

**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, December 13, 2012**  
**6:30 p.m., Umatilla County Justice Center, Media Room**  
**Pendleton, Oregon**

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**COMMISSIONERS**

**PRESENT:** Frank Kaminski, Clinton Reeder, Gary Rhinhart, David Lee, John Standley.

**ABSENT:** Tammie Williams, Don Wysocki, Randy Randall.

**STAFF:** Tamra Mabbott, Richard Jennings, Carol Johnson, Gina Miller.

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**CALL TO ORDER:**

Vice-Chairman Kaminski called the meeting to order at 6:31 p.m. and read the opening statement.

**NEW HEARING:**

- **Update of Umatilla County Development Code, #T-12-048.** The County Planning Department proposes a number of updates to the County Development Code based on recent legislation and staff recommendations. The listing of the proposed updates is as follows:

1. Delete UCDC 152.575 Special Exceptions for Minimum Lot Size
2. Modify definition for “Development” in UCDC 152.003
3. Modify UCDC 152.595 Nonconforming use.
4. Modify UCDC 152.684 Standards for Approval (Type II Land Divisions)
5. Modify provisions in UCDC 152.059 (K) Dwellings
6. Modify provisions dealing with Boundary Line Adjustments
7. Update UCDC 152.644 Surveying Required
8. Modify “Other Uses Similar” designations
9. Add Use in GF Zone, UCDC 152.085 (NN) New Electric Lines
10. Modify provisions dealing with Variances
11. Add provision to allow slight text changes to the development code
12. Update UCDC § 152.616 (Q) Mining, conditional use provisions
13. Update UCDC § 152.617 (I) (K) Mining, conditional use provisions
14. Add 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
15. Modify UCDC 152.062 Parcel Sizes
16. Add provisions dealing with SB 960 Agri-Tourism

**Staff Report:** Richard Jennings presented the staff report. Mr. Jennings explained that this was the fifth annual code update to bring the local code current with new state legislation updates. He said it was also beneficial to review the code from time to time.

Mr. Jennings read through the proposed changes and explained each one briefly.

**1. Delete UCDC 152.575;** Special exemption for minimum lot size in residential zones. Mr. Jennings explained that current residential zones are 2, 4 and 10 acres per state legislation. There is no way to go below the minimum lot sizes, so this is no longer applicable and should be deleted from the code. This would affect properties outside of city limits.

Discussion followed on how to proceed through the proposed code updates. Commissioner Standley asked how to review all the proposed changes and take public comment. Mrs. Mabbott explained that public comment will be taken after the staff report, and Mr. Jennings identified which proposed changes might have public comments.

**2. Modify definition for “Development” in UCDC 152.003;** there are three definitions in the code for development, two of which are almost identical. One deals with development in the special flood hazard area. This proposed change will make all definitions in the code identical, and will clean up the code.

Commissioner Standley asked if there was duplication on the term, “flood”. Mr. Jennings confirmed that there was duplication in the definitions and the seven items are items that do not constitute development in a special flood hazard area. He said that two of the three existing definitions for “development” are nearly identical, and this proposed change will eliminate one of them and leave the special flood hazard area definition as it is. Mrs. Mabbott explained that Federal Emergency Management Agency (FEMA) obligates the county to regulate development in the floodplain. Mr. Jennings explained that this will clarify the definition of “development” consistently both in and out of the floodplain.

Commissioner Reeder asked if they were going to vote on each item or all together at the end. Mrs. Mabbott explained that it would be done at the end of the discussion, as one item together. She said that changes could be discussed as each item was presented and explained in the staff report.

**3. Modify UCDC 152.595 Non-conforming use;** Mr. Jennings explained that this proposed change would require that a Zoning Permit be issued for this type of development. This was not specified clearly before in the code.

**4. Modify UCDC 152.684 Standards for Approval ( Type II Land Divisions);** Mr. Jennings explained that there were two references to the traffic impact analysis and one of these will be deleted. This proposed change would also clarify who would pay for road signs and maintenance.

**5. Modify provisions in UCDC 152.059 (K) Dwellings;** Mr. Jennings explained that this section needed clarification on the numbering and text that would be added with the proposed change. There is one section that would be deleted that deals with the income

test criteria, as this is never used. This would not change how an application will be processed; it will continue to be done as it is currently.

**6. Modify property line adjustments;** Mr. Jennings advised that he will speak more about this proposed update later in his report.

**7. Update UCDC 152.644, Surveying required;** Mr. Jennings explained that Umatilla County requires a survey for a boundary line adjustment under certain situations. He will discuss this further when going back to cover property line adjustments.

**8. Modify “Other Uses Similar” designations;** this section deals with uses not listed in the code, but that are similar to those that are listed. Mrs. Mabbott explained that this is used in several zones, and allows for flexibility when processing an application. Mr. Jennings stated that this language was in use now, and makes it possible for applications to be processed administratively instead of being automatically bumped to the Planning Commission. Mrs. Mabbott cited a card-lock station as an example of an “other uses similar” situation, where an application could be processed as a fuel station.

**9. Add Use in GF Zone, UCDC 152.085 (NN), new electrical lines;** Mr. Jennings advised that this item had been removed from this code update. County Counsel Olsen advised staff that a Ballot Measure 56 notice would be required before this section was updated. This item will be considered at a later hearing. Mrs. Mabbott added that this is a mandatory state update, and there was a different standard for transmission lines in the EFU (Exclusive Farm Use) zone.

**10. Modify provisions dealing with Variances;** Mr. Jennings explained that this proposed update would set standards for consistency. This standard would provide for a minimum setback of not less than five feet from a property line. Commissioner Reeder suggested making this a separate line item, and Mrs. Mabbott confirmed that it could be designated as line (E).

**11. Add provision to allow slight text changes to the development code;** Mr. Jennings stated that this update was intended to allow staff the ability to make slight text changes in the UCDC to correct misspellings, grammatical or punctuation errors administratively instead of going through the complete process of a text amendment. No substantive or language changes would be allowed under this provision.

**12. & 13. ;** Mr. Jennings said that these code updates will be discussed later.

**14. Animal density standard;** Mr. Jennings said that this also will be discussed later.

**15. Modify UCDC 152.062, parcel sizes in the EFU zone;** Mr. Jennings explained that this standard was recently covered in the go-below discussion, and this code update would clarify the minimum zone sizes that were still in the code. This would include the EFU 10, 20 and 40 zones. Commissioner Reeder suggested adding language to provide

for an outright allowed existing deviant standard of 11%. Mr. Jennings said there is also further clarification on go-below found further down in the code.

Mr. Jennings returned to Item #6 on the Code update list; Modify provisions dealing with Boundary Line Adjustments. He said that the criteria were found on page 28 of the Planning Commission packet. The big change will be that boundary line adjustments will be referred to as property line adjustments in the future, to be consistent with state language. The state statute refers to property lines, not boundary lines, according to the county surveyor. Mr. Jennings explained that there will be a definition in the code that states that boundary line adjustments are the same thing as property line adjustments.

Mr. Jennings discussed partition plats and re-plats. In a resource zone, a re-plat is cumbersome. The state statute allows for it to be done as a property line adjustment instead of a re-plat, so the code needed to reflect this. Discussion followed on the historical perspective of how the county surveyor and cartographer handled these in the past as a re-plat. Mr. Jennings described a situation that demonstrated how this would work better as a property line adjustment, and Mrs. Mabbott displayed this on the map. Mr. Jennings said that a survey may be required now as a part of this update, pursuant to 152.644 (6). This would apply to parcels that are 10 acres or less. Commissioner Reeder asked county counsel to research adverse possession in today's statutes for the planning commission and staff. Mrs. Mabbott stated she would check on this and ask Mr. Olsen to write a memo.

Mr. Jennings advised that there would be survey requirements added; if the parcel was 10 acres or less, if the amount of area being adjusted between the two properties was 10 acres or less, if there was a meandering line between the properties or if there was a feature next to the new property line. This would clarify for staff whether or not a survey would be required. Mrs. Mabbott commented that this was already in place administratively, and this update would codify it.

Mr. Jennings spoke about Item #7 on the proposed code update. He referenced a section in Chapter 152.572 that was proposed to be deleted (found on page 29 of the packet). David Hadley submitted a comment letter that raised objections to this section being deleted. Mr. Jennings stated that this section will not be deleted as initially proposed. Mrs. Mabbott commented that the LUBA (Land Use Board of Appeals) case cited by Mr. Hadley did not apply to this situation. Leslie Hauer stated that she would prefer to reserve all her comments to be presented at the same time.

Commissioner Rhinhart asked about the comment in Mr. Hadley's letter pertaining to Ballot Measure 56. Mr. Jennings responded that they reviewed the need for sending out this notice, and it was confirmed with County Counsel Olsen that this action did not require a Ballot Measure 56 notice. Mrs. Mabbott explained that staff had removed the GF item on the proposed code update for the reason of having to send out the Ballot Measure 56 notice at this time. Discussion followed on the public process and what should be communicated to the Board of Commissioners. Mrs. Mabbott advised that Mr. Hadley will be offered the opportunity to make his suggestions to the Board of

Commissioners at that public hearing on this matter. Mrs. Mabbott explained that the revised packet of information from this Planning Commission will be available 7 days prior to the Board of Commissioner hearing.

Mr. Jennings spoke about Item #12 and #13, Chapter 152.616, Conditional Use Permits for non-resource zoned land, and Chapter 152.617, Conditional Use Permits for resource zoned land. He stated that these sections are nearly identical except for the type of zoned land being addressed. This proposed change would provide for more detailed information for a Conditional Use Permit (CUP ) on the following standards; access, noise, air quality, erosion, toxic materials, setbacks ( not being changed ), parking, reclamation plans, and site construction and clean-up. This change would provide more information to staff when processing CUP applications. Mrs. Mabbott explained that this update would apply to a CUP, not a Goal 5 application. Mr. Jennings stated that if someone wanted to open a mining pit of 500,000 tons or less in a resource zone, they would make an application for a CUP, as well as a Text Amendment because they have to be listed on the significant site inventory if in a resource zone. If the pit was larger than the 500,000 tons and considered a large pit, then the applicant would have to go through the Goal 5 process. Mr. Jennings explained that these proposed code updates would be for the small pit, as the criteria are based on how much will be mined. He referenced a comment letter from Wendy Kellington. There seemed to be some confusion in the letter about when the Goal 5 criteria are applied and when the administrative rule applies. Mr. Jennings stated that there are two different sets of criteria, and CUP criteria are not applied to the Goal 5 application process.

Commissioner Rhinhart asked if an applicant for a mining pit still had to have a Department of Geology and Mineral Industries (DOGAMI) permit, and Mr. Jennings confirmed that was correct. The DOGAMI permit requirement is typically a condition of approval for the mining pit land use application.

Mr. Jennings spoke about the purpose statement. He suggested taking out the purpose statement and livability statement, as staff received negative comments on these items. He suggested adding simple language; “the purpose of this section is to provide standards for development of an aggregate site”. He stated that he had reviewed development codes from other Oregon counties, and borrowed the proposed code update language from there. His proposed language did not need to be in there, and Sections A and B could be deleted from the code update. Commissioner Reeder asked what people were objecting to with the statements, and Mr. Jennings replied that it seemed to be the ambiguity of the statements causing the concern. Commissioner Standley expressed concern about what language will be presented to the Commissioners for approval, if language was drafted after this hearing. Commissioner Reeder suggested using the draft language that Mr. Jennings had already suggested.

Mr. Jennings explained the CUP criteria for existing pits and how that criteria would be applied if the existing pit wanted to expand to a larger size. He stated that this new criteria would not be applied to existing pits so there would not be any retroactive compliance required with the new proposed criteria. The new criteria and standards

would only be applied to brand new applications and existing pits that applied for an expansion. Commissioner Rhinhart asked if this code update would affect the pit that the Planning Commission recently approved, and Mr. Jennings advised that it would not as that pit was already approved under the current criteria. Section II deals with applicability, or when this section of criteria will be applied and when it will not be applied. Commissioner Reeder suggested changing the word, 'applicability'. Mr. Jennings explained that the application requirements referred to the information supplied to staff by the applicant, such as a site plan. Item IV deals with general operating requirements and standards. He said that concerns had been expressed about this section pertaining to access, screening, noise and air quality. Mr. Jennings stated that the CUP will require the applicant to meet state standards on these items. The county will not be asking the applicant to meet higher standards than what the state already requires, only to provide verification to the county that the applicant is meeting the state standards. Mr. Jennings explained that reclamation is regulated through a DOGAMI permit, and air quality is typically regulated through Department of Environmental Quality (DEQ).

Commissioner Reeder asked about dust control on non-paved roads. Mrs. Mabbott explained that access or service roads used for mining purposes would be required to be dust-free at all points of entry or within 300 feet of a public road or dwelling.

**Public Comment:** Leslie Hauer, 6100 Collins Rd, West Richland, representing Oregon Concrete and Aggregate Producers Association (OCAPA) and Wendy Kellington. She stated that she had some comments on other items discussed earlier in the meeting. She urged caution pertaining to Item #8, "Other Uses Similar", and discussed the public notice criteria. Mrs. Mabbott advised that all Conditional Use Permit applications require a public notice, regardless of the type of application. Ms. Hauer discussed property line adjustments and the requirement of a survey on parcels 10 acres or less. She also commented that deleting the purpose statement was a good idea, because it was not explicit enough. Ms. Hauer asked for clarification on the mining pit criteria, and would the new criteria be applied to existing pits. Mr. Jennings advised that the new criteria would only be applied to new pits, and existing pits wanting to expand in size. Ms. Hauer asked about the water table requirement, and asked if a hydro-geology study would be required as a part of these criteria. She cautioned that requiring that an applicant to meet state standards put the county into a position of enforcing the compliance of state standards.

Ms. Hauer summarized the letter from Ms. Kellington, attorney representing A & B Asphalt. Her primary concern was about the Ballot Measure 56 public notice she believes should have gone out to alert aggregate mine owners of the significant changes being proposed to the code. The changes appear to protect the conflicting uses rather than the mining uses. Goal 5 is supposed to protect the resource from conflicting uses, not the other way around. Ms. Kellington's letter references the reclamation plan section, and the use of the word, "any" in terms of adverse impact. She believes that this sets the bar too high for applicants, and is too vague to be applied. Ms. Kellington supports clear and objective standards. She wants to work with the county to develop language that is

satisfactory to what the county is trying to accomplish as well as allow people who are trying to successfully operate businesses in the county to provide good service.

Commissioner Reeder asked if the county were to reference the state statute that identified the state agency that had regulatory authority, would that satisfy Ms. Kellington's concerns. Ms. Hauer replied that the county did not have to have these requirements in the criteria at all. If a state permit was needed, there was no way the applicant could get around that, so why would the county have that criteria in their requirements and standards. Discussion followed on how the county could verify that all required permits were obtained by the applicant. Commissioner Rhinhart asked if they could have a group work session with other agencies that permit aggregate resources, like they had done with wind developers.

**Public Comment:** Terry Clark, representing Pioneer Asphalt. He commended the planning staff for their hard work on the ordinances. He expressed confusion about the process that is currently being reviewed by the Planning Commission. He stated that this was an excellent opportunity to involve people from the industry to help draft the updates so that the terminology and purpose was uniform. He doesn't want to see this rushed through the process; it should be thoroughly reviewed by the Planning Commission before going to the Commissioners for approval. Commissioner Standley asked if they could take out the mining/aggregate resource items out from the proposed code update and vote on the rest of the update. Mr. Clark agreed with this suggestion, and stated that OCAPA wanted to help draft language for this part of the code update. He also stated that the property line adjustment item should be reviewed further. Mrs. Mabbott confirmed that staff would be willing to pull Item #12 and #13 from the vote tonight, and could look at a workshop after the first of the year. Discussion followed on holding a workshop with mining industry representatives. The rest of the items would be voted on, including amendments made during the course of this hearing.

Vice-Chairman Kaminski asked about Item #6 and draft language. Mrs. Mabbott advised that she had noted that staff would substitute the word "property" for "boundary", and Section 152.572 will be retained. She advised that Mr. Olson will be asked for a legal opinion on that piece. Discussion followed on a consensus to remove Item #12 and #13 from the vote tonight, and proceed with the rest of the items listed in the proposed code update.

**14. Animal Density Standard:** Mr. Jennings explained the proposed code update for animal density and the market hog exception. There has been a policy in place since 1994 that would allow market hogs to be raised in rural residential zones for Future Farmers of America (FFA) and 4-H projects, and this code update would codify the policy. He also explained that this code update would include the animal density standard of two (2) large animals per acre for the R1, R1A and R3 zones found in the Urban Growth Boundary (UGB) of the city of Umatilla. This will impact only the parcels in the UGB under county jurisdiction, and not the city. Commissioner Kaminski asked if this would impact any open range areas. Mrs. Mabbott stated that open range areas are not typically found near the areas that would be impacted by this code update.

Fencing is the responsibility of the land owner, and this would not be a conflict with open range. Commissioner Reeder asked if breeding hogs were included in this code update. Discussion followed on the types of hogs and numbers of hogs that would be allowed under this update. Mrs. Mabbott clarified that this update would provide for each FFA or 4-H member to have one (1) market hog per area livestock show. She said that this policy only allowed for temporary market animals, and not breeding stock. Commissioner Reeder asked about the use of the word, “only” in regards to educational use. What if the family decided to keep the hog for their consumption? Commissioner Reeder suggested striking the word, “only” from educational purposes. He also expressed concerns about #8 and the number of market hogs allowed. Discussion followed on this item. It was clarified to mean; 1 market hog allowed per student per local livestock show. Commissioner Standley commented that several of the added draft language sections appeared to be duplications, and Mr. Jennings explained that they were the same language but in different zones.

**16: Add provisions dealing with SB 960 Agri-Tourism;** Mr. Jennings explained the reason for this code update. Mrs. Mabbott explained that this was initially created to regulate vineyards, but other agri-tourism industries like pumpkin patches and “U-Pick” farms were created that are included in this section. Mr. Jennings explained that this chapter would address agri-tourism and other tourism activities related in support of farming. Discussion followed on the history of this code update from the state, and how things have been permitted in the past. Mrs. Mabbott talked about permits issued for mass gatherings. Mr. Jennings explained that there could be some restrictions on the number of people attending or the length of the event. He confirmed that there had been no letters or comments received on this piece of the code update. Mr. Jennings explained the table in the packet summarizing the three different types of Conditional Use Permits available under this section. The single event and multiple-6 event permit can happen under a consecutive 72-hour period of time, with limits of the number of cars and people attending the event. This permit allows for temporary structures, or the use of a permanent structure for the event on any size parcel. For the larger multiple-18 event permit, it must be located on a minimum 160-acre parcel in the EFU zone. Commissioner Rhinhart asked how these standards were developed, and Mrs. Mabbott explained that it was a state committee from the west side of the state that reached a consensus on these standards.

Vice-Chairman Kaminski closed the hearing and moved to deliberation.

Commissioner Rhinhart moved to approve the code update and recommend to the Board of Commissioners with the following amendments; Item #12 and #13 removed to be reviewed at a later date, noted changes to the language in Item #6, deleting #9 completely, noted changes to the language in Item #15 (remove “standard”). Commissioner Standley seconded the motion. Motion passed 5:0. Commissioner Reeder clarified that the hearing had been closed on all the items, including the three sections dropped from the vote today.

## MINUTES

Vice-Chairman Kaminski called for any corrections or additions to the minutes of October 25, 2012, and there were none. Minutes were adopted by consensus.

### **DISCUSSION ITEM**

Presentation and discussion by Rick McArdle, Community Planner Liaison Officer, US NAVFAC

Mrs. Mabbott stated that Rick McArdle was scheduled to attend the hearing this evening to make a presentation to the Planning Commission, but was not present. She had confirmed the date and time earlier with him, and was not aware of why he wasn't present. Commissioner Standley noted that Mr. McArdle would have been present already if he was going to attend the hearing.

Commissioner Standley moved to adjourn the meeting, and Commissioner Lee seconded the motion. Motion passed by consensus.

Vice-Chairman Kaminski adjourned the meeting at 8:13 p.m.

Respectfully submitted,

Gina Miller  
Planning Assistant

*Adopted by the Umatilla County Planning Commission on May 23, 2013*