

**UMATILLA COUNTY BOARD OF COMMISSIONERS**  
**Meeting of Tuesday, January 29, 2013**  
**9:00 a.m., Room 114, County Courthouse, 216 SE 4<sup>th</sup> St**  
**Pendleton, Oregon 97801**

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**COMMISSIONERS PRESENT:** Larry Givens (Chairman), Dennis Doherty, Bill Elfering.

**ABSENT:** None.

**COUNTY COUNSEL:** Doug Olsen

**STAFF:** Richard Jennings, Tamra Mabbott, Gina Miller

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**NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. HOWEVER, A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.**

**CALL TO ORDER:**

Chairman Givens opened the hearing at 9:06 a.m. stating that the purpose of the hearing was an update to the Umatilla County Development Code #T-12-048. He called for abstentions, biases, conflicts of interest, declarations of exparte contact. He called for the staff report.

**Staff Report:** Senior Planner Richard Jennings presented the staff report referencing the power point presentation being projected on the wall. The Development Code Update was heard before the Planning Commission in December 2012. During that process three of the proposed changes were removed from the update leaving thirteen items that were recommended to the Board of Commissioners.

Staff has been doing annual code updates for the last five years, to clarify and clean up the code and implement state legislative updates, e.g. senate bill 960 which was passed two years ago. It is helpful to refine our code to better serve the public.

Mr. Jennings advised he will cover each item in order.

1. UCDC 152.575 - Special exceptions for minimum lot size. It is proposed that this section be deleted. The county has three rural residential zones, RR-2, RR-4 and RR-10. The State passed legislation in 2000 which prohibits the county from giving land owners an exception to the minimum lot size. Commissioner Elfering asked for clarification on how this would impact citizens. Mr. Jennings advised that according to State statute the county can no longer grant variances to minimum lot size so this section of the code is now obsolete.

2. UCDC 152.003 - Modifying the definition section on “development”. There are three definitions and two of them are redundant. The definition that would be deleted is identical to the definition for development in the special flood hazard zone. There will be no real change to the code this would just remove text that is repeated. Chairman Givens

asked if this would affect the county's flood hazard mitigation and Mr. Jennings stated that it would not. He explained that the definition that is being left in the code is the definition for development within the special flood hazard area that was approved and adopted by the Federal Emergency Management Agency (FEMA).

3. UCDC 152.595 - Modify non-conforming use section. The change would clarify the need for a Zoning Permit to be issued for this type of development. This is currently in practice but this change would state it clearly in the code.

4. UCDC 152.684 – Standards for Approval - Type II Land Division. There are currently two references to the traffic impact analysis and one would be deleted. There would also be clarification that the developer would pay for road signs.

5. UCDC 152.059 - Dwellings. This section needed clarification on the numbering and some text would be added. The Income Test called a Capability Test is being deleted, as it is never used by the county. This will not change how the county currently processes applications to give people authorization for a dwelling. Chairman Givens asked if the other income tests would remain in place and Mr. Jennings answered that they would.

6. UCDC 152.003 - Property Line (Boundary Line) adjustments. Staff worked with the county surveyor to update this section. All references to a Boundary Line Adjustment in the code will now be referred to as a Property Line Adjustment so it will be consistent with the state language. This update will include a requirement to have a survey done for property line adjustments. Another change will be to section 152.722; allowing boundary line/property line adjustments to be done with a parcel created through a partition plat. Staff worked with the county surveyor and the cartography department to create language to put into the development code which would allow this to be done. Chairman Givens asked about someone with a 40 acre parcel with house on it but they don't have the ability to farm the land. They then partition off the parcel with the house and sell balance of the land to adjacent landowner. Mrs. Mabbott confirmed that was allowed as a non-farm dwelling conversion.

7. UCDC 152.644 – Surveying Required. In the past, boundary line adjustments on parcels of 10 acres or less have not required a survey. In some cases the landowner would request a survey be completed but it was not mandatory. This additional language to the code clarifies surveying requirements for the applicants. Commissioner Doherty asked what would happen if both property owners did a survey and the results were different. Mrs. Mabbott stated they would withhold final approval until staff was able to determine, with help from the county surveyor, which survey was correct. Commissioner Elfering asked about a section stating that parcels created in excess of 80 acres may not need to be shown on a partition plat or surveyed. Mr. Jennings stated that if a landowner is going to create a parcel that size it would not have to be done on a partition plat but if they had it surveyed then it could. Mr. Olsen said that by having the word "may" in the sentence it allowed the county to continue to require a survey if it was deemed necessary by the planning director or the county surveyor. Mrs. Mabbott stated they don't require them

unless the legal description is not clear enough and the partition is creating an odd shaped parcel. Commissioner Doherty said the way that section was worded made it potentially confusing. Mr. Olsen said they could delete the word “not” to clarify this.

8. UCDC 152.009 - Other uses similar designations. Mr. Jennings said he went through the entire code and made the language more uniform and consistent in all the sections which used the phrase “other uses similar”. By making this change it will allow an application to be processed administratively instead of being required to go to the Planning Commission.

9. UCDC – Variances. This addition to the requirements insures that a setback to a property line will not ever be less than 5 feet. Chairman Givens inquired as to why 5 feet was chosen. Mr. Jennings explained that 5 feet would give at least a 10 foot buffer between the two parcels; 5 feet on either side of the property line. This is the minimum distance that would be allowed.

Commissioner Elfering asked about non-conforming uses that would not allow for a 5 foot setback, e.g. a structure that had been destroyed and needed to be rebuilt. Mr. Jennings said if something was built in 1940’s pre-code, it would continue to be allowed for the same use. Mr. Jennings said that typically variances are for setbacks and not for land use issues. Commissioner Doherty asked if a corral was subject to this and Mrs. Mabbott said it was not because fences six feet tall and under do not require permits unless they are in a flood zone.

There was discussion on allowing development right up to the property line or easement. It was decided for consistency to add the language that would limit the development to within five feet of either the property line or access easement.

10. Administrative changes to code allowing slight text changes to the Development Code. This would allow spelling and punctuations corrections to be made without having to go through the text amendment process. County Counsel would be consulted and oversee these minor changes.

11. Addition of animal exemption and density standards in the RR-2, RR-4, RR-10, FU-10, R-1, R-1A, R-2 and R-3 zones. There has been a policy from the Planning Commission since 1994 which allows market hogs in the rural residential zones for FFA and 4-H students residing there. The zones in the urban growth area which are R-1, R-1A, R-2, R-3 and FU-10 have not been allowed to have large animals. This addition to the code would now allow large animals in those zones as long as the minimum lot size is two acres or greater. Chairman Givens asked how staff would verify whether or not the animals were actually for FFA or 4-H projects. Mr. Jennings said those projects can be verified through code enforcement. Mrs. Mabbott explained what code enforcement has done to address the education aspect through an outreach to community leaders in the county. She went on to say that the Planning Department may participate in a 4-H animal training effort scheduled for April at a local feed store. At that time people would be able to ask questions of planning staff.

Commissioner Elfering asked if a year would be needed to complete this type of 4-H project. Mr. Jennings answered that normally it is 60 days and the most that would be needed would be 90 days. Code Enforcement Officer Gina Miller stated that this change would not allow for breeding stock. She explained that it is for market hogs only which must be weighed in and tagged prior to a show, which typically happens 60 days before the show. Verification is available through the extension office and the FFA programs to determine if a hog is legitimate for a specific fair. Commissioner Elfering asked what the definition of a market hog was and Mr. Jennings said the definition was based on 4-H and FFA standards, Mr. Olsen agreed. Chairman Givens inquired as to how many hogs each family could have. Mr. Olsen said each person could have one per show but sometimes had two so they had a back-up in case something happened to one of the hogs. Chairman Givens said that would mean that a family with four children could have as many as 20 hogs depending on the number of fairs, etc. where they would be showing. The issue is there could be a situation where someone could get around the limitations on numbers of animals. Each student can have one hog per show but it does not limit the number of shows they can participate in. He does not want to leave a loophole allowing the potential for abuse of the system. Mrs. Mabbott asked if the families had to comply with the density limit of two hogs per acre and Mr. Olsen said they did not because having pigs isn't allowed in the first place, they are an exemption. Ms. Miller explained that the shows are in May, June, August and September with the weigh in dates being approximately two months before each show so it is unlikely that all of the hogs would be on the property at the same time. Chairman Givens asked if they should limit the number of shows someone could participate in and Commissioner Elfering said he would be more inclined to limit number of hogs per parcel. Mr. Olsen explained that number eight of this section which states "The total number of hogs allowed per FFA or 4-H member shall be one (1) for each show attended by the FFA or 4-H member, per student resident" limits the number of hogs a person in a rural residential zone can have on their property.

12. Modify UCDC 152.062 Parcel Sizes. This adds language in order to clarify the parcel sizes in all EFU zoned land. The EFU-10, EFU-20 and EFU-40 Zones will be enumerated in this section. The Planning Commission determined that they wanted to keep the EFU 10-20-40 designations for historical perspective. There is also some clarification to the text in section 'E' for the go-below area. Mr. Jennings stated that in 2007 they had begun to clean up the maps through the go-below process but this year had decided to leave things the way they are.

13. Add provisions dealing with Senate Bill 960 Agri-Tourism. This deals with commercial activities associated with farm use on EFU zoned property. This would allow land owners to hold certain types of events on resource property, e.g. a pumpkin patch or a corn maze. Chairman Givens asked about wine tasting rooms and wineries and Mrs. Mabbott explained that tasting rooms are allowed under certain circumstances.

Mr. Jennings explained some of the options as defined by state statute. The first is a single event with a Zoning Permit. This type of permit would limit the number of people to 100 and the number of cars to 50. This permit also limits duration of the event. The

second is a single event which would require a Conditional Use Permit. This permit allows for up to 500 people and 250 cars and can last up to 72 hours.

Mrs. Mabbott advised that these standards were developed by the Oregon State Legislature. There were farmers groups and others who worked on these options for over a year. Now that it has been clearly defined in statute it must be adopted. Commissioner Doherty asked if county can be less restrictive and Mrs. Mabbott advised that the county can be more restrictive but not less restrictive. Commissioner Elfering asked if this applied to birthday or anniversary parties, etc. Mr. Jennings said it did not unless the party was a huge event. These standards would usually apply to commercial, ag-related events, not private celebrations. Commissioner Elfering asked how staff would enforce this. Mrs. Mabbott said that it is complaint driven or the event holder may need insurance for the event in which case they would contact the county about a permit. Chairman Givens asked if the language of 152.617 stated specifically "commercial ag". Mr. Jennings said the language says the event must be related to farm use. Mr. Olsen stated that subsection EE said it is a requirement that the event be related to and supportive of ag.

Commissioner Doherty asked if there were a lot of these events going on. Mrs. Mabbott said there are some single events in the county they are aware of, but it's not a huge impact. There may be some events happening which are not on a commercial scale and no one complains about them. Chairman Givens said he foresees more of these types of events happening in the future as people use their ag business to try to generate extra income.

Commissioner Elfering asked about the statute for different types of uses like music concerts. Chairman Givens said there are noise standards in the county limiting hours of noise production. Commissioner Doherty asked about permitting for events such as bull sales, dispersal sales and farm equipment auctions. Mr. Jennings said if it would generate between 100 and 500 people, it may require at least a zoning permit.

Commissioner Doherty asked if existing enterprises would be held to this new standard. Discussion followed on historic bull sales in the county and Mr. Jennings said this kind of sale would most likely require a zoning permit. Chairman Givens asked if it were possible for an exemption to be included for historically established sales already happening in the county. Mrs. Mabbott said those would most likely be a pre-existing non-conforming use.

Commissioner Doherty expressed concern about existing events that have been ongoing for many years now having to get a permit. Mr. Olsen said those events cannot be grandfathered in because this is a state statute and the permits are required. Chairman Givens asked if they could change the language and Mr. Jennings said no that it is the state's exact language. Commissioner Doherty said he was not comfortable with affecting the livestock sales that have been ongoing for years. Mr. Jennings said a zoning permit is easy to apply for and receive. Commissioner Doherty asked why farmers should have to have a permit for something they have been doing for 30 years for which they are not

charging admission. Mrs. Mabbott stated that the sales would be considered farm use and not commercial use. Mr. Olsen said if they were able to find a definition for agri-tourism it might eliminate some of the questions but he was unable to locate the definition. Mrs. Mabbott said she didn't think the language was meant to require permitting for things like bull sales, as it is agriculture and not just something related to agriculture and does not involve tourism. Chairman Givens asked if they could, for clarification, add language stating that "direct ag sales" were exempted from this, Mr. Olsen said that would be fine.

Commissioner Doherty said he wanted to return to #11 saying that they didn't settle on a cap. Mr. Olsen said there was a cap of one hog per student per show. Chairman Givens said there are not many families with five or six kids in FFA or 4-H so having a problem would be very unlikely.

Chairman Givens thanked staff for their work.

**Public Comment:** Jack Esp, P.O. Box 34, Echo, OR 97826. Mr. Esp commented on the two market hogs per show. He stated that he thought it would be very rare to have too many hogs but that if that did occur the situation would have to be addressed due to the odor.

Chairman Givens closed the hearing and moved to deliberation at 10:38 a.m.

Mr. Olsen stated that the Commissioners could adopt the order as amended, adding the exemption of the "direct ag sales" to #13.

Commissioner Doherty moved to adopt the changes to the Development Code, Order No. 2013-2 as amended by the Commissioner consensus. It was seconded by Commissioner Elfering. The motion carried 3:0.

Chairman Givens adjourned the hearing at 10:40 a.m.

Respectfully submitted,

Connie Hendrickson  
Administrative Assistant