



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
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### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, January 17, 2012 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, John Kilkenny, David Sykes, Jeff Wenholz, Russell Seewald

**Members Excused:** Rod Taylor, John Renfro

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was recited.

The Minutes of the December 20, 2011 hearing were provided with the Commissioners' packets. Chair Sykes said one minor change was needed.

Commissioner Key moved to approve the Minutes of December 20, 2011 as amended. Commissioner Devin seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-S-292: Randall L. and Kathleen M. Hille & Edward J. and Donna L. Hagedorn, applicants, and Kristine J. Crofts, owner. The property is described as Tax Lot 310 of Assessor's Map 4S 28 Section 27 and is zoned FU. The property is located near Cutsforth Park, about 22 miles south of Heppner. The request is to site a forest template dwelling. Criteria for approval include MCZO Article 3.020 and Article 6. CUP-S-292 Forest Template**

Director McLane presented the staff report to the Commission.

Open public hearing.

No one spoke in favor, neutral or in opposition.

Closed public hearing.

Vice-Chair Wenholz moved to approve Conditional Use Permit CUP-S-292. Commissioner Key seconded his motion. The motion carried.

Chair Sykes asked about access to the lots. The Director responded that there is a loosely written easement to the lots.

Director McLane gave the Court members and Commissioners the Oregon Administrative Rule language concerning Industrial Noise. The Director stated that we really need to look at the whole rule, not just bits and pieces of it, and wants the two bodies to discuss this issue together. Policy statement at the beginning of the rule, and the last page which suspends all funding for the enforcement of this rule. Who regulates at the end of the day, it is not clear. Most of the definitions for the noise rule has to do with airports and motorsports.

Most recent County Court decision has been appealed to LUBA, with regard to noise issues. The Planning Commission recently made a decision on how to apply the noise rule on future applications. It does eliminate the rule, and the applicant still needs to comply with state rules.

Chair Sykes commented that the reason to have this meeting is so that both bodies are on the same track when it comes to these decisions. The Planning Commission still wants to protect the citizens of Morrow County, but unable financially to enforce somebody else's rules. Need to have an answer for the citizens, which should be the same as County Courts, as to why we can not enforce these rules. We need to have a definition of why.

Commissioner Rea stated that they don't need to have any more appeals.

Commissioner Kilkenny stated that the decision that was made didn't change the responsibilities of the applicants.

The Director agreed, it is still there. Developments still have to meet the noise rule, it is still on the books and must be met. The new Carty Generating Station and developments at the Port must meet the noise rule. So how do we apply this rule as a County, it is beyond only wind farm noise, it encompasses all of industrial noise.

Chair Sykes how this has been handled in other counties around Oregon, like Multnomah County, did they have any small problems with the Noise Rule that we could use as a template on how they dealt with it. Director McLane is not sure if there is any evidence to be able to answer this.

Mr. McKinnis wanted to comment on the study that was done for the Speedway with regard to compliance with the Noise rule. It showed the impact to residences in a worst case scenario. It was very extensive.

The Director commented that the County still requires developers to go through a modeling process based on the rule. There are choices the applicants have to make, but the rules are still applicable. They must still comply with the rule, whether the County conditions compliance or not.

Vice Chair Wenholz asked what the consequences are of non-compliance with the rule. Chair Sykes also asked who decides whether they are in compliance, and who pays for that. Vice Chair Wenholz compared violating the noise rule to a speeding ticket, if you violate the speed limit and there are no cops, who is going to enforce.

County Counsel commented that there is an aggrieved party in the noise situation. Speeding there is not. There is an aggrieved party who can hold the other parties feet to the fire. The private citizen can make a claim, and take the middle man out of the enforcement, who would be the County. The scenario doesn't change whether the County is in the process or not.

Director McLane said the Planning Commission's recent decision just removes the County from being the intermediary in these claims. As the County, we are not facilitating any resolution to the process.

Vice Chair Wenholz wants the developer to pay for a study if there is a complaint against them. He asked staff why if all other state laws and County Codes are put into conditions, why shouldn't this one. County Counsel answered that the conditions that are put in staff reports can be objectively met.

Discussion with staff ensued over hours of operation conditioned in permits, and why that can be conditioned and imposed but the noise rule shouldn't be. One is clear and objective and the other is subjective.

Chair Sykes wanted to talk about modeling. The applicant does the modeling, with standards that come from where. The Director said there are state standards in a guidance document. Chair Sykes asked that if we aren't going to be involved in enforcement than how much can we be involved before hand. The Judge said the modeling is worse than what we deal with.

Commissioners agree its better to work with it up front than afterwards. On the front end it is in the public forum. Maybe state standards for modeling would be beneficial.

Commissioner Seewald sees why the County wants to stay out, and that there should be consistent treatment of it in the future.

Commissioner Devin agrees somewhat with Vice Chair Wenholz, as does Commissioner Docken.

Commissioner Rea doesn't see the advantage of having the County in the middle of all this.

Commissioner Kilkenny wanted to remind the groups that they will be approving these facilities in the future is not how they approved them in the past. They know so much more now and have learned from the mistakes. Much more is anticipated beforehand now.

**Audience Participation:**

Dave Mingo, 72512 Hwy 74. Mr. Mingo asked staff and the Commission what would the County lose if it didnt get to site the projects. If you let the state site all of them.

The Director responded that we lose opportunity for small projects to get built. There are some very small projects, financially, the County process is much cheaper and would make it able for small ones to be sited locally. Time is another potential important component. Our process is much shorter than the EFSC process. There also is not as much local involvement in the process. Statutorily we have authority to do it. EFSC doesn't hold public hearings for the projects.

Clinton Reeder, Umatilla County Planning Commission member. The strategies are universal of the wind companies. We found last year the EFSC held a local public hearing, and he feels a commiment to his neighbors. He went on to explain how Umatilla County Planning Commission rewrote the Umatilla Code on siting wind farms.

Irene Gilbert, Legal Research Analyst Friends of the Grande Ronde Valley. Ms. Gilbert admires what has happened in Umatilla County and wanted to note that most of the people vote against wind farms.

Tamra Mabott said the Draft Energy Plan will be coming out in April.

**Other Business or Correspondence:**

County Court activities include 2 LUBA appeals in process, and also the County Court considered an Aggregate Depletion fee, which they chose to not pursue.



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**Minutes of the Morrow County Planning Commission  
a portion of which is a  
Joint Public Hearing with the City of Heppner Planning Commission  
Tuesday, February 28, 2012 7:00 p.m.  
Heppner City Hall  
Heppner, Oregon**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, Russell Seewald, David Sykes, Rod Taylor, Jeff Wenzholz

**Members Excused:** John Kilkenny, John Renfro

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

**City Planning Commission Members Present:** Jeff Bailey, Dave Fowler, Les Paustian, Don Stroeber, Vi Wilgers

**Members Excused:** Cheri Clark, Nancy Gochnauer, Tamara Lien

**City Staff Present:** Dave DeMayo, City Manager; Bill Kuhn, City Attorney

Roll call was provided by Planning Director McLane.

The Pledge of Allegiance was recited.

Planning Commission Chair Sykes read the County Planning Commission Hearing Procedures.

**County Land Partition LP-S-428:** Kyle Robinson, applicant; Merlyn Robinson, owner. Property is described as tax lot 101 of Assessor's Map 2S 26 35. A portion of the property is located within the City Limits of Heppner and is zoned R1. Another portion of the property is located within the Urban Growth Boundary of Heppner and is zoned R1 and R3. A final portion of the property is outside the Urban Growth Boundary and is zoned Exclusive Farm Use (EFU). The property is located south of Highway 74, east of Rock Street in Heppner to the Urban Growth Boundary line. Request is to partition a 109.36-acre parcel to create three parcels. Criteria for County approval includes the Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning. Criteria for City approval includes the Heppner City Zoning Ordinance Title 12, Chapter 2.

Planning Director McLane explained to all present the reason why the Morrow County and the City of Heppner Planning Commissions are meeting to hear the Robinson Land Partition application. The hearing is being held jointly because the subject property lies within the City of Heppner City Limits, Urban Growth Boundary and within the County. The Preliminary Findings of Fact reflect the substantive criteria of both jurisdictions.

Opened the Public Hearing.

In favor:

Wade Smith, applicant. Mr. Smith informed the Commission that he has pre-approval for a septic. He sees no concerns or issues with the staff report as presented.

None spoke in neutral or in opposition.

Closed the Public Hearing.

Commissioner Key moved to approve CUP-S-293. Commissioner Docken seconded his motion. The motion carried.

**Audience Participation:**

Tom Wolff, Heppner. Mr. Wolff is representing the Board of Directors of Lake Penland Corporation. Lake Penland subdivision is a late 1960's subdivision; built a lake and started selling lots for cabins. Everything was fine, until a prospective developer, Wade Smith, was having troubles siting his cabin with weird setbacks that the County had installed, which are more constrictive than the CC&R's in place. Most of the lots abide by the County requirements. Mr. Wolff wanted to leave the Commission with a few questions and hopes to meet with the Director and Planning staff. One question he has is why didn't the County just adopt and grandfather in the CC&R's that are already in place from the Corporation from 1969. Now we have several lots that are un-buildable. He has concerns that he wanted to share with the Commission. He would like the Commission to grandfather in the CC&R's to these properties.

Chair Sykes asked Mr. Wolff if anyone has ever been denied a variance which wouldn't allow them to build. Mr. Wolff answered not to his knowledge, no. However the remaining lots are significantly smaller than the other lots. Chair Sykes stated that there has not been a problem yet. Mr. Wolff confirmed.

Chair Sykes asked if staff wanted to reply to Mr. Wolff's concerns and asked when the requirements were implemented. The director stated she didn't know the full history or when those setbacks were put into our code, some research would have to be done to answer these questions. The Director noted that in the 1990's the County went through a very lengthy process when the state passed the Forest Practices Act, and the Director assumes that those setback standards may have been part of the requirement to adopt criteria from the Act. As far as CC&R's, the County is not compelled to enforce CC&R's for any subdivision, they are not law. State Statute will always trump CC&R's. The Director asked that before we get deeper in this topic, we do some research and have some background knowledge of the history of the criteria in place.

Chair Sykes asked Mr. Wolff if he had already brought his concerns to staff and was now seeking Planning Commission resolution. Mr. Wolff said he had briefly discussed some CC&R issues with staff. The Director said she was not aware Mr. Wolff was going to bring up this topic to the Commission tonight. Chair Sykes wanted to make sure that Mr. Wolff hadn't been denied at the staff level and was now seeking Planning Commission help. Mr. Wolff just wanted to bring it up to the Commission and see who was serving on the Commission.

Commissioner Docken asked Mr. Wolff if he said that he had approved DEQ permits for all the lots at Penland? Mr. Wolff said yes, for each one from the early 1970's. Commissioner Docken



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**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, March 27, 2012 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, John Kilkenny, John Renfro, Russell Seewald, David Sykes, Jeff Wenzholz

**Members Excused:** Rod Taylor

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

The Pledge of Allegiance was recited.

The Minutes of the February 28, 2012 hearing were provided with the Commissioners' packets. Vice Chair Wenzholz moved to approve the Minutes of February 28, 2012. Commissioner Docken seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Replat R-N-027-12: Port of Morrow, applicant and owner, and RDO/Calbee, owner. The property is described as Tax Lot 100 and 118 of Assessor's Map 4N 25 2. The property is located in the Port of Morrow East Beach Industrial Park and is zoned Port Industrial. Request is to replat Parcel 1 of Partition Plat 2012-1 and Parcel 1 of Partition Plat 2006-09. Criteria for approval include Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.**

Commissioner Devin stated that he is employed by the Port of Morrow, but that he is not directly involved in the project. The Planning Director presented the staff report to the Commission.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis stated that RDO/Calbee originally had an option on the property for a joint business venture with another company, but that fell through. The Port is going to sell them some more land to expand their operations. Expansion will be of the existing plant.

Chair Sykes asked Mr. McKinnis if access will be from Lewis and Clark. Mr. McKinnis responded that there are two approved accesses by the Port and after the expansion is built they will continue the fire loop around the expansion. All services will be provided by the Port.

Commissioner Renfro asked what will ultimately be on the new addition. Mr. McKinnis stated that this will be an expansion of the current production facility. They create a potato product that is 100% export; this new line will make the same product which may or may not be all export.

RDO/Calbee is a joint venture between Calbee Foods which is a Japanese company, and RDO Farms. The Port doesn't like to sell property, but the Port will sell them the land to keep them here. There will be an expanded rail service that will eventually serve RDO/Calbee.

No one spoke in neutral or opposition.

Closed the hearing.

Commissioner Renfro moved to approve Replat R-N-027-12. Commissioner Key seconded his motion. The motion carried.

**Conditional Use Permit CUP-S-294: John Flynn/Ruggs Ranch, applicant and owner. The property is described as portions of Tax Lot 1701 of Assessor's Map 2S 24. The property is located 8 miles north of Ruggs off Rhea Creek Road, and is zoned EFU. Request is to approve a hunting preserve. Criteria for approval include MCZO 3.010(D)(13), 6.020 and 6.030.**

**Conditional Use Permit CUP-S-295: John Flynn/Ruggs Ranch, applicant and owner. The property is described Tax Lots 1700, 1706, 1707, 1708 and 2604 of Assessor's Map 2S 27. The property is located 5 miles east of Heppner off Highway 74, and is zoned EFU. Request is to approve a hunting preserve. Criteria for approval include MCZO 3.010(D)(13), 6.020 and 6.030.**

The Planning Director presented both actions, CUP-S-294 and CUP-S295, together as combined staff reports. Staff made a change to Condition of Approval number one because of comment made by an adjoining landowner who is Commissioner Kilkenny. The comment received was that the hunting preserve boundary is too close to the residence on Commissioner Kilkenny's property. A map was provided to show the Commission the residence in question. Staff added a proposed Condition of Approval requiring a 250 yard setback to any residence that is not affiliated with the preserve. No changes within the staff report, just added to the existing Condition of Approval.

Chair Sykes asked staff if Commissioner Kilkenny's residence is the only residence within the 250 yard setback of the preserve boundary. Director McLane said that staff didn't do an analysis to determine if there were anymore, but that staff did provide notice from the parcel boundaries. Chair Sykes asked whether the other property owners who were noticed would be aware of the 250 yard setback. The Director responded that they wouldn't be aware unless they came to the hearing tonight. The setback can be used only for the bird hunting preserve boundary. If someone wanted to deer hunt on Mr. Flynn's property then there would be no setback because they are just hunting on private property.

Commissioner Kilkenny asked if they would have signs up denoting the safety zone. The Director responded that Mr. Flynn would be required to put up signs around the edge of the preserve for the ODF&W permit.

Commissioner Renfro asked if any of the other neighbors were concerned. The Director said that Mr. Flynn had indicated that he would call another close neighbor Dan Brosnan to let him know and tell him about the setback. The Planning Department did not receive comment from anybody else. The houses along Sand Hollow are significantly removed from the hunting preserve boundary. Commissioner Renfro asked if this was only for bird hunting. Commissioner Kilkenny replied that was what the preserve was for. Commissioner Kilkenny said that he would feel safer around regular hunters who are hunting in season with a regular hunting license than the people who pay to hunt at the hunting preserve, because a lot of those people have never hunted before.

Opened the Public Hearing.

No one spoke in favor, neutral or opposition.

Closed the hearing.

Commissioner Kilkenny recused himself from the two actions, as he made comment as a neighbor.

Commissioner Key moved to approve Conditional Use Permit CUP-S-294 and Conditional Use Permit CUP-S-295. Commissioner Devin seconded his motion. The motion carried.

Commissioner Renfro wanted to make sure that Commissioner Kilkenny was ok with the setback condition. Commissioner Kilkenny told the Commission that he was surprised that ODF&W didn't have any setbacks relative to the preserves. Associate Planner Layne Womack informed the commission that ODF&W only require setbacks from State Parks, Federal Parks, and other hunting preserves, but none relative to property boundaries. Director McLane said that this the first time this has come up when approving a hunting preserve.

**Audience Participation: None**

**Other Business or Correspondence:**

The Director informed the Commission that the County has been affirmed on two LUBA decisions recently, both Loves and Invenergy. The LUBA Final Opinion on the Invenergy appeal, was 5 pages long on the topic of "jurisdiction". The Director commented that this shows that LUBA was really not the right court to be handling this. The opponents were asking for things that LUBA just cannot provide, like money damages.

The Director reported that she has been working on budget stuff, it is that time of year again.

The Director stated that the Wind Health Impact Analysis comment is due on Friday.

Director McLane updated the Commission on the federal projects in the County; the Carty Generating Station draft proposed order is out and the Director will need to comment by April 15; the Resource Report reviews for B2H for BLM land; the EIS and EFSC process comments for Cascade Crossing due by April 4; and the County hasn't commented on the Navy change in airspace yet.

The Director informed the Commission that the City of Irrigon has started the process to terminate the Joint Management Agreement and that staff has a records request from them to fulfill. Vice Chair Wenzholz asked who has jurisdiction in the UGB. The Director answered that the County does. Vice Chair Wenzholz also commented that since he has been on Planning Commission there have not been any actions within the UGB. The Director commented that there hasn't been any actions in the UGB in a long time, and that the last amendment was the Waste Water treatment plant. There was another UGB expansion for the new school, but that was before the Directors time here. These actions were all held jointly between the City and County. Vice Chair Wenzholz commented that there has to be development out there in the UGB for the City to be able to be included in the process, but there just haven't been any actions.

Chair Sykes wanted to inform the Commission that he was present at the Heppner City Council meeting after both Planning Commission held a joint hearing about the Kyle Robinson Property. Chair Sykes said that he was there as a reporter but was asked questions since he is on the Morrow County Planning Commission. As they were discussing the Robinson action they were asking him questions, instead they should have been asking their own Planning Commission these questions, Chair Sykes commented. One of the City Councilors said that she had concerns about the action at our joint meeting but that she didn't want to testify, because all



Chair Sykes asked for was testimony in favor and testimony against. Chair Sykes said that he corrected her and said that he asked for testimony that's neutral or against. Chair Sykes said that she then criticized the opening statement that Chair Sykes reads at the beginning of the hearings. Chair Sykes didn't want to have to explain to the City Councilor what was done in the meeting and why but explained to her what her rights are at the public hearing. Chair Sykes asked the Commission if they would be in favor of planning staff going over the application process at a future meeting, and be informed about how they are advertised and the time lines involved. Chair Sykes wants to be clear on the process to be able to explain to the public how the hearing works. He wants to be able to explain to the public that if you do not testify at the hearing, you cannot come back after the meeting and say you didn't approve of the action.

Commissioner Key agreed with Chair Sykes because he recently had to spend an hour on the phone with Wade Aylett after the Gun Club hearing, when Mr. Aylett wouldn't say at the public hearing that he was opposed, but then later appealed it. The Director agrees and thinks our code needs to be changed and needs to be more clear, but said that planning staff just has not had time for a code amendment. So the Director stated that we have fallen back on State Statute, and that is pretty clear on the standing issue.

Chair Sykes asked if when he asks for testimony in favor or neutral or opposition, if he could call out it three separate times instead of lumping them together. The Director said that he certainly could do that.

The Commission all agreed that they would be happy to make the public testimony clearer for the public on how and when to testify. Planning staff said that at a future meeting we should have a Planning 101 course for the newer Commissioners and that would also be beneficial for all the Commissioners.

Commissioner Kilkenny informed the Commission that he attended a Wind Health Impacts meeting which was put on by the State Department of Health. This is for the "Health Assessment" portion for EFSC permitted energy projects. The Department of Health wants to expand their definition of "health", to a "total well being" definition from the World Health Organization. Commissioner Kilkenny commented that there were a lot of complaints at the meeting over notice requirements. Commissioner Kilkenny did point out that the point of this is for better community involvement, but that is only part of what they are after. Their intentions are right, but misplaced. Commissioner Kilkenny and Director McLane agreed that this will open up whole new conversations about health impacts that do not belong there. Commissioner Kilkenny commented that the Department of Health did say that if you remove noise, more than 90% of the health concerns go away. He thought that was very interesting.

Commissioner Renfro made a comment to the Commission that he just recently took a trip to Arizona and as an observation, didn't see one wind turbine in Arizona or Nevada.

The Director reminded the Commission that their Ethics statements are due by April 15 and that we have IAMP, TSP and Zoning Ordinance changes so the Commission needs to bring notebooks to change out the pertinent parts.

**Adjournment:**

Meeting was adjourned at 8:25 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, May 22, 2012 at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted, Layne Womack



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### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, June 5, 2012 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, John Kilkenny, Russell Seewald, David Sykes, Rod Taylor, Jeff Wenzholz

**Members Excused:** John Renfro, Jim Key

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was recited.

The Minutes of the March 27, 2012 hearing were provided with the Commissioners' packets. Vice Chair Wenzholz state that there was a grammatical error on page three of the minutes.

Vice Chair Wenzholz moved to approve the Minutes of March 27, 2012, as corrected. Commissioner Devin seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-N-285(A) Amendment: Intelligent Wind Energy, applicant and Kent Madison/Madison Ranches, landowner. The property is described as Tax Lot 1700 of Assessor's Map 3N 27. The property is located in east central Morrow County near the Umatilla County line, and is zoned EFU. Request is to amend CUP-N-285 to move 5 turbines 1.5 miles south to accommodate a request by the Navy. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.010, Article 6 Conditional Uses and of Oregon Administrative Rule Chapter 660 Division 33.** The Planning Director presented the staff report and attachments. The Director then gave the Commission all a copy of the Navy Military Operations Area map, along with a letter from the Department of the Navy to the Oregon Public Utility Commission in support of the PURPA request. Also provided to the Commission was a memo from Northwest Wildlife Consultants to Bob Guertin stating that no Washington Ground Squirrel habitat was found on the new property location, and a comment letter from the Oregon Historic Trails Advisory Council. The Director does not recommend any changes to the approval based on these comment letters. The Oregon Trail is identified, but not specifically protected by the Morrow County Comprehensive Plan. Also included was an email string with some clarification as to locations of Oregon Trail sites.

Chair Sykes asked staff where the overall project time line is at and where it needs to be at. Director McLane responded that when we originally approved it, we anticipated construction in 2011. Construction has been initiated on one string and we anticipate construction will commence on additional strings in the next month or so.

Commissioner Kilkenny asked staff which turbine string has started with the construction. The Director answered that the Doherty string has begun construction. They are still moving through the Conditions Precedent and we anticipate more zoning permits shortly.

Chair Sykes asked staff if the relocation of this string puts any of the others in jeopardy. The Director said that no it doesn't, these are all 5 miles apart from each other. They are all coming off of different roads, most of which are farm roads.

Commissioner Kilkenny asked staff what is the reason for the five mile setback. The Director answered that is a PURPA setback, and maybe when Bob Guertin testifies he can explain it a little bit better.

Chair Sykes asked about the way that the developers construct the internal road system, does the County look at that. Director McLane answered that we used to, and that our requirements in the end were being exceeded by the developer. In the end the farmer gets a better road at a better standard than what we would require. So it doesn't make sense to tell them to build the road to a standard that they are going to exceed.

Opened the Public Hearing.

In favor:

Bob Guertin, Partner in Oregon Windfarms and representing Intelligent Wind Energy, Kirkland WA. The reason for the move is to try to accommodate the Navy's request as much as possible to minimize the impacts to their airspace. A large number of things had to happen to try to accommodate this request, the project owner had to agree to make this happen, they did get a waiver granted several weeks ago from the Oregon PUC. PURPA is a federal law to support small renewable energy projects with guaranteed contracts for energy purchase. The Federal Government specifies a one mile setback between generating facilities to be considered separate projects to qualify for these contracts, it's actually the Oregon PUC who wanted the five mile setback if owned by the same party. Almost done with FAA permits. Wildlife surveys have been completed. The access routes all the same as original site. They are really pressed for time to qualify for the tax incentives which make these projects financially viable.

Chair Sykes asked why the Navy is now asking this at the eleventh hour. Mr. Guertin responded that there is a long history to this. Oregon Windfarms also developed the Echo project, and at that time they contacted the Navy and there were no significant concerns because there are some turbines from that project in this particular zone but something happened to the permits with the FAA and Department of Defense and the Chemical Depot about radar interference. There were a lot of meetings with government officials and departments but at that time there were no objections from the Navy, it was all about the Army Depot. Meanwhile they went ahead with FAA permits for this new Buttercreek project, because the FAA determines whether a structure is a flight hazard. Subsequently the Navy, wasn't concerned with Echo and there had been a command change and training plans had changed at the bombing range which included more extensive use of the airspace, so now they are concerned with airspace issues. At that time the Buttercreek project was owned by a different company from Greece and they were having trouble with financing and moving turbines would just not be feasible to them. Once they sold to the current company, Intelligent Wind Energy, they were willing to try to make this project happen. The point is the airspace belongs to the land owner and the Navy should have purchased an easement on the airspace below a certain level to remove it from uses for other purposes. That's the process that they are in with the Navy right now.

Director McLane wanted to supplement that by saying the conversation has been going on for awhile now, at least since right after it was originally approved.

Commissioner Seewald asked if the waiver is not granted then will the original site be constructed. Mr Guertin responded that the owners will not have much choice, the projects aren't economically feasible if they don't have all four sites to build because of the costs involved. All four split the costs of the infrastructure of transmission and substations to make it work. This would be the owners decision, not his to move forward.

None in neutral or opposition.

Closed the hearing.

Commissioner Kilkenny moved to approve Conditional Use Permit CUP-N-285(A). Commissioner Taylor seconded his motion. All in favor. The motion carried.

**Conditional Use Permit CUP-N-296: Kent Madison, applicant and owner. The property is described Tax Lots 1100 of Assessor's Map 3N 27. The property is located near the Umatilla County line 2 miles south of Homestead Lane, and is zoned EFU. Request is to approve a commercial utility facility to generate approximately 44 kilowatts. Criteria for approval include MCZO Article 3 Section 3.010 and Article 6 Conditional Uses.**

The Planning Director presented the staff report to the Commission.

Chair Sykes asked staff to expand on what the land use approval is for. Director McLane stated that often times we approve a Conditional Use then ask for them to come back and get a zoning permit for the structure associated with that use. This time the Conditional Use Permit is for the actual use, and they are not building any structure, just putting the turbine workings inside concrete boxes that are already there. They are simply installing two generators. No further review or need for a zoning permit which would authorize a structure.

Opened the Public Hearing.

In favor:

Brian Barks, a representative of Mr. Madison was available for questions from the Commission.

None in neutral or opposition.

Closed the hearing.

Commissioner Devin moved to approve Conditional Use Permit CUP-N-296. Commissioner Seewald seconded his motion. All in favor. The motion carried.

**Land Partition LP-S-429: Port of Morrow, applicant and owner. The property is described as Tax Lots 100 and 800 of Assessor's Map 2S 26 21D. The property is located at the old Kinzua Mill site, north of Heppner on Highway 74, and is zoned Port Industrial. Request is to partition the parcels to separate an existing manufacturing facility from port ownership. Criteria for approval include Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.**

Commissioner Devin stated that he works for the Port of Morrow, but has no knowledge of this project. The Planning Director presented the staff report. Chair Sykes asked about the water and the owner needing to drill a well. The Director said that was a good question for the applicant.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis informed the Commission that the Port inherited the old mill site in the early 2000's. There was a Property Line Adjustment that happened for the energy generating facility. Really nothing happened there until Miller wanted to own their own property and building. There are a dozen or more tax lots on that property, which makes dividing this property difficult. To answer Chair Sykes question about water rights the mill site is industrial and the POM has water rights for industrial and also irrigation use. Miller Manufacturing doesn't need or use industrial water, so a well for domestic use would be appropriate and is an exempt use. The only user the Port has right now on the west side of the highway is Miller. The other residence and other structures on the other side of the highway have been separated on their own wells. So to have just one water user on the Port system doesn't make sense, and they don't have to have industrial water. The Port doesn't want to have to maintain the system for just them. The agreement between Miller and the Port does call for them to develop their own water system. Access is from Highway 74 and they will be creating an easement for Miller Manufacturing, and also to the generating facility. The flood zone is an insurance issue.

Chair Sykes said he was not really talking about water rights. He wanted to know more about when he (Miller) sells the property will a well be in. Mr. McKinnis said the well will be in, and it will be part of the agreement between the Port and Miller. The Port doesn't want to have a water use agreement with Miller especially since this will become a discrete parcel that can be sold to whomever. The Port will probably stop operating the system until they get a big user in there.

Chair Sykes asked Mr. McKinnis about the Port possibly selling off more parcels or making some land available. Mr. McKinnis said that the Port isn't out to make a nice platted industrial park because each industrial user is different, and wants something different.

No testimony neutral or in opposition.

Closed the hearing.

Vice Chair Wenholz moved to approve Land Partition LP-S-429. Commissioner Docken seconded his motion. The motion carried.

**Replat R-N-028-12 and Land Partition LP-N-430: Port of Morrow, applicant and owner. The property is described as Tax Lot 100 of Assessor's Map 4N 26 07. The property is located in the Port of Morrow East Beach Industrial Park and is zoned Port Industrial. Request is to replat and partition Parcel 2 of Partition Plat 2010-03 into two parcels. Criteria for approval include MCSO Article 5 Land Partitioning.**

Commissioner Devin states that he still works for the Port of Morrow. The Planning Director presented the staff report to the Commission. The Director handed out a comment letter from West Extension Irrigation District stating that a small portion of the property is within the district

boundaries, but is in the process of being excluded and there is currently no irrigation service to the property.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis informed the Commission that the property was originally owned by Logan Farms, the Port bought it and the Port used it for a waste water application site. The site didn't meet the Port's industrial needs, so they sold it, but then needed it back and bought it back. The Port needed the land for a Port connection to Highway 730. The Port then re-zoned it to Industrial from EFU. The project that would like to be there and be near those roads is the Longhorn substation owned by Bonneville Power Administration (BPA). The challenge is that they need somewhere between 20 and 200 acres. Some of the players include BPA, PGE, Idaho Power and UEC. It would be great for the substation to be located at the Port.

The Director wanted to tell the Commission how it got named Longhorn. She said that one of the first requestor's for this substation was Gamesa who is the developer that has partnered with 2Morrow Energy. Most of the principals of Gamesa in the US are in Texas, they have longhorns in Texas, and thought that we would like one called that. Nothing but grief around that name locally.

Commissioner Kilkenny asked Mr. McKinnis if that is where Idaho Power wants to connect. Mr. McKinnis answered yes and that Cascade Crossing does too. There will be a lot of kilowatts going through there. There was discussion about how The Dalles looks with all the transmission and the big substation they have there. Chair Sykes asked if Port clients could get direct service from this substation. Mr. McKinnis said no that they would not be able to directly tie in.

The Director wanted to add that often we deal with non-specific requests on our Land Partitions, as long as it is in the ball park, that is fine with us.

None in neutral or opposition.

Closed the hearing.

Commissioner Taylor moved to approve Replat R-N-028-12 and Land Partition LP-N-430. Vice Chair Wenzholz seconded his motion. The motion carried.

**Variance V-N-021-12: Sabino Calvillo, applicant and owner. The property is described as Tax Lot 1300 of Assessor's Map 4N 25 20B. The property is located south of Kunze Lane west of Paul Smith Road, and is zoned Farm Residential. Request is to site a 1996 double wide manufactured home as a replacement dwelling. Criteria for approval include MCZO Article 7 Variances.**

The Planning Director presented the staff report. Chair Sykes asked about the significance for the 10 year requirement. The Director responded that it was a few years ago that some residents were concerned; it has to do with the look and value of the neighborhood. The approach is to try to meet these requirements, but if it is an improvement over what is there we tend to recommend approval. We are also trying to meet the affordable housing needs of the

County. This probably should have been done through siting standards in the Zoning Ordinance and not an age requirement. The concern was the aesthetics and the impact to values.

Vice Chair Wenholz said that part of the age requirement was when Art Kegler was on the Commission and based on his experience getting financed on anything older than ten years was very hard. The end result was a 10 year limitation on what was to be sited.

Chair Sykes wanted to get a feel for the spirit of this requirement. Director McLane agreed that was the intent.

Vice Chair Wenholz opined that it would definitely be an improvement, but the concern is when granting variances where is the line drawn when it is objective and not subjective. What happens when they sell the 1980 to someone and they want to replace their 1967 mobile with this 1980 mobile, how do you make it objective instead of subjective.

The Commission agreed that this process seems to work the way it is now.

Opened the Public Hearing.

None spoke in favor, opposition or neutral.

Closed the hearing.

Commissioner Kilkenny moved to approve Variance V-N-021-12. Commissioner Taylor seconded his motion. All in favor. The motion carried.

**Audience Participation:**

The Director wanted to point out that COL Farmer with the Oregon National Guard sat through the whole meeting, and the Commission thanked him for coming.

Mr. McKinnis introduced Sandra Billings who is a representative from BPA.

**Other Business or Correspondence:**

The Director had sent the Commission an email a week ago about Heppner Wind Notice of Intent, and if any questions about the EFSC process and the County process come up, please ask.

County Counsel shared that the Jepsen appeal that went to LUBA has been withdrawn. Apparently our combined response brief was just too well done!! The Invenenergy appeal is all done. Love's is back to the Court of Appeals.

**Adjournment:**

Meeting was adjourned at 8:47 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, June 26, 2012 at 7:00 p.m. at the Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

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### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, June 26, 2012 7:00 p.m.**

**Members Present:** Mifflin Devin, John Kilkenny, Russell Seewald, David Sykes, Rod Taylor, Jeff Wenholz

**Members Excused:** Jim Key, Pamela Docken, John Renfro

**Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

Prior to the beginning of the meeting coming to order at 7:00 p.m., those who arrived early participated in a discussion with staff about series partition law and air space issues surrounding the Navy Bombing Range.

The Pledge of Allegiance was recited.

The Minutes of the June 5, 2012 hearing were provided with the Commissioners' packets. Commissioner Devin moved to approve the Minutes of June 5, 2012. Commissioner Taylor seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Hardship Variance HV-N-022-12: Joseph and Angela Wells, applicant and owner. The property is described as Tax Lot 901 of Assessor's Map 5N 27 21C. The property is located in eastern Morrow County south of Highway 730, outside of Irrigon's Urban Growth Boundary and is zoned Rural Residential. Request is to approve a hardship dwelling to allow the property owner to care for the infirm relative. Criteria for approval include Morrow County Zoning Ordinance Article 4 Section 4.130 Hardship Dwellings.**

The Planning Director presented the staff report. Director McLane passed out to the Commission a copy of the last letter the Planning Department received June 21, 2012 from Dr. Oltman's office. Planning Staff have concerns that the spirit and intent of the hardship are not being met. Planning staff made a recommendation to deny this action, but do provide conditions should the Commission decide to approve. The Director is not sure that this last letter would change the recommendation to deny based on the Doctor's comments. This is the first time that staff has had concerns about a hardship, especially because of the way the application was made due to code enforcement.

Chair Sykes asked staff if other factors brought on this code enforcement. The Director answered that the code violation was living in an RV, which brought this on. The only way to live in an RV under the Morrow County Code is with a Hardship Variance, if your house is under construction, or on recreation land for a limited time. There are RV parks where living in an RV



is allowed. The reason for this is that RV's do not meet the Building Code definition of a residential dwelling.

Chair Sykes asked staff if we had determined how long this has been going on for. The Director said it has been going on for a number of years.

Chair Sykes asked whether it had been moved from an RV Park. The Director answered that staff has heard a lot of hearsay and we do not have an answer for that.

Opened the Public Hearing.

In favor:

Joe Wells, applicant. Mr. Wells informed the Commission that they had an old house on the property, where she lived in the basement, but that house burnt down in February of 2010. He then built a new house, and the RV which he owns was on the property so his mom lived in the RV. She's only in at night, not in it during the day. During the day she is in the house. He apologizes for not knowing the County code. The RV is hooked up to power, water and uses the portable RV dump. She uses the amenities in the house. Doctors recommend that she is not on her own. She does drive. Somebody is with her most of the day. She drives to Umatilla.

Chair Sykes asked Mr. Wells why she cant just sleep in the house, then you wouldn't have to go through all of this. Mr. Wells answered that they have a four bedroom house with four kids and that there is no room for her. His mom is a stubborn woman and she doesn't want to be a burden and take space away from them. She wants to be independent and she asked to stay in the RV. Mr. Wells said he can't put her in a residential home. He can pour a pad if he needs to and hook it up to sewer. Mr. Wells said from his front door to the front door of the RV it is only 70 feet. Most of the time during the day she is in the house.

Angela Wells, applicant. Asked the Commission if the other violations matter.

Commissioner Taylor asked Mrs. Wells what the other violations are. Mrs. Wells informed the Commission that her kids raise swine for 4H projects, and didn't realize that they couldn't have them within 500 feet of the neighbors house. No one lived next door when they first started, but then they built a house and there is nowhere on their property for the swine. So they removed the swine from their property. The drive that the neighbors use, when they moved in the Well's said that they allowed them to keep using the drive. They didn't want the neighbors to have to drive all the way around the canal, but they had a horse trailer and a catamaran parked behind their shop on the other side of the drive. They have moved them out of the way. She just wanted to address those two violations and say they have been complied with.

Commissioner Taylor asked for clarification on whether the drive was a public or private road. Director McLane said that it is an easement, a granted egress and ingress easement which was recorded with the partition plat. At the end of Sunset Lane there is a cul-de-sac which ended at a large parcel. When that parcel was further divided, an easement was granted that served the three pieces of property made by that partition. The easement goes along the south side of the three properties going west of where Sunset ends. It is that easement that there was encroachment on.

Mrs. Wells said that she wasn't aware of that. She said she had to get a notarized statement that allowed the neighbors to drive through their property.

Commissioner Taylor asked staff if these properties were a development. The Director said yes they were, the subject property and neighbors to each side were all subject to a partition. On

the Assessor's Plat maps there is an identified ingress egress easement. This property is outside of the city limits and outside of the UGB, zoned Rural Residential with limitations on farm animals. In the Suburban Residential zone inside the UGB, there is a provision to allow 4H specifically. These provisions are not in the Rural Residential zone because lots are usually 2 acres or larger. These lots just happen to be smaller and harder to meet the animal densities or setbacks.

Joann Curtis, 2655 Pheasant Ridge Street, Umatilla. Applicant's sister. Mrs. Curtis said that her Mom residing in the fifth wheel is all about an independence factor. No one wants to lose their independence and the doctor feels that she is still capable of maintaining some of her independence. The doctor doesn't feel she is a threat to any one driving. She can maintain herself easier in the RV because its so small and everything is accessible to her. Her husband and herself also care for her and come out for up to two hours a day as a paid care giver through the State. This is her independence versus being so far away in an RV Park. It would take them too long to get to her if she fell and lived in the nearest RV Park.

June Frederickson, Mrs. Wells mother. She was told that Mrs. Ramirez had to have a doctor's note. Being handicapped is many different levels, you may not think that she is completely handicapped and not sure if that is the criteria for getting this special permit. She doesn't understand why driving would not let her get her permit, because people have different levels of handicap. She thinks that her daughter is doing a good job of trying to help.

None in neutral or opposition.

Closed hearing.

Commissioner Taylor asked if this was the first time enforcement was called. Director McLane said it was, but we did receive multiple complaints. There is a property in the vicinity for sale and most of the phone calls were from real estate agents, and we can only assume that they were attempting to show adjoining property.

Commissioner Taylor said it sounds like they weren't trying to avoid anything, it was more ignorance of those rules. It wasn't like they were not following the rules just to spite someone. Director McLane said that was a fair assessment.

Chair Sykes asked if someone has an RV parked outside of their house if that is a violation. The Director answered, no, you can legally park your RV, boat or whatever you own on your property. Chair Sykes asked when do you determine that someone is living in an RV. The Director answered that when it is occupied and there is sleeping, eating, caring for yourself going on in the occupied RV. The Director wanted to reiterate her earlier statement that RV's are not meant to be lived in. They are not up to building code on residential standards. In this case, it is not the care giver in the RV, it is the infirm person residing in the RV. If there were to be a fire, would there be a quick enough response, that is a real concern. If your RV is parked next to your house and your sister comes to visit for 2 weeks and stays in your RV, that is not a violation, and she can stay for up to 30 days. If you are building your house, you can stay in your RV. Again the intent is that it is temporary.

Commissioner Taylor asked if they were to OK this action that there would be certain stipulations that would have to be met. Director McLane said yes, the code is very clear that certain conditions must be met; electric, water and sewage disposal must be met. The current way they have it set up would not meet those criteria. They would have to get site suitability through DEQ to see if they can connect the RV to their onsite septic system.

Commissioner Kilkenny asked staff if you allow RV occupancy. The Director said in four instances it is allowed by code for the short term: 30 days of occupancy for casual use in a year, use of an RV while you construct your home, and for use on Forest zoned property during the recreation season. The last is for a hardship and to date we have not approved an RV for a hardship.

Chair Sykes asked if the only requirement they haven't met is the septic hookup and the distance to the house. The Director said that the requirement is that the RV needs to be within 100 feet of the main house, and that location piece also has to do with where their septic is and how to get connected.

Chair Sykes asked if those two requirements were keeping them from being in compliance. Director McLane stated that our recommendation for denial was more from our concern of what was written in the doctors notes, and whether the doctor made the case. We were not convinced that the doctor made the case. The location factors can be met. If you think the doctor made the case, they can meet the other conditions that are the standard hardship conditions.

Commissioner Kilkenny asked staff if there was a reluctance to set a precedence on this. The Director said no, our reluctance is from the doctors note, it was not concise enough and the doctor seemed to waffle a lot. We looked at the criteria and we were not convinced the criteria were met.

Commissioner Taylor stated that was the difference between staff reading the letter and the Commissioners reading the letter.

Commissioner Kilkenny asked his fellow commissioners if they needed to delay it 30 days for more clarification. Director McLane said she wasn't sure if you would get anymore clarification from this physician.

Chair Sykes asked staff if we felt he did answer the question if it was not needed. Or did we feel it was just left out in the open. The Director stated that he didn't say that she doesn't need care, but didn't quite make the case convincingly that she does need care.

Vice Chair Wenholz said that it fits within the spirit of the ordinance.

Vice Chair Wenholz moved to approve Hardship Variance HV-N-22-12 with the conditions set out in the staff report. Commissioner Taylor seconded his motion. The motion carried.

**Replat R-N-029-12 and Land Partition LP-N-431: Port of Morrow, applicant and owner. The property is described as Parcel 2 of Partition Plat 2011-19 of Assessor's Map 4N 26 06. The property is located in the Port of Morrow East Beach Industrial Park and is zoned Port Industrial. Request is to replat and partition the parcel into two parcels. Criteria for approval include Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.**

The Planning Director presented the staff report. Commissioner Devin announced that he works for the Port, but is not directly working on this project.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis informed the Commission that last year

the Port rushed through to accommodate the needs of potential clients to build a data center, but did not feel comfortable giving their clients all 99 acres of the parcel so they decided to divide in half.

Chair Sykes asked if the facility would be split between the two partners. Director McLane answered that it would be a phased development. Mr. McKinnis said to look at how the Amazon projects have developed with their phased approach, they will build one building at a time. For instance PDX 1 has half of a building just sitting out there right now. The Director informed the Commission that for PDX 4 on Rippee Road, the small pods full of computers were phase one, and the big building they are currently constructing is phase two.

Chair Sykes asked about legal ownership for property in common. Mr. McKinnis talked a little about interest in the company and ownership in the company not the property.

None in neutral or opposition.

Closed hearing.

Commissioner Taylor moved to approve Replat R-N-029-12 and Land Partition LP-N-431. Vice Chair Wenzholz seconded his motion. The motion carried.

**Land Partition LP-N-432: Port of Morrow, applicant and owner. The property is described as Tax Lot 300 of Assessor's Map 4N 25 12. The property is located in the East Beach Industrial Park on the North side of the Interstate 84 Highway 730 Interchange, and is zoned Port Industrial. Request is to partition the parcel to facilitate construction of a substation. Criteria for approval include MCSO Article 5 Land Partitioning.**

Vice Chair Wenzholz informed the Commission that he is a director for Umatilla Electric Co-op (UEC) and that this action will not benefit him anymore financially than any other member of the Co-op. Commissioner Devin again is employed by the Port.

The Planning Director presented the staff report.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis stated that the Co-op would like to expand or rebuild their existing substation. The Port can have the old substation, this was just recently rezoned. The access from Highway 730 doesn't meet the highway standards. Try to continue to have access for the substation.

John Gottschalk, UEC employee. Trying to solve the problem of enlarging the old substation. Outgrew the old one, ran out of room. The new Coyote Springs substation will be the new transmission hub for UEC.

Chair Sykes asked if this will increase the ability to provide power to retail customers. Mr. Gottschalk replied that it would.

Chair Sykes also inquired whether this is tied in to BPA. Mr. Gottschalk said that maybe in the future they hope to be.

Mr. McKinnis stated that there are already a number of substations in the area. UEC just

finished Riverview Substation last year. The original Coyote Springs was actually moved for the construction of I-84. The one to support VaData has not been constructed yet. Sometime in the future Rackspace will have its own also. BPA has one called Coyote Springs also nearer to Boardman.

Chair Sykes asked Mr. McKinnis to put into perspective how much power these data centers will be using. Mr. McKinnis said that if you take all of UEC service area which spans from Meacham to Boardman, they have about 100 to 110 megawatts of power in that area.

Vice Chair Wenzholz said that they do not serve the cities of Umatilla, Hermiston, Stanfield, and Pendleton.

Mr. McKinnis said that basically a Rackspace would double the capacity in the service area. Vice Chair Wenzholz said that UEC is the largest Co-op in the state in terms of power sales.

Chair Sykes asked if there would be room for usage for other clients. Mr. McKinnis said the proposal is to make it available for any user. As far as the data people, they show up here because of the dry cool climate.

None in neutral or opposition.

Closed the hearing.

Commissioner Taylor moved to approve Land Partition LP-N-432. Commissioner Seewald seconded his motion. The motion carried.

**Audience Participation:**

Commissioner Leann Rea informed the Commissioners of the helicopter Port fly over for the new Sage Center for the virtual balloon ride of the county.

**Other Business or Correspondence:**

Director McLane informed the Commission that last night was the first meeting for Perennial Wind Chaser Station Gas Fired Power Plant. UEC will be building the transmission line for this project.

Invenergy's Heppner Wind submitted their Notice of Intent.

**Adjournment:**

Meeting was adjourned at 8:47 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, July 31, 2012 at 7:00 p.m. at the Port of Morrow Riverfront Center, Boardman, Oregon.

Respectfully Submitted,  
Layne Womack



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### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, August 7, 2012 4:30 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pam Docken, Jim Key, John Kilkenny, John Renfro, Russell Seewald, David Sykes, Jeff Wenholz

**Members Excused:** Rod Taylor

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner.

The Pledge of Allegiance was recited.

The Minutes of the June 26, 2012 hearing were provided with the Commissioners' packets. Vice Chair Wenholz informed staff of a few grammatical errors found in the minutes.

Vice Chair Wenholz moved to approve the corrected Minutes of June 26, 2012. Commissioner Seewald seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-N-298: W.I. Construction, applicant and Port of Morrow, owner. The property is described as of Tax Lots 203 and 205 of Assessor's Map 4N 25 11. The property is located inside the Boardman Urban Growth Boundary in the Port of Morrow, and is zoned MG. Request is to approve a concrete batch plant and associated concrete production. Criteria for approval include MCZO 3.070(B)(6), 6.020 and 6.030.** Commissioner Devin stated that he works for the Port of Morrow. The Planning Director presented the staff report.

Commissioner Docken arrived late.

Chair Sykes asked staff about the zoning difference between General Industrial (MG) and Port Industrial (PI) zones, and wondered if the Port would deal with that at some point. Director McLane said that the Port would have to drive that effort; it would be a Zoning Map change approved by the County Court. The Director would like to see a boundary for the Port so that land within that boundary could all be zoned Port Industrial. The designation of the zone should not be driven by ownership, but by use. The Port Industrial zone is really a heavy industrial area as opposed to medium or light industrial. This piece of land would make much more sense to be Port Industrial instead of General Industrial, but until the Port drives any other action, we need to deal with it as it is.

Opened the Public Hearing.

In favor:

Mr. Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis said that this is an oversight on the Port's part. The Port does have some General Industrial out there. On the other side of the road it is Port Industrial. W.I. Construction came to the Port looking for a spot to set up the concrete batch plant, and the Port leased them a site, but later realized it wasn't an outright use. This location is known as the Ready Mix site, because it had an old cement plant on the site before. This is the best way to address this issue in the short term by applying for a CUP. Mr. McKinnis isn't sure if its really worth the time to go through a Zoning Map change on these few pieces left, or just go through the conditional use permit process when they need to. Mr. McKinnis thanked the Commission for coming out for an extra meeting to get this done.

Chair Sykes asked if we provided notice to the lessee's that are in the surrounding area. The Director replied yes, we do try to include all the lessee's in the area, and did err on the side of over noticing.

Chair Sykes asked if any of the businesses around there in the Port area would have any standing if they had any problems with the action. The director answered that anyone who chooses to testify would have standing. This would be their opportunity to share their concerns and get them on record.

Mr. McKinnis said its not unusual for the lessee's to talk to each other first about what is coming into the Port, before anyone talks to Planning. The Port gets a lot of comments and feedback on some of the projects out there. The Port tries hard to keep their old and new lessee's happy.

Commissioner Renfro asked Mr. McKinnis if there was any reason why they shouldn't let the batch plant locate there. Mr. McKinnis said that there was not any reason to not let the batch plant be located there, and if he thought that there was then the Port would have found a different location for them to operate on. This same activity has gone on there for quite some time in the past and he sees no reason why it wouldn't be compatible with surrounding uses.

Commissioner Renfro asked Mr. McKinnis that if this proposed site was across the road (in the Port Industrial zone), then Planning Commission would not be hearing this action. Mr. McKinnis answered in the affirmative.

The director stated to the Commission that we sent notice to 18 lease holders and since the Port is within the Interchange Area Management Plan area, we also sent notice to ODOT.

Gary Neal, Port of Morrow Manager. Mr. Neal stood up and said he was there in support of the action.

None in neutral or opposition.

Closed hearing.

Commissioner Key moved to approve Conditional Use Permit CUP-N-298. Vice Chair Wenholz seconded his motion. The motion carried.

**Public Comment:**

None

**Other Business or Correspondence:**

Large number of energy projects with different federal processes. Tonight after this meeting the BLM, ODOE and Idaho Power B2H meeting is right next door. This one is going through the NEPA process for an Environmental Impact Statement (EIS). NEPA is different in every federal organization.

The FERC process for Carty Lateral Project, the natural gas pipeline. Hopefully they will just have to go through an Environmental Assessment (EA) and not a full blown EIS. Working on all these processes concurrently.

We have a gravel pit coming up for the next meeting. And we are waiting on an application from ODOT in the near future for an action.

**Adjournment:**

Meeting was adjourned at 5:12 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, August 28, 2012 at 7:00 p.m. at Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Layne Womack





## PLANNING DEPARTMENT

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**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, August 28, 2012 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Pam Docken, John Kilkenny, John Renfro, David Sykes, Rod Taylor, Jeff Wenzholz

**Members Excused:** Mifflin Devin, Jim Key, Russell Seewald,

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was recited.

The Minutes of the August 7, 2012 hearing were provided with the Commissioners' packets.

Commissioner Taylor moved to approve the Minutes of August 7, 2012. Vice Chair Wenzholz seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-S-297: John Kilkenny applicant and owner. The property is described as Tax Lot 1300 of Assessor's Map 2S 28. The property is located on Highway 74 approximately 8 miles east of Heppner and is zoned Exclusive Farm Use. Request is to approve an aggregate quarry that will process less than 500,000 tons of aggregate material. Criteria for approval include Morrow County Zoning Ordinance Article 3 Section 3.010(D)(11) and Article 6 Conditional Uses.**

Commissioner Kilkenny recused himself from the two following actions. Director McLane presented the staff report. Chair Sykes asked about the boundary of the aggregate pit and how it is shown on the map. The Director informed the Commission that the applicant probably found the best place for an aggregate pit with the help from the aggregate developer, and had help defining the area on a map. Chair Sykes asked if the under 500,000 ton threshold was for the entire 22 acre site. Director McLane affirmed that the aggregate extraction is confined to the aggregate site boundary and that we show the whole tax lot on the map which is used for notice purposes. Commissioner Renfro asked staff about the one residence in the vicinity. Staff confirmed that the only residence out there is the applicant's house.

Opened the Public Hearing.

In favor:

Jack Ingram, W.I. Construction, Arlington, Oregon. Mr. Ingram stated that he was there on behalf of the applicant and wanted to speak in favor of the quarry getting established for the use of the wind farm and the public as well. The rock has been sampled and tested and has been confirmed for quality and meets ODOT specifications. Mr. Ingram said he has been

involved with a lot of the windfarms in the area and would like to keep his local staff working. Therefore he would like to see new aggregate pits. There is a definite economic benefit for the whole County and is for this action being approved.

Gene Williamson, W.I. Construction, Arlington, Oregon. Mr. Williamson reiterated that he and Mr. Ingram have been involved in the whole process and it is good for the community. It's better to keep these things local, and the closer the quarry is to the windfarm, the better. There will be minimal impacts to wildlife. He stated he is for this actions approval.

None in neutral or opposition.

Closed hearing.

Commissioner Renfro stated he did not hear any testimony or otherwise in the negative, and sees no reason not to approve this action.

Commissioner Renfro moved to approve Conditional Use Permit CUP-S-297. Commissioner Taylor seconded his motion. The motion carried.

**Comprehensive Plan Amendments AC-057-12 and AC(M)-058-12: John Kilkenny applicant and owner. This is the first hearing of least two, with final approval by County Court. The property is described as Tax Lot 1300 of Assessor's Map 2S 28. The property is located on Highway 74 approximately 8 miles east of Heppner and is zoned Exclusive Farm Use. Request is to amend the Comprehensive Plan to include a locally 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.**  
Director McLane presented the staff report.

Opened the Public Hearing.

In favor:

Jack Ingram, W.I. Construction, Arlington Oregon. Mr. Ingram is for this actions approval.

None in neutral or opposition.

Closed hearing.

Director McLane made the comment that in the preliminary staff report the hearing date for County Court needs to be changed to October 3, 2012 due to scheduling conflict.

Vice Chair Wenholz moved to recommend forwarding Comprehensive Plan Amendments AC-057-12 and AC(M)-058-12 to the County Court with an approval recommendation. Commissioner Taylor seconded his motion. The motion carried.

**Special Presentation:**

Rick McArdle, Community Planning Liaison Officer, US Navy, provided a brief presentation on the Navy training mission in the area around the Boardman Bombing Range.

Mr. McArdle answered questions from the Commissioners and the audience.

**Audience Participation:**

None.

**Other Business or Correspondence:**

An energy projects update was provided by Director McLane.

- Two transmission projects with Federal NEPA EIS processes and State EFSC processes: Idaho Power's B2H and PGE's Cascade Crossing.
- Locally permitted 230 KV line for the 2Morrow project.
- Two gas plants under review: PGE's Carty Generating Station and Perennial Wind Chaser
- FERC EA for Carty Lateral Gas line.
- Wind Projects: Updated Met Tower Map, approved and built wind farms, Shepards Ridge probably never will be built, Buttercreek halted by CFIUS, Ella Butte will probably be rolled into an EFSC permit, Mariah Wind approved but not yet built, Montague not in Morrow County might get built if they can sell the power, and NOI's for Saddle Butte, Baseline with a peaker gas plant, Heppner Wind, 2Morrow has made a fee payment for their NOI, Rock Creek in Gilliam County.
- PTC not yet renewed and there is no market demand for wind except for the RPS standards.
- Applications anticipated: Wheatridge Project (EFSC), Horn Butte Replacement project (CUP).
- Buttercreek: Stop development order from CFIUS. They are working with some potential buyers. One buyer has turbines that would not change the CUP, another buyer has a turbine that might have to amend the CUP. Wants the Commission to think about how the approval was written to determine if the CUP should be amended for different turbine sizes. The CUP may need to be amended to add more property in the end too.

**Adjournment:**

Meeting was adjourned at 9:03 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, October 30, 2012 at 7:00 p.m. at Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Layne Wolfmueller



## PLANNING DEPARTMENT

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### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, October 30, 2012, 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pam Docken, Jim Key, John Renfro, David Sykes, Jeff Wenzholz

**Members Excused:** John Kilkenny, Russell Seewald, Rod Taylor

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Wolfmueller, Associate Planner

The Pledge of Allegiance was recited.

The Minutes of the August 28, 2012 hearing were provided with the Commissioners' packets.

Vice Chair Wenzholz moved to approve the Minutes of August 28, 2012. Commissioner Key seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-N-299: Port of Morrow, applicant and owner. The property is described as Tax Lots 203 and 205 of Assessor's Map 4N 25 11. The property is located inside the Boardman Urban Growth Boundary in the Port of Morrow, and is zoned MG. Request is to approve a waste water digester. Criteria for approval include Morrow County Zoning Ordinance (MCZO) 3.070, 6.020 and 6.030.**

Director McLane presented the staff report. Commissioner Devin stated that he works for the Port. The Director gave background on the history of the zoning in the area. This piece of property is zoned General Industrial (MG) instead of Port Industrial (PI) like most of the Port. This action needs a Conditional Use Permit (CUP) because of the location of it being in MG zoning. If it was located in PI zoning, it would be an outright use.

Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis stated that the property had been vacant for a long time until now. This project has been in the works for awhile. This project will benefit the Port because the new business will take the worst of the Port's waste water, and then give the Port back some cleaner water and make some other products to sell. They may be able to expand in the future to process more water.

Chair Sykes asked Mr. McKinnis where the waste is coming from. Mr. McKinnis stated the waste water will be piped in from some of the food processors in the area. In particular, Oregon Potato has especially dirty waste water, which is what the project wants. Chair Sykes asked

where the waste water goes now. Mr McKinnis said that currently the waste water is piped into the Port's waste water system. The Port will divert this waste water from the food processor's outflow to the new project's area for digestion.

Chair Sykes asked Mr. McKinnis if the new business has other projects at the Port. Mr. McKinnis said that they do not.

No testimony in neutral or opposition.

Closed hearing.

Commissioner Renfro asked Mr. McKinnis if anyone has voiced any concerns or opposition about this project. Mr. McKinnis replied that one of the industries did ask some questions. Columbia River Processing had some questions about the odors associated with digesting, right next to a plant that produces nice cheese. Since it is a closed system digester, Columbia River was convinced that they will be good neighbors.

Chair Sykes asked staff if the lease holders were notified for this action, even though the Port owns most of the property. The Director confirmed that the Planning Department notifies the lease holders along with property owners as part of the property owner notice.

Chair Sykes asked Mr. McKinnis where the solid material would go after digestion. Mr. McKinnis said that this project has a use for everything that will come out of this digester. The solids would be sold as a concentrated nitrogen fertilizer.

Commissioner Wenholz moved to approve Conditional Use Permit CUP-N-299. Commissioner Docken seconded his motion. The motion carried.

**Land Partition LP-N-433: Casey Huxoll, applicant and Clarence Frederickson, owner. The property is described as Tax Lots 400 and 900 of Assessor's Map 4N 25 14. The property is located south of Root Lane on Rippee Road and is zoned Farm Residential. Request is to partition the parcel in to two parcels. Criteria for approval include Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.**

Director McLane presented the staff report.

Opened the Public Hearing.

In favor:

Gary Frederickson. Mr. Frederickson talked to WEID to make sure water rights are in order. He is there to answer any questions and hopes that the Commission approves it.

No testimony in neutral or opposition.

Closed hearing.

Commissioner Docken moved to approve LP-N-433. Commissioner Devin seconded her motion. The motion carried.

**Audience Participation:**

None.

**Other Business or Correspondence:**

The Director provided some handouts and memos for discussion with the Commission:  
EFSC 90-day outlook- EFSC manager Todd Cornett compiles a 90 day outlook on what is currently going on with Oregon Department of Energy projects. About half of the projects are in or impact Morrow County. An update was given and the various projects were discussed. The newest version of the met tower map was also provided to the Commission.

Navy dEIS- Update on the NEPA EIS process. This process has been going on for about 10 years now. A summary report was given out at comment meetings, the full dEIS is over 900 pages. The Guard's enhanced activities is really the biggest change for the Bombing Range.

Planning Basics and Better Findings Through Modern Case Law- The Director attended the Planning Basics class at OPI in Eugene and would like the Commission to bring the handouts back next month. Morrow County was referenced in quite a few instances.

Article 9 Administrative Provisions- The Planning Department has done a poor job of maintaining and updating the Comprehensive Plan and Zoning Ordinance. Our zoning code does not reflect the Brentmar decision, uses allowed outright and uses that may be allowed. We also need more consistency within the zoning code. We started this process awhile ago, and it needs to be finished up. At the end of the day, we apply our code, this drives the decisions we make. The Planning Commission should be updating the code, the Comprehensive Plan, and making legislative decisions, instead of approving simple land partitions and conditional use permits.

**Adjournment:**

Meeting was adjourned at 8:47 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Wednesday, December 12, 2012 at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,  
Layne Wolfmueller



## PLANNING DEPARTMENT

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### **Minutes of the Public Hearing of the Morrow County Planning Commission Wednesday, December 12, 2012 6:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pam Docken, Jim Key, John Kilkenny, John Renfro, Russell Seewald, David Sykes, Rod Taylor, Jeff Wenholtz

**Members Excused:** None

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Wolfmueller, Associate Planner

The Pledge of Allegiance was recited.

Dave Angell of Idaho Power Company and Judy Crafton of Portland General Electric provided updates on their respective transmission projects, Boardman to Hemingway and Cascade Crossing. Both touched on related topics of interest.

The Minutes of the October 30, 2012 hearing were provided with the Commissioners' packets.

The minutes should reflect the change that Ms. Womack is now Mrs. Wolfmueller in the Minutes of October 30 and on the current agenda.

Vice Chair Wenholtz moved to approve the Minutes with changes of October 30, 2012. Commissioner Taylor seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Land Partition LP-N-435: Port of Morrow, applicant and owner. The property is described as Tax Lots 203, 205 and 200 of Assessor's Map 4N 25 11. The property is located inside the Boardman Urban Growth Boundary in the Port of Morrow, and is zoned MG. Request is to partition the parcel in to two parcels. Criteria for approval include MCSO Article 5 Land Partitioning.**

Commissioner Devin stated he works for the Port of Morrow. Vice Chair Wenholtz stated he is on the UEC Board of Directors. Director McLane presented the staff report. Opened the Public Hearing.

In favor:

Ron McKinnis, Port of Morrow Engineer. Mr. McKinnis working with UEC again; they seem to be needing lots of land for substations lately. The property is part of a larger parcel, which is zoned General Industrial.

Chair Sykes asked about the purpose of the cul-de-sac. Mr. McKinnis said that originally the other lease portions were configured differently, but figured out a way to make a mini industrial park with 5 acre pieces. It provides access to the parcels.

The Director asked Mr. McKinnis if the cul-de-sac would be shown on the plat as a road or as an easement. Mr. McKinnis said it would be an easement.

None in neutral or opposition.

Closed hearing.

Commissioner Taylor moved to approve Land Partition LP-N-435. Commissioner Key seconded his motion. The motion carried.

**Public Comment:**

None.

**Other Business or Correspondence:**

Planning for Restricted Airspace: Planning Director Carla McLane and Navy Representative Rick McArdle provided an initial framework to determine interest in and support for beginning land use planning efforts to support Naval operations around NWSTF Boardman and balance those operations with other current and future activities. There was unanimous consensus from the Commission to proceed with appointing an advisory committee.

The Planning Basics tutorial was postponed until next Planning Commission meeting.

The Planning Commission meeting dates were approved last month and a schedule was included in this months packets for Commissioners.

Commissioner Jim Key has requested not to be re-appointed for his position. We have advertised for the position and at this time have one person interested who has applied.

WCVEDG hosted a housing forum in November. Staff handed out an agenda from Williams County in North Dakota where the oil fields are creating a housing boom. A very busy Planning Commission schedule.

A handout from Oregon Department of Aviation, for coordination with ODA and developments around the two airports in the county. At some point we should update our airport planning mechanisms in our code.

**Adjournment:**

Meeting was adjourned at approximately 8:40 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, January 22, 2013 at 7:00 p.m. at Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Layne Wolfmueller