

Commissioner Nelson asked if there needed to be an additional hearing based on the fact that the language was changed to the zone. Planning Director explained that the Planning Commission needed to hear it two times, but that changes are anticipated through the hearings process. Then the County Court will hear the request at least once. Commissioner Nelson was thinking that, based on the changed language and the size of the letter from Boardman, he would think a continuance would be necessary. This opinion was concurred by David Sykes.

Opened the Public Hearing:

Testimony in favor of the zone change:

There was no one in the audience who testified in favor of the zone change.

Testimony as a neutral party or against the zone change:

Barry Beyeler, Community Development Director, City of Boardman

Mr. Beyeler spoke of Boardman's concerns about the proposed changes. He indicated that Boardman is not necessarily against the proposed changes, and he does understand why the County is undertaking the changes. Nevertheless, the City is opposed to the preferred location and would like to see a change in the "preferred route" of the transmission line. The transmission lines already there are an acute hindrance to development and more would add to Boardman's concerns. Their second concern is as a property owner of SAI land purchased in order to develop a waste water treatment facility. Boardman still has plans to develop the facility and would also like to see Code language to allow development of a waste water treatment facility on SAI zoned land. Mr. Beyeler believes the City and the County could come up with language to facilitate this and he requested some coordination with the County regarding Boardman's concerns as expressed in the provided letter.

Leslie Nelson, The Dalles, Manager and Representative of The Nature Conservancy

Ms. Nelson spoke as a neutral person concerning this action. She told the Commission the Boardman Conservation Easement does not allow construction of utility towers or facilities on the land, and this does not matter what the underlying zoning is. She spoke of this as a clarification to the Commission as to why there is no proposal for the facilities to go through the Conservation Easement. Ms. Nelson discussed the different papers that exist concerning the conservation easement and the conservation area. She stressed that the easements are upheld by the State of Oregon, not the Nature Conservancy.

Closed the Public Hearing:

Commissioner Rice asked Planning Director McLane about Umatilla Electric and how they are involved. There is a small tax lot on the edge of the proposed speedway property and within the city property owned by UEC. The new language will actually allow the UEC substation to exist and allow for extension of service to customers. She indicated that working on language to allow the wastewater treatment facility would be an easy fix. The Commission discussed continuing the action to the next meeting in order to fully understand the letter provided by the City of Boardman. Commissioner Rice asked for an email notification of issues after the packets have been sent out. Commissioner Rice then moved to continue the hearing to the next hearing date. Commissioner Devin seconded his motion. Motion Carried.

Replat R-S-013-09, a replat of Partition Plat 2004-3: Daniel and Rita Van Schoiack, applicants, and Daniel and Rita Van Schoiack and Joseph and Jeri McElligott, owners. Property is described as tax lots 3404 and 3405 of Assessor's Map 5S 26. The property is zoned Forest Use (FU) and is located near the "Parker's Mill" area south of Hardman on Sunflower Flat Road. Request is to relocate the existing 10-acre parcel to the east approximately 500 feet. Criteria for approval include the MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report and explained the history of this particular property. The property is zoned Forest Use and the code language required a deed restriction in order to allow the creation of the 10-acre parcel. At the time of the last land partition the Commission allowed McElligotts to create a 280-acre piece but deed-restrict it as required. At this time the applicant is requesting shifting the parcel to the east. The deed restriction needs to be redone because the parcel has a new configuration. Planning Director McLane also indicated that the fire siting standards need to apply to the new dwelling.

Opened the Public Hearing:

Daniel Van Schoiack, applicant

Mr. Van Schoiack spoke in favor of the application. The house is old and needs replacement. There has also been some development across the road and relocation would be beneficial.

Closed the Public Hearing:

Commissioner Rice asked about replacement only and Carla said replacement anywhere on the 10-acre parcel would be a simple Zoning Approval, along with the building permits. Commissioner Wenzholz moved and Commissioner Devin seconded to approve the application with the minor editing fixes. Motion Carried.

Land Partition LP-N-400 and Replat R-012-09, a replat of Partition Plat 2003-6: Virgil and Shirley Cromer, applicants and owners. Property is described as tax lot 803 of Assessor's Map 4N 25 16. The property is zoned SR (Suburban Residential) and is located within the urban growth boundary of Boardman. The property is located south of Boardman on Olson Road. Request is to partition a 3.65-acre parcel into two parcels. Criteria for approval include the Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

Planning Director McLane presented the staff report. Staff discussed the concerns of the applicant and the planning staff about creating the new parcel. The applicant does not desire to effect a change of use of the proposed new parcel as their desire was to create a 1-acre parcel to contain the existing dwelling. The requirement for site suitability on the other, bare parcel would be a problem and the Cromer's do not intend to seek site suitability. Staff discussed a conversation with Mrs. Cromer in that their desire could be better accomplished via a property line adjustment.

Opened the Public Hearing:

There was no one in attendance who spoke in favor of or against this application.

Comments neutral or against:

Barry Beyeler, City of Boardman Development Director

Mr. Beyeler mentioned that the City of Boardman has no plans to develop roads on the west side of the property. The property to the north of the application may have some connectivity in the future, but as it is now there is nothing that would hold up the application.

Closed the Public Hearing:

Commissioner Sykes asked about getting site suitability at this location and Planning Director McLane assured him that Planning Commission approval will not hinder the applicant, that the applicant would need to meet the Conditions of Approval, which require DEQ approval for site suitability.

Commissioner Wenzholz asked Staff about some comments provided by the West Extension Irrigation District. The WEID manager did not agree with language contained in the Findings in which Staff recommended the applicant keep irrigation water rights attached to their property. The manager of WEID wanted to clarify that under state and federal water law there is no distinction between agricultural water and residential water for irrigation purposes. The purpose of the statement in the Findings was to inform the applicant that if they so choose to remove all WEID irrigation rights, utilizing a domestic well for irrigation only allows for a limited amount of water for irrigation purposes.

Commissioner Schmidt moved to approve the application as presented. Commissioner Key seconded her motion. Motion Carried.

Land Partition LP-S-402: William C. Van Schoiack, applicant, and R.G. Van Schoiack Trust, owner. Property is described as tax lot 2900 of Assessor's Map 4S 24. The property is zoned EFU and is located southwest of Heppner on Buttermilk Canyon Road. Request is to partition a 4364.10-acre parcel into two parcels both meeting the minimum acreage requirement. Criteria for approval include the MCSO Article 5 Land Partitioning. Planning Director McLane presented the staff report. She described where the new 160-acre parcel is proposed to be and indicated that the partition meets the requirements for a partition in the Exclusive Farm Use Zone.

Opened the Public Hearing:

Daniel Van Schoiack, Trustee

Mr. Schoiack spoke in favor of this application and indicated that it meets the land use goals in the County.

Closed the Public Hearing:

Commissioner Wenzholz made the motion to approve the application as presented and Commissioner Rice seconded his motion. Motion Carried.

Subdivision SD-N-222 and Variance V-N-013: Suzanne Frederickson, applicant and owner. Property is described as tax lot 203 of Assessor's Map 4N 25 14C. The property is zoned Farm Residential (FR) and is located approximately two miles southeast of Boardman south of the intersection of Wilson Lane and Downey Road. Request is to subdivide a 13.78-acre parcel into seven 1.9-acre parcels, applying a 10% area variance. Criteria for approval include the MCSO and MCZO Article 7 Variances.

Planning Director McLane presented the Staff Report. This subdivision involves Downey Road, which was created before the TSP was adopted. Therefore, Downey Road is not developed to Morrow County road standards. The history of this road also is problematic because connection of Downey Road to Wilson Lane is an easement, not the required public Right-of-Way. The staff report deals with these issues. Planning Director McLane discussed her concern with the variance. Planning Director McLane passed out the two letters that were received, one from WEID and one from Lila Killingbeck, a neighboring landowner. Ms. Killingbeck is opposed to the variance based on her concerns with wells and septic density. She is also concerned that if well water is used to irrigate lots rather than WEID water, that activity would lower the water table.

There was a discussion concerning the variance. Planning Director McLane indicated her concern that the applicant will not be able to meet the 1.9 acre minimum lot size due to the internal road requirement. Additionally she indicated her desire to research whether or not the applicant would need to apply for a Goal 14 Urbanization exception if they create parcel sizes under 2 acres. She requested that if the Commission approves the Variance to require a lot size of no less than 1.9 acres. She also requested the Commission continue this application in order to give Planning Staff time to look into the Goal 14 question.

Commissioner Wenholtz brought up his concern about allowing a phased road development because there has been some experience in the County the phases never happened as planned. Planning Director McLane indicated that the Conditions of Approval do require the development of the roads before she would sign the plat, just that they would not be to the paved standard. Commissioner Wenholtz said he would agree with phased development if the developer would at least develop the roads to a minimum gravel standard.

Public Works Director Burke O'Brien said he believes it is a mistake to allow the internal road to be gravel and Downey Lane to be paved. He believes the whole road system should be paved. He was also puzzled about WEID requirement for access to the canal. At the point the WEID canal property ends they can put up a gate. He doesn't think there needs to be a private easement. When you give WEID authority over that road, sometime in the future this could become an issue. He thinks putting up a gate is much simpler. The Commission discussed this situation. Planning Director McLane offered to work on language requiring the internal road be paved based on an Average Daily Trip analysis covering all of the development on Downey Lane, not just this proposed subdivision. The Commission agreed to this suggestion and also agreed to consider a Condition to install a gate at the canal instead of granting WEID an easement.

Opened the Public Hearing:

There was no one in attendance to speak in favor of this application.

Testimony against or neutral:

Barry Beyeler, Boardman Community Development Director:

Mr. Beyeler said that he is not convinced the applicant will be able to obtain site suitability for every proposed lot. The water table isn't as bad as it used to be, but with the extra dwellings it could have an impact on water quality and quantity. Septic would also be problematic in this area, especially concerning nitrate loading of the water table. He suggested the applicant master plan between wells and planned septic systems.

Closed the Public Hearing:

Commissioner Schmidt asked if the Commission could approve fewer lots. Planning Director McLane indicated the Commission could, but it could be grounds for an appeal.

The Commission decided to continue the application based on the following:

- The need to look in the applicability of Goal 14 in this situation;
- The applicant did not attend the hearing and could not answer specific questions the Planning Commission had.
- The wide-ranging discussion of the Planning Commission covering the Commission's desire to have the internal road paved and the substantial language changes needed, the discussion concerning the easement for WEID and the fact that the zoning across the canal is residential and that, perhaps, there would be a need for a road there in the future.
- The question as to whether the Variance should be approved based on the requirements for the internal road and water quality issues.

Commissioner Devin motioned for continuance to the next regularly scheduled hearing. His motion was seconded by Commissioner Schmidt. Motion carried

Hardship Variance HV-S-010-E09: Denny and Linda Nave, applicants and owners. Property is described as tax lot 3405 of Assessors Map 2S 26. Property is zoned Exclusive Farm Use (EFU) and is located north of Heppner on Dee Cox Road. Request is to allow continuation of a Hardship Variance. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) Article 4.130.

The Naves are friends of Pam Schmidt. She declared that she will be able to be objective in her decision.

Planning Director McLane presented the staff report. Staff did not require the Naves record a Right-to-Farm Disclaimer Statement at the time of the original approval. Carla indicated that in this instance it would not be required.

Opened the Public Hearing:

No one was in attendance to testify in regards to this application.

Closed the Public Hearing:

Commissioner Wenholtz made the motion to approve the request as presented and Commissioner Devin seconded his motion. Motion Carried.

Hardship Variance HV-N-011-E09: Carolyn Moore, applicant and owner. Property is described as tax lot 1100 of Assessor's Map 4N 25 15. The property is zoned Farm Residential (FR) and is located south of Boardman near the intersection of Kunze Lane and Miller Road. Request is to allow continuation of a Hardship Variance. Criteria for approval include the MCZO Article 4.130.

Planning Director McLane presented the staff report.

Opened the Public Hearing:

No one was in attendance to testify in regards to this application.

Closed the Public Hearing:

Commissioner Wenholtz made the motion to approve the request as presented and Commissioner Devin seconded his motion. Motion Carried.

Audience Participation

None.

Other Business/Correspondence

- Planning Commissioner training coming up in April.
- County Court Update and Legislative Update
- Putting the People in Planning handout.

Adjournment:

The meeting was adjourned at 10:30 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, March 31, 2009 at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,
Lori Timmons



PLANNING DEPARTMENT

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**Minutes of the Public Hearing of the
Morrow County Planning Commission
Tuesday, March 31, 2009 7:30 p.m.**

Morrow County Planning Commissioners Members Present: Jeff Wenholz, Tucker Rice, Miffilin Devin, Jim Key, David Sykes, Justin Nelson, Pam Schmidt, Pam Docken

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner; Ryan Swinburnson, County Counsel

Chair Sykes called the meeting to order at 7:30 p.m.

Roll call was provided by Associate Planner Timmons.

Minutes of the February 24, 2009 hearing were reviewed by the Planning Commission. Commissioner Schmidt made the motion to approve the minutes as presented. Commissioner Devin seconded her motion. Motion Carried.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Planning Director McLane and the Planning Commission welcomed new Planning Commissioner Pam Docken to the Planning Commission.

Continued from January 20th, Zoning Amendment AZ-010-08: Space Age Industrial use zone. Morrow County, applicant, and Threemile Canyon Farms, Inland Land Company, City of Boardman, Umatilla Electric Cooperative, and BAIC, Inc., owners. Property is described as tax lots 119, 120, 121 and 122 of Assessor's Map 4N 24 and tax lots 100 and 112 of Assessor's Map 3N 24. The properties are located west of Boardman along Tower Road south of Interstate 84. Request is to modify the use zone language to 1) allow the siting of utility facilities necessary for public service meeting the criteria found in Oregon Revised Statute (ORS) 215.275 and 2) to allow the siting of commercial energy facilities conditionally. This is the third of at least three Planning Commission public hearings to be followed by at least one County Court public hearing prior to adoption. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.072, Space Age Industrial, and Article 8 Section 8.050, Burden and Criteria. Commissioner Wenholz declared that he is a member of the Umatilla Electric Coop, but will be able to be unbiased concerning this action. Planning Commissioner Docken also stated that she must abstain from any decision involving this action because she is a member of the Mountain Valley Real Estate Company and they have a pending land sale involving this property.

Planning Director McLane shared new letters of comment from the Navy and the Oregon Military Department concerning this action. She commented that since the last hearing there has been agreement with Barry Beyeler of the City of Boardman as discussed at the last

Continued from January 20th, Subdivision SD-N-222 and Variance V-N-013: Suzanne Frederickson, applicant and owner. Property is described as tax lot 203 of Assessor's Map 4N 25 14C. The property is zoned Farm Residential (FR) and is located approximately two miles southeast of Boardman south of the intersection of Wilson Lane and Downey Road. Request is to subdivide a 13.78-acre parcel into seven 1.9-acre parcels, applying a 10% area variance. Criteria for approval include the Morrow County Subdivision Ordinance (MCSO) and MCZO Article 7 Variances.

Planning Director McLane presented the Staff Report. She discussed the changes made based on the comments of the Commission at the last hearing. Most of the changes were made relative to the discussion on roads. On the south portion of Downey road there could be eventual connectivity to the residentially zoned area south of the WEID canal. The County would like to assure connectivity to that area.

The Variance concerning the 1.9-acre lots and Goal 14 was then discussed. The Goal language is clear that it is a 2-acre minimum and anything less than two acres becomes urban, and an exception must be taken. The Commission can approve the application as presented, but stipulate that in order for the plat to be signed, they must meet the requirements of Goal 14. Staff did not recommend the Commission deny the Variance, but did indicate that Goal 14 would have to be met if the Variance would be approved.

Opened the Public Hearing:

Suzanne Frederickson, Boardman, Applicant

Ms. Frederickson spoke in favor of the application. She said that to develop the subdivision at 6 lots would not provide the income needed to make the project a go and they would need the variance. Planning Director McLane explained the need for the applicant to meet the requirements of Goal 14. Commissioner Schmidt explained why the Commission had concerns about creating lots smaller than 2 acres. This was based on soil types in the area, the depth to groundwater and the need to develop wells and septic systems, less than two acres was of concern. Commissioner Docken asked the time line for the Goal 14 work and Planning Director McLane guessed about 6 months. Additionally, the application fee would be \$750.00 plus the probable need of a land use attorney. Ms. Frederickson said that partitioning would not pay because of the requirement of the need for improvements to Downey Road. She also indicated that going through the Goal 14 process would be more than she would be willing to embark on. Commissioner Nelson also indicated that creating the internal road would also subtract enough land to reduce each lot size to less than 1.9 acres each. Planning Director McLane explained that all of the requirements by the County in this application are required by the TSP and the County's desire to meet a minimum standard.

Closed the Public Hearing:

Commissioner Wenholtz asked Ms. Frederickson if she would rather the Commission approve six lots. Ms. Frederickson asked if there would be some allowances for her, given the lesser number of lots. Planning Director McLane told her that the subdivision would need to be done in one year with a one-year extension available. The Commission discussed a way to allow Ms. Frederickson to develop her land given the lawful limitations. They discussed changing the request to allow for up to 6 lots and if they want the seven lots the variance would apply, but would require the Goal 14 exception. It was agreed to change the request line to read: "To subdivide the lot creating up to 7 lots potentially applying an area variance."

Commission Wenholtz moved and Commissioner Key seconded the motion to approve the subdivision with the discussed changes to the request line. Motion carried.

Land Partition LP-N-403: Shannon Collins and James Houle, applicants, and Ann R. Cimmiyotti Trust, owner. Property is described as tax lot 5202 of Assessor's Map 4N 26 (35). The property is zoned EFU and is located approximately 2 ½ miles south of Interstate 84 on Poleline Road. Request is to partition a 318.18-acre parcel into two parcels. Criteria for approval include the MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. This application is for a standard farm partition. One parcel will be slightly smaller than 160 acres, but will meet the standard as a survey adjustment allowed under the Subdivision Ordinance.

Opened the Public Hearing:

No one spoke in favor or in opposition to this application.

Closed the Public Hearing:

Commissioner Rice made the motion to approve the application as presented. The motion was seconded by Commissioner Schmidt. Motion Carried.

Replat R-015-09: Threemile Canyon Farms and Port of Morrow, owners. Property is described as tax lot 100 of Assessor's Map 2N 23, tax lot 100 of Assessor's Map 2N 24, tax lot 100 of Assessor's Map 3N 23, tax lot 100 of Assessor's Map 3N 24, tax lots 100 and 110 of Assessor's Map 4N 23, and tax lots 100, 121, 123, 124, 125, 126, 127, 128, 129, and 130 of Assessor's Map 4N 24. The property is zoned General Commercial (MG), Space Age Industrial (SAI) and EFU. Request is to approve replats on at least two previous Partition Plats, excluding lands in Gilliam County, to correct platting errors. Criteria for approval include MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. This action is a response to a mistake on two previous applications for a land partition and the County Surveyor is requiring the replat. The cost of the application was not charged to the landowner, but the landowner will have to bear the cost of the required replats and the recording costs.

Opened the Public Hearing:

Doug Hojem, Attorney for BAIC

Mr. Hojem spoke in favor of this action. He indicated that BAIC will be working on this process and is willing to do what it takes to finish this action.

Closed the Public Hearing:

Commissioner Key made a motion to approve the application as presented. The motion was seconded by Commissioner Devin. Motion Carried.

Other Business/Correspondence

- County Court Update: Planning Director McLane shared that the Court has been discussing wind, transmission, the Local Reuse Authority (LRA) and the Army Depot, and the Columbia River Enterprise Zone. Wind has had to do with the noise complaint and Invenergy has hired a noise consultant. There will probably be some changes to our code based on our learning around County experience with noise issues and wind siting generally.
- Legislative Update: The legislature is still in session and there are lots of land use bills - at least 30. Some of them included uses in the Farm Use Zone; HB 3100 is the metolius basin protection proposal.
- Code Enforcement Update. Slated to be heard before the County Court on April 15th.



PLANNING DEPARTMENT

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**Minutes of the Work Session
Morrow County Planning Commission
Tuesday, March 31, 2009 6:00 p.m.**

Members Present: Tucker Rice, Jim Key, Mifflin Devin, David Sykes, Pam Schmidt, Jeff Wenholz, Justin Nelson

Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner

Morrow County Planning Director Carla McLane presented a work session concerning electrical transmission in and through the County in a general perspective. The work session was originally to be concerning Idaho Power and its proposals for transmission through the County, but Idaho Power does not have any proposals to present to the public at the moment.

- **Transmission - Is there a need?**

Planning Director McLane introduced two facets of electrical transmission in the County: Local transmission lines that deliver power locally (to your door service provided locally by Umatilla Electric and Columbia Basin Electric) and the grid as visible by the big power lines most conspicuously running through the City of Boardman.

Planning Director McLane shared a map of meteorological towers in the County explaining that the towers could represent future wind facility applications. The county has approved four conditional use permits for wind facilities and does expect more based on the number of permits for met towers. Transmission lines as necessary parts of these projects will certainly become an important part of the approval process, especially since a transmission line in nearby Umatilla County caused some intense local concern.

The bigger grid, as represented by the "New Transmission Projects in the Northwest Planned Operation: 2010 - 2015" map provided to the Commission, was then discussed. Planning Director McLane informed the Commission that there have been some transmission providers already contacting the County concerning these larger grid connections.

- **Projects being planned:** Idaho Power Boardman to Hemingway; PGE Southern Crossing; and PacifiCorp Canada to Northern California. The agenda provided a website link for the Commission to access further information.

- **Process: a three legged stool**

First Leg: The Energy Facility Siting Counsel (EFSC) who have as staff the Oregon Department of Energy. The EFSC is the siting authority for the large transmission lines and will incorporate local approval criteria in their approval process.

Second Leg: Federal Lands Component: National Environmental Policy Act requires an Environmental Impact Statement process for a transmission project involving federal lands.

Third Leg: The Oregon Public Utility Commission (PUC) will be involved with the process in that they provide the required Certificate of Need for the project.



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, April 28, 2009 7:00 p.m.

Morrow County Planning Commissioners Members Present: Jeff Wenholz, Tucker Rice, Jim Key, David Sykes, Pam Schmidt, Pam Docken, Justin Nelson (arrived about 7:45, acknowledged 8:50)

Members Absent: Mifflin Devin, excused

Morrow County Staff Present:

Carla McLane, Planning Director; Lori Timmons, Associate Planner; Ryan Swinburnson, County Counsel

Chair Sykes called the meeting to order at 7:12 p.m.

Roll call was provided by Planning Director McLane.

Minutes of the March 31, 2009, Planning Commission meeting and the associated Work Session were reviewed by the Planning Commission. Planning Commissioner Wenholz made a motion to approve both sets of minutes with a minor correction to the Planning Commission meeting minutes to correct the statement that Chair Sykes, not the Vice-Chair Sykes, called the meeting to order. His motion was seconded by Commissioner Rice. Motion carried.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Continued from February 24th and March 24th, Subdivision SD-N-222 and Variance V-N-013: Suzanne Frederickson, applicant and owner. Property is described as tax lot 203 of Assessor's Map 4N 25 14C. The property is zoned Farm Residential (FR) and is located approximately two miles southeast of Boardman south of the intersection of Wilson Lane and Downey Road. Request is to subdivide a 13.78-acre parcel. Criteria for approval include the Morrow County Subdivision Ordinance (MCSO) and the Morrow County Zoning Ordinance (MCZO) Article 7 Variances.

Planning Director McLane explained to the Commission and the audience the reason this application is before the Commission. The applicant had expressed, before the Planning Commission Chair had the opportunity to finalize the Findings in March, a possible desire to significantly change the access points to the subdivision with fewer lots. The desire had been to remove the internal road and have access to all of the lots from Downey Road. Planning Director McLane shared a letter of comment from West Extension Irrigation District concerning Downey Road and the canal.

Opened the Public Hearing:

Testifying for the proposed application:

Suzanne Frederickson, applicant

Ms. Frederickson said her question was that if she created fewer lots, could she have the

remain a hardship dwelling to one of the remaining dwellings on the lot. Commissioner Rice asked about the review time limit and Planning Director McLane said that this permit will be subject to review in 2 years, January 2011.

Opened Public Hearing.

Catherine Matthews, applicant

Ms. Matthews spoke in favor of the application. She indicated that she first heard of this review requirement in February. She also spoke of her husband's medical requirement and that she is also in need of close-at-hand care. Commissioner Sykes asked if she understood the land partition requirement and the requirement that the hardship variance be renewed every 2 years. She indicated that she understands the fee requirement upon renewal.

Tonya Sorensen, land owner

Mrs. Sorensen spoke in favor of the application, she said with her children, meeting her parents' medical needs and with their schedule it is a struggle having them that close. She spoke about the partition, which was approved in 2000, and requested the Commission uphold the original approval, which lapsed without them being notified of the lapse.

Catherine Matthews, applicant:

Mrs. Matthews expressed confusion that on the original permit for the hardship variance the condition of approval required them to either remove the dwelling or effect a land partition. She would like to be able to do the partition as was required in the original approval. Planning Director McLane reminded Mrs. Matthews that there is a time limit on filing a partition plat and the approval had lapsed in 2002. They would be welcome to apply for another land partition, but it would need to meet land partition criteria in effect today, which would only allow for dividing the property into two parcels. If the hardship would need to continue, the hardship dwelling would need to be attached to one of the existing dwellings. Mrs. Matthews indicated she wants the hardship dwelling to be approved because they are not able at this time to effect another land partition.

Closed the Public Hearing:

Commissioner Wenholz made a motion to approve the application as presented.

Commissioner Rice seconded his motion. Motion Carried.

Land Partition LP-N-404: Greg Flowers, applicant and City of Boardman, owner.

Property is described as tax lot 119 of Assessor's Map 4N 24 15 and is located west of Boardman just south of the intersection of Interstate 84 and Tower Road. The property is zoned Space Age Industrial. Request is to partition a 456-acre parcel into three parcels. Criteria for approval include the MCSO Article 5 Land Partitioning.

Commissioner Docken indicated she will abstain from this action because her husband has interest in the land sale involved with this application.

Planning Director McLane presented the Staff Report. She discussed the issue of the 150-foot easement under the 60-foot road right-of-way for Tower Road. This is being addressed by the County at this time. Eventually there will be an action to allow access from Tower, probably increasing the road dedication to 150 feet. She stressed that, although there is a planned use as a travel stop, such a use would not be able to be approved at this point because such a use is not allowed in a Space Age Industrial zone. Planning Director McLane handed to the Commission a letter from E. Michael Connors, an attorney from Davis Wright Tremain, representing Devin Oil Company.

Planning Commissioner Sykes asked how she knows the proposed land partition is to facilitate a potential purchase by Love's Travel Centers for future development. He wanted to know why

Morrow County Code specifically requires this. Is the parcel suited for the intended use? These criteria need to be addressed.

Planning Director McLane asked if Mr. Connors would also require a similar analysis of the other two proposed parcels. He answered that would be difficult, but the applicant should look at potential uses and make an analysis based on that. He indicated that it is somewhat ambiguous, but it can be interpreted by the Planning Commission.

Commissioner Sykes asked Mr. Flowers if he would want to continue the hearing. Mr. Flowers said he is comfortable with continuing the hearing.

Closed the public hearing:

Commissioner Rice noted that some good points were raised. Ryan Swinburnson reminded the Commission that there needs to be a motion to continue the hearing if that is what they would like to do. Planning Director McLane indicated that due to the breadth of the issues submitted in the letter shortly before the hearing, she would recommend continuing the hearing.

Commissioner Schmidt moved to continue this hearing to the next regularly scheduled hearing date: May 19, 2009, at 7:00 p.m. at the North Morrow County Annex building in Irrigon. Her motion was seconded by Commissioner Rice. Motion carried. There was one abstention by Commissioner Docken as mentioned at the beginning of this hearing.

Other Business/Correspondence

- County Court Update
The TSP and Space Age Industrial zone change will be heard before the County Court in May. The County Court did adopt the Code Enforcement Ordinance and it is expected to be effective July 1st.
- Legislative Update
Things are moving slowly at this point. Revised ethics legislation SB 30 has passed and the Commissioners will only need to submit one ethics form per year.
- Planning Commissioner Training: Commissioners Schmidt and Key attended the training last month. Commissioner Schmidt said that they had a good training and praised it. She also praised Planning Director McLane's work with educating the Planning Commission. Commissioners Sykes and Docken indicated they would like to attend a future training opportunity. Commissioner Schmidt did recommend, based on the training, better information sheets and perhaps a completed application sample be provided to prospective applicants.

Adjournment:

The meeting was adjourned at 9:24 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is May 19, 2009, at the North Morrow County Annex building in Irrigon.

Respectfully Submitted,
Lori Timmons



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, May 19, 2009 7:00 p.m.

Morrow County Planning Commissioners Members Present:, Mifflin Devin, Pam Docken, Jim Key, Justin Nelson, Tucker Rice, Pam Schmidt, David Sykes, Jeff Wenholz

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner; Ryan Swinburnson, County Counsel

Planning Commissioner Chair Sykes called the meeting to order at 7:01 p.m.

Roll call was provided by Planning Director McLane.

Minutes of the April 28, 2009, hearing were reviewed by the Planning Commission. Commissioner Rice made the motion to approve the minutes as presented. Commissioner Wenholz seconded his motion. Motion carried.

Planning Director McLane introduced Mary Curry to the Planning Commission.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Continued from April 28, 2009: Land Partition LP-N-404: Greg Flowers, applicant and City of Boardman, owner. Property is described as tax lot 119 of Assessor's Map 4N 24 15 and is located west of Boardman just south of the intersection of Interstate 84 and Tower Road. The property is zoned Space Age Industrial. Request is to partition a 456-acre parcel into three parcels. Criteria for approval include the MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. Commissioner Docken abstained and recused herself to the audience for this hearing. Commissioner Devin stated that he is a distant relation. Commissioner Key stated he is a customer of Devin Oil. Commissioner Nelson stated that he was present at the April 28th hearing, did hear the testimony at the prior hearing, and does feel that he can fully participate. He said that he would step down if someone in the audience protests. No one in the audience protested Commissioner Devin, Key or Nelson's participation.

Planning Director McLane presented the staff report. She indicated that some necessary changes had been made to the staff report as a response to the testimony of Devin Oil's attorney. Commissioner Wenholz noted that a correction needs to be made to the number of parcels requested. Now two parcels are being requested instead of three.

The request is for a land partition, not a zone change as would be required for the approval of a travel stop. Carla outlined the process whereby the City of Boardman acquired the property. She then went on to explain the changes:

- There is no minimum parcel size requirement for the Space Age Industrial Zone. The final size of the subject parcel will be indicated on the final partition plat.
- Is the parcel suited for the intended use? The size of the parcel appears to be of a size to facilitate the development of a travel stop. There is no guarantee that the Planning Commission would approve a zone change. Staff will not evaluate parcel 2. There has been no discussion with the City of Boardman as to what they would like to do with Parcel 2 in the future. Any number of uses could be accommodated on the proposed parcels.
- Water rights appear to be favorable based on conversations with Oregon Water Resources. Port of morrow option would require a Goal 11, and possibly Goal 14, exception and is not anticipated.
- Oregon DEQ would need to approve the site and this is a Condition of Approval.
- Access is available along Kunze Lane and Tower Road. Planning Director McLane brought up some of the concerns, as discussed in the Staff report, about the Tower Road Easement problem. There has been no change since the last hearing concerning the access issue.
- Future connectivity: Planning Director McLane was clear about the rendering of the proposed future road as shown on the ODOT map, provided. She mentioned that ODOT is in favor of the proposed road and development of the parcel as a travel stop. Language had been added regarding the Columbia River Heritage Trail and Love's would be asked to incorporate the trail into their facility.
- Identifiable adverse impacts on adjoining or area land uses, public services, etc. Planning Director McLane said there are limited uses along Tower Road at this time because the Speedway has not gotten started yet. Other nearby properties, including the Boardman coal fire plant, have not been found to have conflicting uses to the proposed land partition.

Planning Staff received two letters today, both forwarded to the Planning Commission members and other interested parties. They will be discussed as part of the testimony from the applicant and the opponent.

Opened the Public Hearing:

Testimony in favor of the Application:

Greg Flowers, Applicant:

Mr. Flowers noted the letter that came from Devin Oil. He responded and offered to read the letter, or provide copies. The Commission requested copies of the letter. Mr. Flowers requested that the letter be entered into the official record. He believes that he has addressed Devin Oil's concerns in the letter, especially after he read the County's Ordinance and ORS 92. He believes there is nothing in these regulations that would not allow this land partition to be approved. He noted he provided in his rebuttal letter an updated site plan that shows the development's footprint of the parcel. He said there is adequate land for the use, but he also noted that the uses that are going to be needed as a travel stop are not currently allowable at this point because the zone (SAI) does not allow for it.

Testimony in opposition to the Application:

Mike Connors, Attorney for Devin Oil Company.

Mr. Connors indicated another letter and requested that it be entered into the official record. He gave the original to the Planning Director and the Commissioners who requested a copy as well. He recapped the letter as the Commissioners looked at it.

His major issues:

1. The relationship of the proposed use to the partition application. He cited a LUBA case that dealt specifically with such a question. He stated that, in the end, LUBA required the applicant provide the information required by the specific language of the code. He indicated that, in this case, the language specifically requires an analysis of uses relevant to the proposed use. In this case, not everything can be provided at this time.
2. Substantial evidence. The applicant has to provide the proof that they can do what they say they will be able to do. He thinks that they have not provided sufficient evidence to prove they have guaranteed access and sufficient easement for ingress and egress. To move forward, they need to get these things in place before the Commission would be able to approve the land partition. He also stated that intention to provide access is not adequate for legal access.
3. Public Services and Facilities. For the application to say there as enough land is not enough. They have not provided evidence that they do have sufficient water, because, for one thing, they haven't provided information saying how much water they need. He also believes getting water from the Port of Morrow has problems. For one thing, the Port would need to provide an expensive mile-long pipeline from its municipal well and would also be going outside their service area.

He believes there needs to be site suitability before the commission allows the partition. A condition of approval is not adequate.

4. Storm water. The applicant provides no information. The applicant needs to show how much storm water they will expect and how they will deal with it. The tentative plan requires specific information, which is not on the plan, They need to provide that information before the plan is adequate. The engineering for the development must occur before the process begins. His opinion is that there is nowhere near enough information provided for the Commission to make a proper decision on this land partition.

Commissioner Sykes asked Mr. Connors a question concerning Section 5.030(2) of the Morrow County Zoning Ordinance. The question was what level of review must be done for the parcel that Boardman wants to develop for the waste water treatment facility. Mr. Connors replied that since we know the intended use for Parcel 1 of the land partition, which is the travel stop, staff must review for that use. He added that the findings are adequate for Parcel 2. Commissioner Wenholz asked, relative to the previously discussed LUBA case, whether the zoning designations were the same. Mr. Connors said yes, but they did have to go through a site development review.

Rebuttal:

Mr. Flowers.

Mr. Flowers said that, for the facilities, their planning decisions are based on sound engineering. He also said that there is no guarantee about getting the water, but saying that they need to drill the wells first, is not in the true spirit of the law. He cannot be certain they will be able to meet the requirements of the zone change, but they believe that they will. They have been relying on the expertise of state agencies, such as the DEQ, to help them make their decisions. The access issue, he believes, will be resolved. Commissioner Wenzholz also asked about the access issue. It is clear that the access is in a non-exclusive easement. The road and improvements belong to PGE.

Frank Ille, Love's Travel Stop:

Mr. Ille spoke in favor of the application. He said that most of the questions hover around the intended use. His job is doing the due diligence for the Love's developments. He also pointed out that over half of the projects Love's investigates never come to fruition. If Love's were to try to meet the requirements as Mr. Connors has outlined them, it would come to \$180,000 in engineering before they own the land or the parcel even exists.

Reply to the rebuttal:

Mr. Connors:

Mr. Connors commented on what Mr. Ille said about over half of the projects Love's pursues never coming to fruition, contending that this was the basis for their lack of desire to do their due diligence. He reminded the Commission that they are charged with enforcing the code, not making policy decisions as to whether or not the code is fair. The fact that the LUBA case did not involve a zone change is not relevant to what LUBA would review. He again brought up the access easement issue. He is doubtful that the easement issue can be resolved. He also reiterated that there is no evidence that adequacy and availability of services can be provided.

Lee Docken, resident:

Mr. Docken testified in favor of the application. He reminded the Commission that the commissioners are familiar with the area, the soil types, and the water availability. He pointed out that other travel stops in the area have faced similar issues and were developed successfully.

Mr. Connors::

Mr. Connors reminded the Commission that he represents a client invested in the City of Boardman. His client has expressed his concern with this project and that the city was interested in its own development, and is now ignoring his concerns.

Mr. Ille:

He stated that they decided, through discussions with County staff, to follow the steps that they have. This is part of the process they are going through, and they have not asked for anything that is not to County Code.

Mr. Flowers:

Mr. Flowers said that he believes the application meets the code requirements to create the parcel. He also reiterated that the Love's Travel Stop is not a guaranteed sale by the City of Boardman and that all that is being considered at this time is the land partition.

Commissioner Schmidt moved to include the two letters into the record. Commissioner Wenholz seconded her motion. The motion carried.

Closed the Public Hearing:

Commissioner Nelson said that the intended use is a truck stop. But the land is zoned Space Age Industrial. That's what he is looking at. He sees a size that is adequate for Space Age Industrial uses. The Code doesn't require anything more. He says that the Commission should look at the uses allowed in the Space Age Industrial for the partition. Looking at it for a travel stop, there would be some concerns.

Commissioner Wenholz agreed with Commissioner Nelson. He thinks the Commission should look at the uses intended and allowed as Space Age Industrial uses. Water can be obtained. Look at ODOT, who developed a sewage treatment facility for the rest area not far from there. Maybe there should be a condition to require guaranteed access before the Partition Plat is signed. Commissioner Nelson said again that the burden should be looked at as far as space age industrial use. The application could not be approved if the Commission were looking at the use of a travel stop. Commissioner Nelson reminded the Commission that they have never really required, before approval, that site suitability and water availability be proven. Commissioner Schmidt said that, from her perspective, they are asking the applicant to jump to conclusions as far as any future zoning designation.

Commissioner Wenholz moved to approve the application as presented. Commissioner Schmidt seconded the motion. Commissioner Nelson mentioned the correction of the request from three to two parcels. Commissioner Wenholz amended his motion for approval with the change in the request from three to two parcels. Commissioner Schmidt indicated that she would second Commissioner Nelson's amended motion. Motion carried.

Audience Participation

None.

Other Business/Correspondence

Planning Director McLane mentioned that there will be a tour of the Conservation Area, given by The Nature Conservancy, on Thursday, May 21. She invited the Commission members to participate if possible.

The TSP will be before the County Court this month. She also told the Commission that the Port has asked for a couple of project additions to their projects list.

Adjournment:

The meeting was adjourned at 8:36 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, June 30, 2009, at 7:00 p.m. at Lexington, Oregon.

Respectfully Submitted,
Lori Timmons



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, June 30, 2009 7:00 p.m.

Morrow County Planning Commissioner Members Present: Miflin Devin, Pam Docken, Jim Key, Justin Nelson, Tucker Rice, David Sykes

Members Absent: Pam Schmidt, Jeff Wenzholz

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner

Prior to the Planning Commission regular meeting the members convened at 6:00 p.m. for dinner and discussion with staff concerning potential amendments to the Morrow County Zoning Ordinance. Areas of discussion included hardship variances, definitions, aggregate, wind energy, and general provisions dealing with procedures. Earlier in the year the Planning Commission had requested that Planning Staff revise hardship variance language to allow the Planning Director to approve hardship variance extensions. The updated language was presented to the Commission along with changes clarifying the need for hardship variances in resource zoned land to be approved as a Conditional Use. The time allowed for a hardship dwelling to be removed after the need for a hardship dwelling is finished was changed from 60 to 90 days. Planning Director McLane presented the Commission with updates to Article 1 and Article 2 of the Zoning Ordinance. In Article 1 Section 1.030 the definition for 'parcel' was clarified and a definition for 'tax lot' was added. Article 2 Establishment of Zones was updated to include the Resource Related Industrial, Tourist Commercial, Rural Light Industrial, and the Speedway Limited Use Overlay Zones.

Planning Commission Chair Sykes called the meeting to order at 7:00 p.m.

Roll call was provided by Planning Director McLane.

Commissioner Devin made a motion to approve the minutes of the May 19, 2009 hearing with a minor correction concerning his name. His motion was seconded by Commissioner Rice. Motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

Land Partition LP-N-405 and CUP-N-265: Larry and Corrine Lindsay, applicant and owner. Property is described as tax lot 2800 of Assessor's Map 1N 25. The property is located west of Highway 207 along Lindsay Road. Request is to partition a 2064.41-acre parcel to create two "non-farm" dwelling parcels and approve two "non-farm" dwellings. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.010(F); MCZO Article 6 Sections 6.020 and 6.030, and MCSO Article 5 Land Partitioning. Planning Director McLane presented the staff report. The staff report discussed the applicable criteria, starting with Article 3 Section 3.010(F) Requirements for a Dwelling Not Provided in Conjunction with Farm Use. Staff determined that the criteria are met or could be met through

Conditions of Approval. Planning Director McLane discussed the Conditional Use Criteria found in Article 6. The application was found to be in compliance or the criteria did not specifically apply. Last to be discussed were the Land Partition Criteria. Required as a Condition of Approval is a Partition Plat in accordance with ORS Chapter 92 and the Morrow County Subdivision Ordinance.

Opened the Public Portion of the Hearing.

Larry Lindsay, applicant

Mr. Lindsay spoke in favor of the application. The Lindsay family is working toward implementing the succession of the Lindsay Ranch. They have 7 children and are attempting to transfer ownership and this action will aid their legacy and the future of the Lindsay Ranch. They also wish for their children to own their own property and have their own responsibilities concerning their homes.

Barney Lindsay, 68062 Lindsay Road, Lexington

Mr. Lindsay spoke in favor of the application. He lives in a home proposed to be one of the "non-farm" dwellings and he spoke of his desire to get a loan to remodel their home.

Closed the Public Portion of the Hearing:

Commissioner Rice asked if the Commission is requiring legal access to all the new parcels. Planning Director McLane indicated that the parcel further back on the road will need evidence of legal access on the plat. The actual access will not need to be developed until the parcel may be redeveloped at some time in the future. Commissioner Nelson asked about the first "non-farm" dwelling and when the action was done. Planning Director McLane indicated that it was done about one year ago. Planning Commissioner Rice made a motion to approve the application as presented. Commissioner Nelson seconded his motion. Motion carried.

Land Partition LP-N-406 and CUP-N-264: Larry and Corrine Lindsay, applicant and owner. Property is described as tax lot 304 of Assessor's map 2N 26. The property is located east of Bombing Range Road along Lindsay Feedlot Lane. Request is to partition a 168-acre parcel to create a "non-farm" dwelling parcel and approve a "non-farm" dwelling. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.010(F); MCZO Article 6 Sections 6.020 and 6.030; and MCSO Article 5 Land Partitioning. Planning Director McLane presented the staff report. Commissioner Sykes asked about the access roads and how or whether they are public access roads. Planning Director McLane indicated that, although the roads are shown on the map, they exist as farm use roads for the Lindsay Ranch. The Oregon Trail goes through this property, and the feedlot as well. The Lindsay family has protected the Trail at that location. The Staff Report identified the close proximity of the Lindsay Ranch Feedlot to the proposed "non-farm" dwelling. It is believed that because the dwelling has co existed with the feedlot for many years and it is not a change from the current use a Right-to-Farm Disclaimer Statement will serve to protect the farming operation into the future.

Commissioner Nelson asked about the well and whether a shared well with the farm parcel could be cause for concern. Planning Director McLane indicated that, although a domestic well is exempt from State regulation, if the domestic water supply should come from the farm parcel, there should be some sort of agreement. Larry Lindsay indicated that the domestic water comes from irrigation water that is also used for stock water. Planning Director McLane suggested language be added to paragraph 2, page 5 to require a shared well agreement based on the fact that the proposed parcel would receive water from a well on the farm parcel. Mr. Lindsay said that had already been discussed within the family and will be part of the sales

agreement. Commissioner Nelson asked whether a well agreement should be required at this time. Planning Director McLane said that this hearing is the County's only opportunity to require it.

Opened the Public Portion of the Hearing:

Larry Lindsay, applicant.

Mr. Lindsay said that all the explanation he provided for the previous application applies to this one as well.

Joe Lindsay: 57335 Lindsay Feedlot lane.

Mr. Lindsay spoke in favor of the application.

Closed the Public Portion of the Hearing:

Commissioner Rice made a motion to approve the application with additional Findings and Condition of Approval language concerning the well agreement. His motion was seconded by Commissioner Key. Motion Carried.

For the convenience of the Subdivision Amendment applicant, Suzanne Frederickson, the Commission changed the order of the Agenda to conduct the Frederickson hearing prior to the Cleaver hearing.

Amendment to Subdivision SD-N-222 and Variance V-N-013: Suzanne Frederickson, applicant and owner. Property is described as tax lot 203 of Assessor's Map 4N 25 14C. The property is zoned Farm Residential (FR) and is located approximately 2 miles southeast of Boardman south of the intersection of Wilson Lane and Downey Road. The original request was to subdivide a 13.78-acre parcel. This amendment is to request changes to the Conditions of Approval relative to the number of parcels and the development standards for Downey Road. Criteria for approval include the Morrow County Subdivision Ordinance (MCSO) and the Morrow County Zoning Ordinance (MCZO) Article 7 Variances.

Planning Director McLane indicated that this amendment is the result of a conversation with the applicants, Public Works staff, and Bev Bridgewater of West Extension Irrigation District. The intent was to meet the requirements of the County and to better meet the needs of the applicant. The changes to the staff report had to do with changes to the requirements for Downey Road. The biggest change was moving the Downey Road paved standard to a gravel standard that was acceptable to the Public Works Department. Downey Road was never built to original standard required by the Public Works Department and bringing Downey Road to the basic standard in order to meet the County's paved standard would be prohibitively expensive for the applicant. After a meeting between the Public Works Director, the Planning Director and the applicant, the Public Works Director made some suggestions to aid the applicant in that the road standard could be downgraded to a gravel standard. This would also require a road improvement agreement that would allow Downey Road to be maintained at the required standard. The process for creating Downey Road at this standard would take 3 years of work. The Public Works Department would be the enforcement entity. There will be no internal road because the proposed lots will be accessed from Downey Road. Article 7 Variance language was removed because it was no longer pertinent.

Commissioner Docken expressed concern that other roads in that area such as the roads in the Sunrise Meadows Subdivision were required to develop at a paved standard, and also Estregaard Road. She wondered whether the developers of the other subdivisions could sue the County because of this. The Commission discussed the situation and determined that the

paved standard was required for the other roads because they were not in existence at the time of development and that Downey Road is in existence and is only partially developed. This situation needed the application of a unique balance in order to see development occur; otherwise, development would not occur at all in that location. Commissioner Docken discussed Estregard Road in that it is a County road and asked why would the County not accept Downey Road as well. Planning Director McLane discussed the changing circumstances in the County concerning the acceptance of roads into County responsibility and that there has been some refining of standards for acceptance of roads. Currently, there needs to be a connection to a County road at each end in order for it to be accepted. The Public Works Director always looks at County road equipment access and ease of operation. The option does exist that if a developer would develop a road to the next higher standard, the County will accept it. Commissioner Sykes said this situation is a trade-off and Downey Road will be getting more use. He wondered how problems would be mitigated. Planning Director McLane said that the Public Works Director did have a lot of input into placing components into this discussion into making Downey Road acceptable and durable. Commissioner Sykes then asked whether the concerns of the West Extension Irrigation District have been addressed with this amendment. Planning Director McLane indicated that the process must have addressed their concerns since staff did not hear from the District.

Opened the Public Portion of the Hearing:

Vern Frederickson, 78643 Estregard Road, Boardman, speaking on the applicant's behalf. Mr. Frederickson spoke in favor of the amended application. He also indicated his concern about their requirement of obtaining the dedicated right of way from the adjacent landowners to the easement at Wilson Lane. They will attempt to obtain it but do not know if it will be possible. He hoped the County would agree to aid them with this situation. The Fredericksons are not sure Mr. Skoubo will agree to dedicate his part of the easement and since they have no leverage, they would like County help with obtaining the right of way. Planning Director McLane indicated that she has no problem with helping the Fredericksons but did not recommend the Commission remove the Condition of Approval. She reminded the Commission that Mr. Skoubo will need to dedicate the right of way when he decides to apply to the County to partition his 6 acres into 2-acre parcels. He is going to have to deal with the easement issue at the point he decides to partition, if not before. The County is willing to aid in this process in one way by showing Mr. Skoubo that he will have to dedicate the right of way eventually and showing the other adjacent landowner the benefit of removing an already used road from his tax obligation. At the end of the day, condemnation is an option available to the County. Mr. Frederickson reminded the Commission that the amended application also has a reduced number of proposed lots from 7 to 5, and this will be a benefit to the adjacent landowners who had expressed concern about the proposed lots being too small.

Closed the Public Portion of the Hearing:

Commissioner Key asked whether the easement at Wilson Road was a recorded easement. Planning Director McLane indicated that, yes, it is a recorded easement. Commissioner Devin made a motion to approve the amended application as presented. Commissioner Key seconded his motion. The motion was approved with one dissenting vote. The dissenting vote was made by Commissioner Docken. Motion carried four to one.

Land Partition LP-N-407 and CUP-N-266: Cleaver Land, LLC, applicant and owner. Property is described as tax lot 400 and 300 of Assessors Map 4N 26 2 and tax lot 101 of Assessor's Map 4N 26 3. The property is located on Depot Lane one mile east of Paterson Ferry Road and north of the West Extension Irrigation District canal. Request is to partition a 206.6-acre parcel to create two "non-farm" dwelling parcels and approve

two “non-farm” dwellings. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.010(F), MCZO Article 6 Sections 6.020 and 6.030, and MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. The applicant was requesting 2 “non-farm” dwelling parcels that do not have irrigation rights. Commissioner Nelson expressed concern that the applicant did not attend the hearing and asked about the normal procedure when this occurs. Planning Director McLane indicated it is not required that the applicant attend but the Commission has the option to continue the hearing when a concern cannot be addressed due to the applicant not being in attendance to answer the concern.

Opened the Public Portion of the Hearing:

No one was in attendance to testify either for or against the application.

Closed the Public Portion of the Hearing:

Commissioner Rice made a motion to approve the application as presented. Commissioner Devin seconded his motion to approve. Motion Carried.

Other Business/Correspondence

- Zoning Ordinance work. Commissioner Sykes recommended that Planning Staff move forward with work on what staff feels is most important. Planning Director McLane responded that the Hardship Dwelling language work should be finished at this time. Commissioner Docken asked if notifications to hardship dwelling holders should be sent registered mail. Discussion ensued as to whether or not this was a good idea and it was decided that since the County meets their obligation, no extra effort is required. It was decided that the zoning ordinance language work is simple to move through the process and staff will move forward with all of them. The work on rural addressing to incorporate it into Article 4 would also be fairly easy. Some discussion was had over beginning with Article 9 and how that could also be fairly important. The Commission decided on going forward with Articles 1 and 2, hardship dwellings and Article 9.
- The County is still seeking a Boardman area representative to the Planning Commission.
- Planning Director McLane informed the Commission about the status of the City of Boardman/Love’s Travel Stop Land Partition appeal, which was continued until August 12th in Irrigon. There was some discussion whereby the Commission asked procedural questions about appeals in the County.
- There was some work around destination resorts in the State Legislature (the Metolius bill passed).
- Planning Director McLane informed the Commission that the County Court has been busy. Items of interest are the Love’s Travelshop appeal; Willow Wind dedication; LRA activities; Water resources, recharge issues and the progress made lately.
- Adoption of TSP and SAI amendments (effective July 1, 2009). Commissioners Sykes, Devon and Rice requested a copy of the updated TSP.
- July Agenda: 2 items for July.

A transmission line workshop was requested. Planning Director McLane indicated she will also talk with the Commission about the eight potential EFSC projects in Morrow County.

Adjournment:

The meeting was adjourned at 9:16 p.m.

Respectfully Submitted,
Lori Timmons



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, July 28, 2009, 7:00 p.m.

Morrow County Planning Commission Members Present: Mifflin Devin, Justin Nelson, Tucker Rice, David Sykes, Jeff Wenholtz

Members Excused: Pamela Docken, Jim Key, Pamela Schmidt

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner

Planning Commission Chair Sykes called the meeting to order at 7:30 p.m.

Roll call was provided by Planning Director McLane.

Minutes of the June 30, 2009 hearing were reviewed by the Planning Commission. Commissioner Rice made the motion to approve the minutes as presented. Commissioner Devin seconded his motion. Motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

Planning Director McLane requested the Commission switch the agenda as the applicants for the variance were in attendance and the applicants for the land partition were not. The Commission agreed to this request and the agenda items were switched.

Variance V-S-015-09: Leonard and Diane Currier, owners and applicant. Property is described as tax lot 906 of Assessor's Map 4S 28 11 and is located in the Blake Ranch Subdivision approximately 18 miles southeast of Heppner. The property is zoned Forest Use. Request is to allow the replacement of an older manufactured home with a 1984 double-wide manufactured home.

Planning Director McLane presented the staff report. This variance application is a request for a variance to the age requirement of no older than 10 years old for a replacement manufactured home in the Forest Use Zone. If the Commission were to approve the request, the applicant would need to meet the siting standards for manufactured homes in the Forest Use zone, including fire retardant roofing, and a spark arrester for a chimney. Planning Director McLane shared photographs provided with the application showing the problems with the currently sited manufactured home at the subject location. The existing home is 33 years old and the newer manufactured home is 25 years old. Commissioner Nelson asked how long ago the requirement of 10 years old or newer for manufactured homes was approved. Planning Director McLane indicated that it is about 3 years old and was a response to a request by Irrigon area citizens based on their concerns about liveability and property value declines with the siting of older manufactured homes occurring in that area. The variances approved since

this requirement was put in place have shown that, possibly, design standards would have been a better response than an age requirement. Commissioner Nelson commented that the more variances we approve, the easier it will be to weaken the regulation as it stands. Planning Director McLane responded that the action at the time was probably not the most thought-out decision but it did resolve the issue at the time.

Opened the Public Hearing:

Diane Currier 11770 SW Katherine Street, Tigard, OR, applicant

Mrs. Currier spoke in favor of the application. The older manufactured home has been in place for a long time and they were aware of the new regulation. She indicated that, as the Commissioners can see from the photos, there are some serious concerns with the present manufactured home. They would like to be able to replace it with the 1984 double-wide, which is a great improvement over the existing manufactured home on the site.

Leonard Currier, 11770 SW Katherine Street, Tigard, OR, applicant:

Mr. Currier spoke in favor of the application. They had wanted to place a little building at the location but could not. At this time he is surprised the existing manufactured home has lasted as long as it has but he has had to prop up the walls on occasion. The proposed manufactured home is much better. They would like to put a new one in, but they cannot afford one at this time because at this point they are stretching just to get the proposed one placed. He reminded the Commission that this would be a vast improvement to what is there. He asked the Commission to approve their request.

Closed the Public Hearing:

Commissioner Devin made a motion to approve the variance as presented. Commissioner Rice seconded his motion. Motion carried. Commissioner Wenzholz commented that this regulation creates problems as to how they would pick and choose between variance applicants. He voiced his concern with this regulation.

LP-N-408 and Replat R-016-09: Mitch and Terryl Ashbeck, owner and applicant. Property is described as tax lot 102 of Assessor's Map 1N 27 and is located near Pine City at the intersection of Butter Creek Road and Little Butter Creek Road. The property is zoned Exclusive Farm Use. Request is to replat parcel 1 of Partition Plat 2003-9 by partitioning a 1442.06-acre parcel into 2 parcels. Criteria for approval include the MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. The staff report addressed the applicable criteria for a land partition. This property has been the subject of two currently-approved non-farm dwellings. Nevertheless, Mr. Ashbeck still needed a homesite for his son to own. Their only remaining option is to create a farm parcel of 160 acres as the non-farm dwelling option has been used up in their case. This application, therefore, is a simple farm partition and will require only one Condition of Approval. Planning Director McLane mentioned that the number of dwellings at this location triggers the requirements for a Community Well permit from the State but this requirement is not enforced due to lack of adequate staffing at the State level. Commissioner Rice asked about the configuration of the land before the non-farm dwellings were created and which parcels on the map are non-farm. Planning Director McLane clarified the boundaries of the proposed partition.

Opened the Public Hearing:

No one in the audience spoke either for or against this partition.

Closed the Public Hearing.

Commissioner Wenholtz made a motion to approve the request as presented. His motion was seconded by Commissioner Devin. Motion Carried.

Audience Participation

None.

Other Business/Correspondence

- Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces. Planning Director McLane led a discussion of current Morrow County Goal 5 Resources, how new resources can be added to the inventory, and Goal 5 activity in Umatilla County. She pointed out a letter to the editor of the Heppner Gazette Times from Armand Kluehe regarding his desire to preserve the Blue Mountain Scenic Byway as a Goal 5 Resource. Planning Director McLane indicated that there has been little response to the Planning Department regarding this. The correspondence that was generated included an editorial from Lisa Rietmann. Planning Director McLane spoke about a Planning Department memorandum from last September that was an analysis concerning the Byway and what development can occur along it. The Commissioners can review it in their past minutes. Commissioner Sykes said that the Commission will not discuss this subject in detail or in any amount of substance at this point. Planning Director McLane then indicated that the Planning Department did get a request to provide protection for the Byway. The County's response was that the County does not have the resources to process this application but required the person (Casey Beard) who made the request to make the analysis and submit an application on his own behalf. She told the Commission that with Goal 5 issues the State has provided a very clear procedure to be followed. She mentioned a PowerPoint presentation created by Tamra Mabbot, Planning Director of Umatilla County, that outlines the process. Planning Director McLane explained some of the procedures for Goal 5 protection that are outlined for all protect-able natural resources in Oregon Administrative Rule. The test for significance is important and can be very subjective, especially when dealing with resources other than the most cut-and-dried resource, aggregate. Planning Director McLane then offered to email the Powerpoint presentation to the Commissioners and she fielded a couple of questions from Commissioner Sykes regarding an application that could be expected to be received and who would be doing the work on the preparation. She responded that the applicants would probably hire consultants who would be professional and experienced with land use law. Commissioner Sykes also asked about how the Commission would be informed as to prospective applicants and if prospective applicants would consult with the Planning Department first. Planning Director McLane said she would inform the Commission and would encourage any applicant to consult with the Planning Department first, but reminded the Commission that this is not a requirement. Planning Director McLane reminded the Commission that determination of significance does not have to take just one or two hearings; the Commission can take its time with this process. Planning Director McLane will send the Commissioners the before-mentioned Powerpoint presentation.
- The update to the Space Age Industrial Zone for the Commissioners to put in the Commissioners' Zoning Ordinance Binders was provided. Commissioner Wenholtz reminded Staff that there had been a request to place the date of the last update on the newer versions.
- Planning Director McLane provided the Commissioner with a map of the Military Airspace Area in the northern portion of the County.

- Meeting Location(s): When the Commission met in Lexington there was a conflict when the District was having contract negotiations. This was not the first time the School District balked at a duly noticed hearing at nearly the last minute. Planning Director McLane invited the Commissioners to consider alternative locations.
- Pledge of Allegiance: Does the Commission want to do the Pledge of Allegiance before each hearing? The Commission was non-committal but did agree to do the Pledge in the future.
- Legislative Wrap Up: Planning Director McLane passed out Douglas County's list of Legislation which may Require County Action/Legislative Amendment. Next work for the County will need to incorporate the standards changed with HB 3099. Planning Director McLane will send links to the DLCD website for the Commissioners to see the DLCD report on the 2009 legislative changes and also DLCD's policy agenda. Some of it could drive what the County does in the future.
- The DLCD small-jurisdiction grant money will still be available for Planning Department use.
- County Court Update: In July the Space Age Industrial Zone update and TSP were adopted. The Devin Oil appeal of the Love's travel stop was continued, as reported last month. There is a lot of activity with EFSC regarding electricity transmission.
- Planning Director McLane shared the history of the removal of the Irrigon UGB area north of Highway 730. The City of Irrigon has questioned the actions taken by the County in 1992 to remove this area from the UGB. She expects to receive a request to expand the UGB from the City.
- A coordinated population review needs to be done. Planning Director McLane has been approached to do this work through a consultant. Discussion is just beginning at this point.
- The new copy machine for the Annex has been approved.
- Commissioner Sykes requested the Planning Director review the aftermath of the actions regarding the Love's Land Partition actions as a recap—and how it will change what the Planning Commission does in the future. He would like to discuss it after it is all said and done. There will be opportunities for the Commission to discuss the process after the County Court's decision and before any appeal.
- August and September Agendas: There will be two hunting preserve applications. One will be for a game birds and the other will be for big game, such as deer.

Adjournment:

The meeting was adjourned at 8:58 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, August 25, 2009 at 7:00 p.m. at Lexington, Oregon.

Respectfully Submitted,
Lori Timmons



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, August 25, 2009 7:00 p.m.

Morrow County Planning Commissioners Members Present: Mifiin Devin, Pamela Docken, Jim Key, Justin Nelson, Tucker Rice, David Sykes, Jeff Wenzholz

Member Excused: Pam Schmidt

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner

Planning Commission Chair Sykes called the meeting to order at 7:00 p.m.

Roll call was provided by Planning Director McLane.

Commissioner Rice noted some minor corrections to the July 28, 2009 minutes. Commissioner Wenzholz made a motion to approve the minutes with the corrections made. His motion was seconded by Commissioner Rice. Motion carried.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Land Partition LP-N-409: Jose Luis Gutierrez, applicant and Concepcion Gutierrez, owner. Property is described as tax lot 1603 of Assessor's Map 5N 26 25B. The property is zoned Suburban Residential within the Irrigon Urban Growth Boundary and is located on California Avenue between Second and Third Roads. Request is to partition a 2.26-acre parcel into two parcels. Criteria for approval include the MCSO Article 5 Land Partitioning.

Planning Director McLane presented the staff report. The criteria for approval were outlined for the Commission and those in attendance. The City of Irrigon had been noticed of this action and there was no correspondence from them at the time of the hearing. Access to the parcels will be from Third Road to California Avenue. California Avenue has a 60' right of way, but is not developed to Morrow County standards. The Public Works Director indicated this portion of California Avenue is not under consideration for improvement. So far there has not been any comment from public agencies notified of this action. Planning Director McLane indicated that the Public Works Director, Burke O'Brien commented on a note which said he does not have any specific concerns.

Commissioner Wenzholz commented that California Avenue has very poor access for emergency vehicles; there are two tire tracks through the sand and the dead end at the road does not allow for emergency vehicle turnaround. Planning Director McLane indicated that the fire district has been notified and they did not comment. The dead end is on a right of way at

that location and the California Avenue track does not make it all the way to Second Road. Planning Director McLane indicated the Commission could require some right of way improvement in order to improve emergency vehicle access. Commissioner Nelson concluded that the situation is most problematic for the person who gets the new parcel and Condition of Approval #4 does not deal with the emergency access problem as discussed. Commissioner Rice commented that the purchaser of the new parcel would be aware of the situation. Commissioner Nelson replied that an improved access was required when a subdivision was considered and that the road needed to be at a minimum standard. For some reason this situation does not seem to apply and he thinks something similar should apply. Planning Director McLane mentioned that there is a gravel standard and the Commission agreed to come back to this discussion.

Opened the Public Hearing:

In Favor: At this point there was no one to testify in favor of the application.

Neutral:

Eugene Wigglesworth, 210 Columbia Lane, Irrigon

Mr. Wigglesworth described the road situation in that it is mostly all sand. A person would need a 4-wheel drive in order to turn around at the end of California; when he drives up this road he always backs out due to the deep sand. He thinks it would be a good idea to extend California Avenue all the way to Second Road.

Closed the Public Hearing:

Commissioner Key asked who would be responsible for the maintenance of California Avenue. Planning Director McLane said the Commission can require the applicant to improve the road to a gravel standard. So far, the County has not invested anything into the road, which was developed by a neighboring landowner. One reason the County is in no rush to develop California to Second is because of a site-distance problem. At this point, the ending point for California will remain as it is.

Commissioner Wenholz said that he thinks the minimum gravel standard would be appropriate and it should be required all the way to the shared access location. Commissioner Nelson agreed with Commissioner Wenholz in that there should be a minimum standard for the access to the shared driveway. Planning Director McLane indicated that the standard would be the local access standard.

Opened the Public Hearing: The applicants arrived at the hearing and the Commission wanted to have the applicants weigh in on the discussion.

Jose Gutierrez, 120 NE McNarry, Hermiston, applicant

Mr. Gutierrez spoke in favor of the application. He described the access and said that the partition would be for a residential use. Commissioner Sykes described the discussion of the Commission up to this point in the hearing. He told Mr. Gutierrez of the possibility of requiring a gravel standard for California Avenue up to the shared access.

Maria Escalanta;

Ms. Escalanta spoke in favor of the application. She indicated this partition was for residential use and that they had already considered putting some gravel on the road.

Closed the Public Hearing:

Planning Director McLane explained to the Commission where in the staff report new language would be added to require a gravel standard. She made clear one more time with the applicant that the Commission would require gravel meeting the local access standard be added as a Condition of Approval. The applicant assented to the requirement. Commissioner Wenholz made a motion to approve the application with the additional Condition of Approval for a gravel standard to the point of the shared access. His motion was seconded by Commissioner Nelson. Motion carried.

Conditional Use Permit CUP-S-267: Philip J. Carlson, applicant and Triangle Resources, LLC, owner. Property is described as tax lots 1300 and 1401 of Assessor's Map 3S 24. The property is located south of lone near Gooseberry and west of Valby Road. Request is to approve a hunting preserve known as Carlson Preserve. Criteria for approval include the MCZO 3.010(D)(13), 6.020 and 6.030.

Planning Director McLane presented the staff report. There has been a hunting preserve at this general location for a number of years already. This application is for a reconfiguration and expansion and does require land use approval.

Opened the Public Hearing:

In Favor:

No one in attendance spoke in favor of this application.

Opposition or Neutral:

Doug Drake, 64598 Sandhollow Road, Heppner

Mr. Drake's main concern is that there is an old County road running north and south of this area. He has yet to see the County maintain this road and it is like a trail at the moment. If traffic use of this trail increases to 50 or 100 trips per month there will be a problem based on this use. The staff report indicates that Carlson Lane is the access to the property, but with the additional land added to the property on the west, near the old county road, this road will most likely serve this western area. He thinks the County will need to take responsibility for the road with the increased use of this road, which will happen without a doubt as far as he was concerned. He further described the road in question and showed it to the Commission on the map. Commissioner Nelson summed up the concern that the road will become impassible and impossible to navigate with the use that will most likely be on the road. Planning Director McLane indicated that she would like to have a conversation with the Public Works Director because the road in question does not show up on most maps.

Closed the Public Hearing:

The Commission took a look at the map. The road name was guessed to be Bergstrom Road, but no one was completely sure. Commissioner Nelson commented that he would be more comfortable continuing this application to take a closer look at the road issues and get more information. Commissioner Rice asked that when there is a road the County has let deteriorate, who should bring the road back up to standard? Planning Director McLane said that first it needs to be established whether it is a public right of way, or a County Road. A public road can be accepted by the County but does not have to be maintained. A County road is the County's responsibility, but there are always a lot of factors, some financial, that determine how or whether a particular road gets maintained.

Mr. Drake said he would not particularly like to hold up the application for 30 more days.

Commissioner Sykes indicated that in order to make a proper decision, they need to have all the information necessary to make an informed decision.

Planning Director McLane said a Condition could be created that would require the access to be Carlson Lane and that all preserve traffic needed to remain on the preserve property. The Commission discussed creating a requirement that the access to the preserve is Carlson Lane and there are no further accesses to be allowed. This would alleviate any pressure on the public road. If the preserve would want to use the public road, an access permit would need to be applied for and a conversation about the condition of the road would be had at that point. Planning Director McLane proposed new language for Section D: "Based on Planning Commission discussion and testimony provided at the public hearing as a Condition of Approval access is only from Carlson Lane." Any new access would be a modification of the CUP and would come before the Planning Commission with Notice.

Commissioner Nelson made a motion to approve the application with the discussed amendments to the staff report. Commissioner Key seconded his motion. Motion carried.

Conditional Use Permit CUP-S-268: James L. & Katherine M. Kirkpatrick, applicant and owner. Property is described as tax lot 3800 of Assessor's map 5S 26, Tax Lot 2102 of Assessor's Map 5S 25, and tax lot 1501 of Assessor's map 6S 26. The property is located south of Sunflower Flat Road, east of Highway 207 and north of the Morrow County Off Road Vehicle Park. Request is to approve a private seasonal accommodation for-fee hunting operation. Criteria for approval include the MCZO 3.020(B)(17), 3.020(C), (E), (F), 6.020 and 6.030.

Planning Director McLane presented the Staff Report. With this approval, a Right-to-Forest Disclaimer Statement will be required. Siting standards for dwellings in a Forest Use zone will be required as well and will be required to be met at the time the zoning permits are applied for. Each of the structures will be receiving a Rural Address for emergency response purposes. There was one email correspondence from the Oregon Department of Forestry, Angie Johnson, Unit Forester. Planning Director McLane read her email to the Commission. Ms. Johnson's concern was about the hunting operation meeting regulated use restrictions during the fire season. She suggested language added to the staff report in order to meet specific requirements, such as restrictions on campfires.

Opened the Public Hearing:

In Favor:

Mike Mahoney, 59140 Clarks Canyon Road, Heppner

Mr. Mahoney explained the difference between ODFW's requirements on birds and not on big game. He said that birds are hand raised and big game are not, hence ODFW oversight on the birds.

James Kirkpatrick, applicant

Mr. Kirkpatrick spoke in favor of the application. He said he will make sure the fire rules are strictly adhered to, including additional restrictions during the fire season.

Closed the Public Hearing:

Commissioner Wenholz noted that the staff report does not have a Condition to require the applicant comply with the requirements for necessary permits. He requested the staff report

include this language as a Condition of Approval. The Commission discussed the request for additional language by the Unit Forester. They concluded that these requirements are already in place and do not need to be added to the Findings. Commissioner Rice made the motion to include the Department of Forestry's email into the record. His motion was seconded by Commissioner Wenzholz. Motion carried. Commissioner Rice made a motion for approval of the application with the additional Condition that the applicant comply with the requirements for necessary permits. Commissioner Devin seconded his motion. Motion Carried.

Variance V-S-016-09: Jason Hanna, applicant and Mildred Hanna, owner. Property is described as tax lot 2100 of Assessor's Map 2S 27. The property is zoned Exclusive Farm Use and is located approximately 5 miles east of Heppner on State Highway 74-Lena. Request is to approve a variance from the setback requirement for structures on an arterial right of way. Criteria for approval include the MCZO Article 3 Section 3.010(H) and Article 7.

Planning Director McLane presented the staff report. The request is for an approximate 75 percent reduction in the 80-foot setback. The structure will be approximately 20 feet from the right-of-way. The Department of Transportation is concerned only if the structure would encroach on their right of way, which it would not in this instance.

Opened the Public Hearing:

There was no one in the audience to testify regarding this hearing.

Closed the Public Hearing:

Commissioner Key made a motion to approve the application as presented. His motion was seconded by Commissioner Devin. Motion Carried.

Other Business/Correspondence

Commissioner Rice suggested the Commission have an extra meeting for the forthcoming agenda items for the Zoning Ordinance amendments. Planning Director McLane suggested a sub-committee meeting before the next regularly scheduled hearing in September. The Commission agreed to a 6:00 p.m. dinner and work session before the hearing.

Staff agreed to deliver the Transportation System Plan to the Commissioners at the next hearing.

The County Court affirmed the Commission's decision regarding the appeal of Land Partition LP-N-404 City of Boardman/Love's Travel Stop.

Shepherds Flat has requested an amendment breaking the project into three projects still equalling 900 MW. Saddle Butte project will be in addition to it at almost 600 MW. The Planning Director's response to the Notice of Intent (NOI) will be reviewed by the Planning Commission because, as a Conditional Use, the use would normally be reviewed by the Planning Commission, even though they would not be the decision making body.

A transmission mapping session for the community relative to the Idaho Power Boardman to Hemingway line will be held and the Commissioners were encouraged to attend.

The Navy will be playing a role in the wind farms proposed to be near their restricted air space.

Time will tell how far they will be able to protect their restricted air space. The County is attempting to engage the Navy in discussions looking at an energy corridor on the east and north of the Bombing Range. Planning Director McLane is hoping to have continuing dialogue with the Navy, especially regarding the transmission issue.

The LRA is up and functioning. Dana Engineering is the firm that will be working on the requirements. The buildings at the Depot are no longer an asset because they have not been maintained.

Planning Director McLane passed out the memo to the County Court regarding the City of Irrigon's issue with the removal of the land that was in the UGB in 1992.

September Agenda includes an aggregate site and a batch plant application.

Adjournment:

The meeting was adjourned at 9:41 p.m.

Respectfully Submitted,
Lori Timmons



PLANNING DEPARTMENT

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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, September 29, 2009 7:00 p.m.

WORK SESSION:

1. The aggregate regulations update. Planning Director McLane reviewed the process so far for the Commission. The aggregate technical advisory committee has been formed and the group met once. The aggregate packet was reviewed for general Planning Commission familiarity. The Comprehensive Plan update portion will begin in the next few weeks and there will be many changes before the Planning Commission sees it again.
2. Article 6. There will be a change to allow the Planning Director to approve conditional uses for EFSC-approved projects. At this point draft language and a new section have been created.
3. Notice of Intent for the new Saddle Butte wind facility. Planning Director McLane passed to the Commission the draft of the Notice of Intent (NOI) and her response.
4. Notice of Intent for the Carty Generating Plant. Portland General Electric is working on a proposed gas-fired facility to be located next to the coal-fired plant.

Morrow County Planning Commissioners Members Present: Tucker Rice, Jim Key, Pamela Schmidt, Pam Docken, Jeff Wenholz, Justin Nelson

Member Absent: Mifflin Devin

Morrow County Staff Present:

Carla McLane, Planning Director; Lori Timmons, Associate Planner, Ryan Swinburnson, County Counsel

Planning Commission Chair Sykes called the meeting to order at 7:01 p.m.

Roll call was provided by Planning Director McLane.

Commissioner Wenholz made a motion to approve the minutes of the August 25, 2009 hearing. His motion was seconded by Commissioner Rice. Motion carried.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Conditional Use CUP-N-269: Dana and Tonya Heideman, applicant and 4GD Land Company, owner. Property is described as tax lot 3102 of Assessor's Map 1N 23 and is located west of Morgan and Highway 74 near the Gilliam County boundary. The property is zoned Exclusive Farm Use (EFU). Request is to approve an aggregate quarry that will process less than 500,000 tons of aggregate material. Criteria for approval include the

Morrow County Zoning Ordinance (MCZO) Article 3.010(D)(11) and Article 6 Conditional Uses, Sections 6.020, 6.030 and 6.050(I).

Planning Director McLane presented the Staff Report. She told the Planning Commission that this application and the next two are all related to the same project that will serve the Shepherds Flat Wind facility development. Planning Director McLane indicated that this CUP needs to be approved contingent upon the approval of the Comprehensive Plan amendment to list the site as a significant aggregate site. The only comment on this application was from the DLCDC representative, Amanda Puntin. Her comment was that there should be a Condition of Approval making the conditional use approval contingent on County Court approval of the Comprehensive Plan Amendment AC-14-09 having to do with listing this site in the Comprehensive Plan list of significant aggregate sites.

Opened the Public Hearing:

In Favor:

Dana Heideman, applicant

Mr. Heideman spoke in favor of the application. He said he has the only rock within 15 miles of the wind facility area and the site is a good location. He offered to answer any questions folks in the audience may have. He added that Ben Mundie, DOGAMI, approved the site as well. He also told the Commission that their intended contractor informed him of their intent to straighten the roads in a couple of places on their property and Haguewood's property to accommodate the towers and blades. He said the road department should be aware of this even though the roads are mostly dirt. The County roads that will be used have a gravel surface. Planning Director McLane asked him to share who the contractor will be for the pit. He indicated that the contractor is proposed to be De Atly, from Idaho. Contracts from Caithness Energy are expected to be in place in October, to include Blattner Energy, who indicated that the proposed starting time was about the first of April next year. Mr. Heideman wasn't sure how the quarry site will work but offered to share what information he has with the Planning Department. He had been told they will crush rock between 12 and 16 hours per day and it is expected to take about 140 days for road construction before the construction of the wind towers can begin. The first tower is proposed to be constructed in mid-January 2011.

Jack Ingram, WI Construction, Arlington

Mr. Ingram spoke in favor of the application. He has been working with the Heidemans on the development and reiterated the timelines for the construction. The schedule is aggressive and the facility is expected to be finished sometime in 2011. The contractor works well with the landowners and if there is a problem the contractors will work to resolve problems.

Gene Williamson, Arlington,

Mr. Williamson spoke in favor of the application. He said that centralizing the rock location will have a positive benefit to the impacts to the roads. This site accomplishes avoiding moving rock from the north end of the County, which is a good thing for the roads.

Against, Neutral:

No one spoke against or neutral to this application.

Closed the Public Hearing:

Commissioner Wenholz made a motion to approve this application with the addition of Approval Condition #7 requiring that this approval be contingent upon County Court approval of the Comprehensive Plan amendment as discussed. His motion was seconded by Commissioner Schmidt. Motion carried.

Comprehensive Plan Amendment AC-014-09 and AC(M)-15-09: Dana and Tonya Heideman, applicant and 4GD Land Company, owner. Property is described as tax lot 3102 of Assessor's Map 1N 23 and is located west of Morgan and Highway 74 near the Gilliam County boundary. The property is zoned EFU. Request is to amend the Comprehensive Plan to include a significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan Review and Revision Process

Planning Director McLane presented the staff report. Commissioner Wenzholz asked why it wasn't required in the applicable criteria to show the approval route under Goal 5. Planning Staff explained that, as outlined in Section I of the Staff Report, the quarry is being approved as required by Oregon Administrative Rule 660-023-0180, which governs approval of aggregate sites. The rules for approving a Goal 5 resource, such as aggregate, are sort of convoluted but, since the Heidemans are applying for an aggregate quarry that will produce less than 500,000 tons of material, under the Goal 5 rules it can be approved under the local CUP process and requires listing in the Comprehensive Plan. The Commission discussed this and Planning Director McLane suggested that adding the word "locally" to the request line might clarify the Goal 5 decision route in this instance. Staff indicated that the Goal 5 approval criteria could be moved to Section II. Planning Staff explained that the Goal 5 approval route was addressed in Section I and then the County's criteria for a Comprehensive Plan amendment was followed for making an amendment to the Plan under Section II. The Planning Commission then indicated that they understood that the applicable criteria in the County and under State Rule had been followed.

Opened the Public Hearing
Dana Heideman, applicant
Mr. Heideman spoke in favor of the amendment.

Jack Ingram, 19122 Hulden Road, Arlington, OR
Mr. Ingram explained that the difference between the Goal 5 sites and the locally significant sites are that one is significant to the State, the other is significant to the County.

Gene Williamson, 18122 Hulden Road, Arlington, OR
Mr. Williamson spoke in favor of the amendment.

Closed the Public Hearing.
Commissioner Rice made a motion to approve the application with a change to the request line to add "locally" before significant. Commissioner Key seconded his motion. Motion Carried.

Conditional Use CUP-N-270: Gene Williamson, WI, Inc., applicant, and Dana and Tonya Heideman, owner. Property is described as tax lot 3102 of Assessor's Map 1N 23 and is located west of Morgan and Highway 74 near the Gilliam County boundary. The property is zoned EFU. Request is to approve a temporary concrete batch plant. Criteria for approval include MCZO Article 3 Section 3.010(D)(11) and Article 6 Conditional Uses Section 6.030 and 6.050(I).

Planning Director McLane presented the staff report. The location and criteria for approval were the same as the requirements under the CUP requirements for the quarry, as discussed for CUP-N-269.

Opened the Public Hearing,
Gene Williamson: 18122 Hulden Road, Arlington, OR

Mr. Williamson spoke in favor of the application. He mentioned that the location of the site is very favorable in regard to proximity to the quarry and the wind facility. He also said that the time frame for the batch plant is expected to be between 2 to 6 months, not 30 to 45 days as written in the staff report. The batch plant is usually limited to operating during daylight hours.

Mr. Ingram, WI Construction, Arlington

Mr. Ingram explained the process of pouring the wind tower footings.

In opposition or neutral:

No one testified in opposition or neutral for this application.

Closed the Public Hearing.

Planning Director McLane asked the Commission if they wanted to change the batch plant time frame as indicated by Mr. Williamson in three places to make sure the time frame remains between 2 and 6 months. The Commission agreed that the change was needed.

Commissioner Wenzholz made a motion to approve the batch plant request with noted corrections to the time frame. Commissioner Schmidt seconded his motion. Motion carried.

Commissioner Sykes asked that if the Commission had made a final determination on the Comprehensive Plan amendment and the approval will now be forwarded to the County Court. Planning Director McLane indicated that yes, the County Court would be next to hear it.

Zoning Ordinance Amendment AZ-011-09: Morrow County, applicant. This will be the first of at least three hearings to consider updating the MCZO Article 4 Section 4.130 Manufactured Home or Recreational Vehicle Authorized as Temporary Residence for Care of a Relative in Conjunction with Existing Residential Use and make the ordinance conform to Oregon Revised Statute. The purpose of the amendment is to clarify the language of MCZO Article 4 Section 4.130. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane presented the staff report. First, Commissioner Sykes asked the rationale behind the double hearing. Why must the Commission have two hearings for amendments to the Zoning Ordinance but only one for a Comprehensive Plan amendment? Planning Director McLane guessed that, as a County requirement, perhaps it was required to provide a double opportunity for public input. This part of the language was written by Deane Seeger and was a local decision as to how many hearings must be held.

The Commission expressed a desire to relax the criteria for who can care for someone in need of close-at-hand care. The Commission discussed how to allow a care giver not be specifically a "direct relative", which, by the way, is not defined in the zoning ordinance. Some discussion was had as to the definition of "relative," which is required by ORS 215.283. The Commission is requiring Staff to do some research as to what "family" is. Also this definition needs to apply across the board in the Zoning Ordinance.

Opened the Public Hearing:

No one testified concerning this hearing:

Closed the Public Hearing:

Commissioner Schmidt made a motion to continue this hearing until the October 27, 2009 at 7:00 p.m. at the Morrow County School District Building. Her motion was seconded by Commissioner Wenholz. Motion carried.

Zoning Ordinance Amendment AZ-012-09: Morrow County, applicant. This will be the first of at least three hearings to consider updating the MCZO Article 1 Introductory Provisions. The purpose of this amendment is to add definitions to address conditions not previously encountered. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Discussion of the addition of the definitions for "sleeping unit and guest room." The application for the big game preserve brought forth some questions regarding the sleeping facilities they wanted to construct. Other changes were, for clarification purposes, the definitions of "parcel" and "tax lot." Commissioner Wenholz mentioned that Staff should take a look at the definition of "recreational vehicle." Planning Director McLane agreed to review this definition. The Commission agreed that a zoning permit will be valid for 1 year.

Opened the Public Hearing:

No one testified regarding this hearing.

Closed the Public Hearing:

Commissioner Wenholz made a motion to continue this hearing to the next regularly scheduled hearing date on October 27, 2009 at 7:00 p.m. at the Morrow County School District Building. Commissioner Schmidt seconded his motion. Motion carried.

Zoning Ordinance Amendment AZ-013-09: Morrow County, applicant. This will be the first of at least three hearings to consider updating the MCZO Article 2 Establishment of Zones. The purpose of this amendment is to add recently adopted use zones to the zone designation list. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane presented the basic changes to this Article. Planning Director McLane asked County Counsel Ryan Swinburnson about adopting ordinances by ordinance, not reference. She agreed to check the wording of section 2.020 for accuracy.

Opened the Public Hearing:

No one testified regarding this hearing.

Closed the Public Hearing

Commissioner Wenholz made a motion to continue this hearing to the next regularly scheduled hearing date on October 27, 2009 at 7:00 p.m. at the Morrow County School District Building. Commissioner Rice seconded his motion. Motion carried.

Audience Participation

Planning Director McLane introduced Mike Pearson and indicated that he is considering applying for the vacant Planning Commissioner position.

Other Business/Correspondence

- Deliver TSP: It was not delivered because the binders had not arrived yet. It will be delivered to the Commission at the next meeting.
- Approve 2010 Public Hearing Schedule, which moves the location of the hearings. In the southern portion of the County the hearings will move from Lexington to the Heppner City Hall. The hearings in the northern portion of the County will be moved from the North Morrow County Annex building to the Port of Morrow Riverfront Center. The Commission agreed to the changes. The location change will commence after the new year.
- Planning Commissioner appointments: Pam Docken and Mifflin Devin are coming up for renewal. Planning Director McLane will contact them for decision by mid-October.
- Memo to the County Court regarding a long-range planning work session. Planning Director McLane talked about possibilities for new positions in the Planning Department and the fact that storage requirements are becoming critical in the Planning Department office.
- Long range planning: Planning Director McLane indicated that the following are some projects that will need attention in the near future: Comprehensive Plan update; TSP update and 5-year project list; base closure at the Army Depot; interchange area management plan and ongoing development facilitation at the Port.
- Loves travel stop: The County Court decision has been appealed to LUBA.
- There are currently 4 EFSC projects. Carty project, Saddle Butte, Idaho Power, and Cascade Crossing.
- Wind Energy Task Force Draft Guidelines - 30 April 2009
These guidelines are meant to assist counties considering wind farm development. Planning Director McLane passed out a 3-page guideline document. These guidelines do not need to be incorporated into the zoning ordinance unless the Commission really wants to. Discussion regarding the consolidated, or phased decisions processes. Ryan Swinburnson recommended code language of some sort. We should probably amend our code to incorporate some of the suggestions.

Adjournment:

The meeting was adjourned at 9:49 p.m.

Respectfully Submitted,
Lori Timmons



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Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, October 27, 2009 7:00 p.m.

Morrow County Planning Commissioners Members Present: David Sykes, Mifflin Devin, Jeff Wenholz, Jim Key, Justin Nelson, Tucker Rice

Members Excused: Pamela Docken, Pamela Schmidt

Morrow County Staff Present:

Carla McLane, Planning Director; Lori Timmons, Associate Planner

Planning Commission Chair Sykes called the meeting to order at 7:00 p.m.

Roll call was provided by Planning Director McLane.

Commissioner Sykes led the recitation of the Pledge of Allegiance.

Commissioner Devin made a motion to approve the minutes of the September 29, 2009 hearing. His motion was seconded by Commissioner Key. Motion carried.

Land Partition LP-S-410: Michael D. Glavey, Heidi Hains, and Frances King, applicants and owners. Property is described as Tax Lots 1100, 1102, 1200, 1201, 1301, and 1400 of Assessor's Map 4S 27; Tax Lot 4700 of Assessor's Map 4S 28; and Tax Lots 700, 900, 1100, 3300, 2700, and 4000 of Assessor's Map 5S 27 and is located about 20 miles southeast of Heppner along Upper Rhea Creek Road near the National Forest boundary. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) Article 5 Land Partitioning.

Before the Staff Report was presented, Planning Director McLane informed the Commission that the Assessor may not be willing to sign the plat for this land partition application. She asked the Commission to consider continuing the hearing because, if the Assessor will not sign the plat, the applicant could be put into an uncomfortable position. The Commission elected to hear the staff report. The Planning Director then commenced to present the staff report. This property, proposed to be partitioned into three large parcels, would create a new parcel (Parcel 3) with two non-contiguous, outlying portions. Access to Parcel 3 is indicated by the applicant and surveyor as available to Parcel 3, in total, from Upper Rhea Creek Road or Wilson Creek Road. Commissioner Nelson asked the Planning Director to explain the issue the Assessor has with signing the plat. She indicated that the Assessor is concerned with tracking the new parcel when it is non-contiguous. Planning Director McLane further explained options the Planning Department considered when trying to resolve issues the Assessor has. One was having two partitions, first creating two separate parcels for the outliers, the second creating the larger parcels. This would be creating two parcels not meeting the minimum parcel size and also doing a series partition, which would not be lawful. The other option considered was to ignore the outliers. This option would also be unlawful in that it would result in the creation of substandard-sized parcels.

Open the Public Hearing:

In favor:

No one testified in favor of this application.

In Opposition or Neutral:

Judson Coppock, Morrow County Surveyor:

Mr. Coppock indicated that the deed describing the property also describes property within the City of Heppner. Planning Director McLane explained that the deed describes 4 different parcels, each a separate unit. The Heppner parcels are not being dealt with in this particular application. Mr. Coppock indicated that the Commission should require the non-contiguous portions of the original parcel to be separate because if someone would want to buy one of them later, it would need to be replatted and he thinks that would be a hardship. Mr. Coppock then proceeded to show the Commission an earlier instance whereby the Commission approved a partition when the complete deeded parcel was not taken into consideration under the whole partition plat. He thinks that, because of this precedent, the Commission does not need to include the entire deeded parcel as part of a partition. Commissioner Nelson said that he believes creating unusable parcels is not a good idea. The action of the Commission would create parcels that would not be in conformance with County regulations. The example Mr. Coppock showed the Commission did ignore part of a parcel, but the ignored parcel was still a legally sized, though newly created, parcel. Mr. Coppock asked the Commission to exclude the outliers and to address the access issue with the small parcels. Mr. Coppock added that the internal parcels should have access addressed as well. He also added that the Commission has not applied the parcel issue consistently. Planning Director McLane did concede that Staff has not consistently applied a parcel test. Mr. Coppock asked if it had caused problems and where is the legal basis for having to consider parcels like this. Planning Director McLane explained the problems that could be encountered by creating substandard-sized parcels and reminded the Commission that even the County Court must follow the minimum lot size rules. Substandard-size lots could be created if the owner wanted to apply for a special use, such as a wildlife preserve, but she reminded the Commission that a substandard-sized parcel would need to be applied to a specific use. The Commission speculated about other ideas regarding different uses. Commissioner Sykes asked about the lot of record uses and whether that could apply to creation of substandard sized lots. Planning Director McLane explained about siting a lot of record dwelling and she reiterated the problem of creating the substandard-sized parcels. Mr. Coppock then requested the Commission look at amending the Subdivision Ordinance to restricting partitioning only to contiguous lots in order to smooth the way for the next partition that has non-contiguous portions.

Closed the Public Hearing:

Commissioner Rice made a motion to continue the hearing to hear the position of the County Assessor. In addition, he moved that the hearing be continued to the next regularly scheduled hearing date of December 1, 2009, at 7:00 p.m. at the North Morrow County Annex Building. His motion was seconded by Commissioner Devin. Motion carried.

Zoning Ordinance Amendment AZ-016-09: Morrow County, applicant. This will be the first of at least three hearings to consider updating the MCZO Article 6 Conditional Uses. The purpose of this amendment is to add language allowing the Morrow County Planning Director to issue a conditional use permit when an energy facility has a valid site certificate. Criteria for approval are found in the MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane presented the staff report. She indicated that our Zoning Ordinance language needs to be compliant with State Law ORS 469.401(3) which requires a County to

issue a Conditional Use Permit when siting an EFSC-approved energy facility. This language change to Article 6 is meant to accomplish this requirement. The EFSC review of an energy facility will always take into account the County's approval criteria and will be incorporated within the State approval. The staff will need to make sure all the criteria the County needs to have applied and wants to have applied are submitted promptly to the State when the EFSC requests them. The State law language requires a prompt issuance of the CUP and Planning Staff interpreted "prompt" to be 2 weeks time. The time limit was put in to give the County time to do the sign off. Commissioner Nelson said we are interpreting the statutes use of the word "prompt." He thinks the time limitation needs to be removed and leave the language as "prompt" because the County does not have the right to interpret what the legislature meant by "prompt" when they created this language. Planning Director McLane indicated that the inclusion of a timeline was a suggestion of the EFSC manager. Commissioner Wenzholz said that the interpretation of "prompt" to be 2 weeks is okay because, if the staff wants to make a staff report out of the EFSC permit, which is actually a CUP, they would need some time to do so.

Open the Public Hearing:

In favor:

No one testified in favor of this application.

Neutral:

Amand Kluehe, P.O. Box F, Lone

Mr. Kluehe asked the Staff to explain Section II D of the staff report, the part that states that ORS 215.055 has been repealed. Planning Director McLane explained that when she prepared a previous staff report she looked up the requirements under D and found out that that particular statute had been repealed and that it basically had to do with health and welfare issues. Although the County has the authority to consider health and welfare issues when they are pertinent, Planning Director McLane was not sure it is applicable to this application.

Sue Oliver, Oregon Department of Energy

Ms. Oliver commented that she had a question: She asked about the staff report where conditional uses are required to have a hearing. She wondered if the language in the Ordinance section above should be amended as well to reflect the changes in the section below. Planning Staff conceded that her suggestion should be considered to add "unless exempted under Section 6.015."

Closed the Public Hearing:

Commissioner Wenzholz made a motion to continue this hearing to the next regularly scheduled hearing date of December 1, 2009, at the North Morrow County Annex Building. His motion was seconded by Commissioner Rice.

Discussion: Commissioner Nelson asked about the continuance and what the process is to make changes to the language. The Commission discussed language changes.

Commissioner Nelson then made the motion to make changes, which were to add language in Section 6.010 to add "unless exempted under Section 6.015" and in Section 6.015 strike "2 weeks." His motion died for lack of a second. The motion to continue the hearing passed with one vote in opposition by Commissioner Nelson. Motion carried.

Continued from September 29, 2009, Zoning Ordinance Amendment AZ-011-09: Morrow County, applicant. This is the second of at least three hearings to consider updating the MCZO Article 4 Section 4.130 Manufactured Home or Recreational Vehicle Authorized as Temporary Residence for Care of a Relative in Conjunction with Existing Residential Use and make the ordinance conform to Oregon Revised Statute and Oregon Administrative Rule. The purpose of this amendment is to clarify the language of MCZO Article 4 Section 4.130. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane presented the staff report and outlined the changes made in the staff report and draft language that had been changed from the previous versions based on the Planning Commission's discussion at the last hearing.

Opened the Public Hearing:

In favor:

No one testified in favor of this action.

In Opposition or Neutral:

No one testified in opposition or neutral to this action.

Closed the Public Hearing:

Commissioner Wenholtz made a motion to approve the update to Article 4 Section 4.130 of the Zoning Ordinance and forward the language to the County Court for final approval. His motion was seconded by Commissioner Rice. Motion carried.

Zoning Ordinance Amendment AZ-012-09: Morrow County, applicant. This will be the second of at least three hearings to consider updating the MCZO Article 1 Introductory Provisions. The purpose of this amendment is to add definitions to address conditions not previously encountered. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane indicated to the Commission that the staff report for this action included changes reflecting the discussion at the last hearing, which included adding a definition for "zoning permit" and "relative." The definition of "recreational vehicle" was amended to reflect Statute language. The time limit for a valid zoning permit was changed from 6 months to 1 year. Commissioner Wenholtz brought up his concern with the definition of truck stop. Commissioner Rice suggested to strike the word "may," and flip the first and second sentences. Commissioner Wenholtz said he would be comfortable with the staff making those changes.

Opened the Public Hearing

In favor:

No one testified in favor of this action.

In Opposition or Neutral:

No one testified in opposition or neutral to this action.

Closed the Public Hearing;

Commissioner Wenholtz made a motion to approve the update to Article 1 Introductory Provisions of the Zoning Ordinance with the changes discussed and forward the language to the County Court for final approval. His motion was seconded by Commissioner Rice. Motion carried.

Zoning Ordinance Amendment AZ-013-09: Morrow County, applicant. This will be the second of at least three hearings to consider updating the MCZO Article 2 Establishment of Zones. The purpose of this amendment is to add recently adopted use zones to the zone designation list. Criteria for approval are found in MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane presented the modified staff report, wherein Section 2.020 was changed to reflect that modifications to the Zoning Ordinance need to be adopted by ordinance, not reference.

Opened the Public Hearing:

In favor:

No one testified in favor of this action.

In Opposition or Neutral:

No one testified in opposition or neutral to this action.

Closed the Public Hearing:

Commissioner Key made the motion to approve the update to Article 2 Establishment of Zone of the Zoning Ordinance and forward the language to the County Court for final approval. His motion was seconded by Commissioner Devin. Motion carried.

Audience Participation

None

Other Business/Correspondence

- Discussion of substantive criteria for the Notice of Intent for a new generation station near the Boardman coal-fired energy generation facility called the Carty Generating Station.

Planning Director McLane discussed the Notice of Intent paperwork that had been sent to the Commission and each section in detail. She mentioned that the gas connection for the facility will be a federal permit, which is unfamiliar for staff; and is permitted under FERC. The Planning Director detailed the County response to the request for information from the EFSC siting officer (A - H) of the request letter. PGE will be doing an analysis of the Goals and apply them directly to allow the station. The letter outlined which Goals and Policies apply in this instance. A discussion was had concerning access to PGE via the Lone-Boardman Road. Planning Director McLane said a letter to the County Court could be written discussing the issue of Lone Boardman Road and she agreed to take a letter in rough draft to the County Court - the second week in November before the County Court. This letter will be shared with ICABO and the other Economic Development interests in the area. ESFC will not be able to influence this, but the discussion needs to be continued. Planning Director McLane continued to detail the policy letter to EFSC of things that will be required of the applicant to cover; this included the conditional use criteria, a traffic impact study, the TSP road standards that will apply to Tower Road so it doesn't degrade; the Solid Waste Management Plan would apply so the project will meet solid waste issues. The Code Enforcement Ordinance would not apply because a nuisance would need to be enforced within an applicable permit. The weed control ordinance will also apply. Planning Director McLane asked the Commission for any additional criteria that she may have missed.

The Commission indicated that they were comfortable with the criteria as presented by the Planning Director and agreed that the language provided by the siting officers in response to the policies and criteria provided by the County should be concise.

- Discussion of substantive criteria - Saddle Butte Wind Park
Commissioner Sykes asked who owns Saddle Butte Wind Park: Planning Director McLane said that it is the same owner as Shepherds Flat, which is mentioned within the NOI. It is the same developer as Shepherds Flat. The Planning Director then detailed the Morrow County policies and criteria that apply to that project. A TIA would apply to the construction phase, if it would apply at all. Site development review would not apply. Article 6 conditional uses apply, as well as the Solid Waste Management Plan, the Weed Control Ordinance, and the Pre-Disaster Mitigation Plan.
- Staff provided the Transportation System Plat for the Commission members who had asked for it.
- The Commission tabled the discussion on aggregate and Article 9 Administrative Procedures to the next regularly scheduled hearing.

Adjournment:

The meeting was adjourned at 9:50 p.m.

Respectfully Submitted,
Lori Timmons



PLANNING DEPARTMENT

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**Minutes of the Public Hearing of the
Morrow County Planning Commission
Tuesday, December 1, 2009 7:00 p.m.**

Morrow County Planning Commissioners Members Present: Mifflin Devin, Tucker Rice, Pamela Schmidt, David Sykes, Jeff Wenholz,

Members Excused: Pamela Docken, Jim Key, Justin Nelson

Morrow County Staff Present: Carla McLane, Planning Director; Lori Timmons, Associate Planner, Ryan Swinburnson, County Counsel

Planning Commission Chair Sykes called the meeting to order at 7:04 p.m.

Roll call was provided by Planning Director McLane.

The minutes of the October 27, 2009 hearing had not been sent with the Commissioners' packets and had not been reviewed. The minutes will be available for review before the next regularly scheduled hearing.

Planning Commissioner Chair Sykes read the Planning Commission Hearing Procedures.

Continued from October 27, 2009, Land Partition LP-S-410: Michael D. Glavey, Heidi Hains, and Frances King, applicants and owners. Property is described as Tax Lots 1100, 1102, 1200, 1201, 1301, and 1400 of Assessor's Map 4S 27; Tax Lot 4700 of Assessor's Map 4S 28; and Tax Lots 700, 900, 1100, 3300, 2700, and 4000 of Assessor's Map 5S 27 and is located about 20 miles southeast of Heppner along Upper Rhea Creek Road near the National Forest boundary. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) Article 5 Land Partitioning.

Planning Director McLane presented the amended portions of the staff report and explained the changes that had been made since the last hearing. Based on a closer look at the Oregon Revised Statutes, County requirements for partitioning, and conversations with the County Assessor and Surveyor, the Planning Director decided to remove language requiring access to the non-contiguous portions of proposed Parcel 3 and the requirement for access to be maintained to the internal, not-a-part parcels within proposed Parcel 3. The requirement for a dedication for Wilson Creek Road also was removed because it was found not to be a County road.

Opened the Public Hearing:

In favor of the application:

Michael Glavey, P.O. Box 3363, Wilsonville, OR, applicant and owner:

Mr. Glavey spoke in favor of the application and explained the reason for the partition. Since the property is owned by three persons, they wanted to partition the land so each owner could own a separate part of the original, single parcel.

David Hadley, 310 SE Third Street, Hermiston, Mr. Glavey's Attorney

Mr. Hadley had taken the time to research the issues with this application. He agrees with the approach of the amended staff report dealing with access to the internal and external portions of the parcel. He said that he has prepared a lot of deeds and they have many configurations but the act of doing a deed needs to not complicate land use rules. He asked a general question regarding Morrow County's policy dealing with parcels that are non-contiguous because it seems there is no clarification about outlying portions of parcels, even when they are a long way from the larger parcel. He indicated that, at this point, there appears to be no answer to this problem. For Mr. Glavey, how could he sell one of the outliers? Would he have to sell the whole parcel? What would be the process to sell, swap, etc., the outliers? He deferred to Bill Well, the surveyor, to answer some of these questions if he is able.

Bill Wells, P.O. Box 1696, Pendleton, Mr. Glavey's Surveyor.

Mr. Wells indicated that he had spoken with Mr. Coppock, the County Surveyor. He said it is important to be able to deal with the outliers. A boundary line adjustment is apparently not possible. The only other option would be to replat the property along with other surrounding land to create a parcel that meets the minimum lot size. He asked the Planning Director to explain why a replat such as this would need this treatment. Planning Director McLane said that if they were to take the action to exclude to outliers, the outliers would be illegally created as separate parcels, and smaller than the minimum size for parcels in the Forest Use Zone. Mr. Wells said a tax lot used to be considered a planning unit. Planning Director McLane explained that there is a difference between a tax lot and a parcel and that, in this case, they are not the same.

Greg Sweek, Morrow County Assessor

Mr. Sweek said that he believes the spirit of the deed was to create the parcels separately and asked if a correction deed to change the original deed would fix the problem. He wondered if this would possibly make the outliers separate, but created retroactively, and therefore, legal. No one could answer this question.

Judson Coppock, Morrow County Surveyor.

Mr. Coppock read the definition of "parcel" in ORS 92. He referred to a 1962 deed wherein the outlying parcels were separate. Planning Director McLane said that we need to work from the latest deed. She also mentioned that Mr. Sweek's idea is a good one, wherein the deed could be corrected, and this could be a reasonable resolution.

David Hadley:

Mr. Hadley said that he doesn't know where the deed policy as discussed comes from. Planning Director McLane said it comes from previous discussions where the County has not taken a close enough look at the parcel information, and over time we have been trying to get better at the land partition process. Previous Planning Directors have used tax lots and parcels interchangeably, and it was clear to Planning Director McLane that this was not correct. The County should not assume that the partitions that have been applied for include complete parcel information, and the County is going to have to start requiring this information. She conceded that the County does not have a perfect process and there should be some work on the language of the Subdivision Ordinance to better deal with situations such as this.

Ron McKinnis, Surveyor and Engineer for the Port of Morrow:

Mr. McKinnis suggested that the County take a look at definitions of parcels and lots, etc.

Testimony of those Against or Indifferent to the Application:

Judson Coppock, Morrow County Surveyor:

Mr. Coppock, speaking as an indifferent person, provided a definition of "tract," which referred to it being a contiguous piece of land.

Closed the Public Hearing:

Commissioner Wenholtz mentioned that a corrected deed would be up to the applicant, and asked what would be the best action of the Commission? Planning Director McLane said the applicant could correct the deed to describe the outlying portions as separate from the parcel as described. Commissioner Rice asked if the corrected deed would have different ownerships. Planning Director McLane said the ownership would not change but, after the deed correction, the outliers would be described in the deed as separate parcels. The consequence would be that the applicant would be able to divide the larger parcel and leave the outliers separate. The outliers would be undevelopable because they would be substandard. She suggested that, within the motion for the approval, the Planning Commission give the staff direction as to how to proceed.

Ryan Swinburnson said that Planning staff cannot amend the findings after the Commission has made a decision. If you don't make a Condition of Approval, staff will want to wait until the Commission can review the amended document, and then approve the findings.

Commissioner Sykes asked what the precedent for this is and whether this is a situation the County will want to repeat? Mr. Swinburnson mentioned that, in the future, a problem with the parcel description in the deed will be fixed before a partition will be applied for because the Planning Department will be able to advise the prospective applicant to do a deed correction beforehand.

Commissioner Rice made a motion to continue the application until the January 19th hearing to allow the Planning Department staff to work with the applicant to address the outlying portions of the parcel. His motion was seconded by Commissioner Devin. Motion carried.

Comment:

Greg Sweek told the Commission that it appears a deed correction will work in this situation because the same people who were responsible for the deed still own the land. Older deeds may not be able to be corrected in this manner.

Land Partition LP-N-411: Port of Morrow, applicant, and Kaizen Holdings, LLC, owner. Property is described as Tax Lots 100, 101, 200, and 201 of Assessor's Map 4N 26 04; Tax Lot 100 of Assessor's Map 4N 26 05; Tax Lot 100 of Assessor's Map 4N 26 07; Tax Lots 200 and 400 of Assessor's Map 4N 26 08; Tax Lot 100 of Assessor's Map 4N 26 09; Tax Lots 100, 102, and 104 of Assessor's Map 5N 26 31; Tax Lot 100 of Assessor's Map 5N 26 32, and Tax Lots 100 and 101 of Assessor's Map 5N 26 33. The property is located on the north side of Highway 730 south and east of the Port of Morrow East Beach Industrial Park. Criteria for approval include the MCZO Article 5 Land Partitioning. Planning Director McLane presented the staff report. The Oregon Department of Transportation (ODOT) provided a letter as comment to this application. Planning Director McLane read the letter, which suggested that the Port work with ODOT during the interchange planning process.

Opened the Public Hearing:

Ron McKinnis, Port of Morrow Engineer P.O. Box 200 Boardman

Mr. McKinnis explained the history of this large tract of farm land, which was originally owned by the Port. It was transferred in two different modes because of financing decisions. Parcel 1 was transferred by contract to Kaizen. Parcel 3 was transferred to Kaizen via a financial company. He also explained why the Port needs Parcel 2, to further the grant approved by the ODOT Commission and the Legislature for money for an interchange area management plan. The plan binds the Port to have an interchange area management plan before they can get the funds for construction. Mr. McKinnis said that this addresses the comments given by Mr. Patterson of ODOT. Mr. McKinnis also indicated that the sole reason of the partition is to get Parcel 2 back to Port ownership so they can keep going on the development of additional access.

Testimony of those Against or Indifferent to the Application:

No one testified neutral to or against this application.

Closed the Public Hearing:

Commissioner Wenholtz made a motion to approve the application as presented. His motion was seconded by Commissioner Schmidt. Motion carried.

Zoning Ordinance Amendment AZ-016-09: Morrow County, applicant. This will be the second of at least three hearings to consider updating the MCZO Article 6 Conditional Uses. The purpose of this amendment is to add language allowing the Morrow County Planning Director to issue a conditional use permit when an energy facility has a valid site certificate. Criteria for approval are found in the MCZO Article 8 Amendments Section 8.050 Burden and Criteria.

Planning Director McLane recapped the staff report for Commissioners who were not at the last hearing. Based on conversation at the last hearing, the Commission was given options for approving an EFSC approved facility conditional use permit. The time frame for the County to make the approval was the issue. Commissioner Rice stated that, if the County wants to put a timeline in, then do it. At this point of the game, an applicant for a facility would probably not quibble with a 2-week time frame, or something similar. Ryan Swinburnson said that it would be in Morrow County's best interest to define a time frame. Planning Director McLane indicated that there are some situations when 2 weeks would be too short and requested the Planning Commission have a "prompt" time limit to be set at least 3 or 4 weeks.

Opened the Public Hearing:

In favor of the action:

No one testified in favor of this action.

In opposition or neutral:

No one testified in opposition or neutral to this action.

Closed the Public hearing:

Commissioner Devin made a motion to approve the action with option number three regarding time limits: "Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received." Commissioner Wehnholtz seconded his motion. Motion carried.

Audience Participation

none

Other Business/Correspondence

- Aggregate update: There has been another meeting with the Aggregate Advisory Committee. The next meeting will be on the 15th of December. Staff is moving smoothly with the process and the Commission should be seeing it in February or March.
- Article 9 Administrative Procedures. Planning Director McLane introduced the proposed changes. Commissioner Sykes was skeptical about removing decision-making ability from the Commission and said he likes the idea of Commission oversight. Planning Director McLane said the changes are, in part, based on the need to clear agenda items off of the Commission's plate in order to spend more time working on updating and scrubbing the County's codes, which is sorely needed. The Commission discussed this and aired a concern about giving up their decision-making power permanently, and about losing transparency or the ability of a citizen to air concerns. Commissioner Rice said that he thinks, in the cause for efficiency, you can't expect the Commission to do it all. Planning Director McLane assured the Commission that Staff would strive for a balance.
- HB 2229 Discussion: Planning Director McLane did not complete a report at this point regarding the Big Look legislation, which turned out to be not much of a look. More next month.

Adjournment:

The meeting was adjourned at 9:41 p.m.

Respectfully Submitted,
Lori Timmons