

**MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, November 19, 2015**  
**6:30 p.m., Umatilla County Justice Center, Media Room**  
**Pendleton, Oregon**

## **COMMISSIONERS**

## **PRESENT:**

Randy Randall, Chair, Gary Rhinhart, Tammie Williams,  
David Lee, Suni Danforth, Cecil Thorne, Don Marlatt,  
Tami Green.

## **ABSENT:**

Don Wysocki.

**STAFF:**

Carol Johnson, Bob Waldher, Brandon Seitz, Tierney Dutcher, Gina Miller.

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

## **CALL TO ORDER:**

Chair Randy Randall called the meeting to order at 6:30 p.m. and read the opening statement.

## **MINUTES:**

Chair Randall asked the Planning Commission to review the minutes from September 24, 2015 and October 22, 2015 for adoption. Commissioner Danforth moved to adopt the minutes. Mr. Waldher stated that he had several clarifications he wanted added to the minutes; Page 3 of second paragraph of Sept. 24 - line should read, "proposed project would be co-located within 500 feet of an existing transmission line", Page 3 of third paragraph of Sept. 24 – line should read, "the project connects the Wallula substation to the McNary substation", Page 3 of fourth paragraph of Sept. 24 – should read " Mr. Fritz advised that Pacific Power proposes to co-locate a new 230 kV line within 500 feet of existing BPA and Pacific Power transmission lines". Commissioner Danforth moved to adopt the minutes, with corrections, and the motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

## **CONTINUED HEARING:**

**REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST  
#LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property  
owners.** During the public comment period, a “Request for a Public Hearing” was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on

church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97862. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He referred to a map on the screen, showing the subject property and the new proposed location of the cemetery by the applicant since the last hearing. He said there was a new site plan in their information packets. Mr. Waldher referenced the zoning for the subject parcel, Exclusive Farm Use (EFU), and that it provides for use as a cemetery in conjunction with a church, per Oregon Revised Statutes (ORS) 215.283 and Umatilla County Development Code (UCDC) 152.059(B). He said there was a letter from the applicant, Paul Zehr, stating that he had spoken with several neighbors. The letter also contained a new site plan and a letter from soil scientist Don Wysocki, stating that a cemetery would pose negligible risks to health if state regulations were followed. Mr. Waldher stated that he had also received a letter from another neighbor, Ryan Daggett, after the information packets had been mailed out. The letter from Mr. Daggett raised several concerns about the proposed cemetery. He distributed a copy of the letter to the Planning Commission.

Mr. Waldher advised the Planning Commission of their options for this application; they can approve the application as is based on evidence provided by the applicant, they can impose additional conditions such as moving the location of the cemetery or requiring sight obscuring screening, or they can deny the application if they feel the applicant did not meet the conditions of approval.

Mr. Waldher explained that the new site plan provided by the applicant showed a new location for the cemetery, landscaping proposals, and flush mounted grave markers that would not show a split rail fence around the cemetery, shade trees and a hedge. A letter from Mr. Wysocki was also included, stating that additional soil testing had been done.

**Applicant Testimony:** Jason Derstine, 83902 Winesap Road, Milton-Freewater. Mr. Derstine stated that Chad Derstine had been in contact with several of the neighbors. Chair Randall asked why the cemetery had not been moved closer to the parking lot, as suggested at the prior hearing. Mr. Derstine said the current location had been chosen after discussions with the neighbors.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Chair Randall asked to review the conditions of approval. Mrs. Johnson advised that the site plan should include setbacks for any new structures according to the zone. Vision clearance, fencing and other conditions were discussed. Mrs. Johnson said that the Planning Commission could add a condition of approval that addressed the fencing issue. This condition could specify the type of fence and that it must meet height requirements and setback standards. Discussion followed on the fence requirement and a variance to the standards.

Commissioner Rhinhart moved to approve the application, with a condition of requiring the applicant to work with the county on a site plan showing an acceptable placement of the fence. Commissioner Marlatt seconded the motion. Motion passed 8:0.

#### **CONTINUED HEARING:**

**CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO MCNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant.** Planning Commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that Pacificorp had provided the requested additional material from the last hearing and it was included in the Planning Commission packet. The Pacificorp consultant provided a technical memorandum on October 9, 2015 and addressed the following matters raised at the last hearing; visual impacts from the project in the historic and scenic highway program as identified in the statewide Planning Goal 5, supplemental findings related to the EFU provisions in Chapter 152, a discussion on the feasibility of double circuiting on the existing 230 kV transmission line and information on tentative cumulative impacts associated with the project. In addition to the technical memorandum, Pacificorp provided a copy of the Department of State Lands (DSL) removal/fill permit for wetlands. Mr. Waldher discussed the land owners included in this project, and reminded the Planning Commission that a total of 5 land owners had not signed off on the lease agreement and would not be considered part of this application. They would have to resubmit a new application in the future if those land owners opted to participate in the project. He had amended the findings to clearly state this requirement. Mr. Waldher handed out two letters of support that had been received via email that same day.

Commissioner Lee asked what percentage of the project was represented by the 5 land owners who had not yet signed a lease. Mr. Waldher suggested that the applicant could better respond to this question.

**Applicant Testimony:** Paul Hicks, CH2M Hill and Brian Fritz, Pacificorp, 825 NE Multnomah St, Portland, OR and 2121 SW 4<sup>th</sup> Ave, Portland, OR. Mr. Hicks said they wanted to discuss the technical memo information they provided that had been requested in September. He stated that their material was consistent with county code and Comprehensive Plan. They had four key topics they responded to in this material. In regards to the visual impact and historic highway, the presence of the project will not change or alter the view or character, as it will not be seen from Highway 730 and Highway 37. As it nears Hat Rock, parts can be seen but they are similar in appearance to the existing transmission line. Mr. Hicks discussed Chapter 152.617 (II) on Exclusive Farm Use (EFU), and how the project complies with 4 out of 6 criteria as detailed in the technical memo. He stated that cost was not the determining factor in siting this transmission line. They sited the route based on existing substations, and adjacent transmission lines rights-of-ways. He went on to talk about their meeting the criteria for reclamation measures as required by landowners. The project will not cause any significant changes to accepted farm practices and will not result in any significant increases of cost to farming practices, so they comply with Sub-Section 7 of Chapter 152.617. Mr. Hicks talked about the feasibility of double-circuiting on the existing 230 kV line. According to their reliability standards developed and enforced by the North American Electric Reliability Corporation, this would not be feasible. More detailed information about this reasoning was included in the technical memo.

Commissioner Lee asked why they weren't building a 500 kV line instead of the proposed 230 kV line to handle future load. Mr. Fritz explained that they look at all the lines in the area, and what would happen if a line were to go out of service. If the 530 line went out of service, it would overload voltage of the system for the 230 lines and do more harm than if they stayed with the 230 kV line. The new materials will be able to handle higher megawatts, providing more capacity and allows them to rebuild in the future without cutting service to customers. Chair Randall asked how long this line would be good for, and Mr. Fritz confirmed it would be good for nearly 50 years and that it would accommodate load growth in the meantime. He explained that many factors were considered when determining power supply, including natural resources, like solar and wind which are very hard to predict. Chair Randall asked about the 5 land owners that have not signed the lease, and Mr. Fritz explained that this represented about 22 miles total in Umatilla County and that not quite half the project was located in Umatilla County.

Commissioner Rhinhart asked about cumulative effects, like bird mortality, and were they proposing any mitigation for this. Mr. Fritz said they will be putting bird flight diverters on the lines, and the designs meet the avian standards. Commissioner Rhinhart asked if they had ever considered providing financial mitigation to the Blue Mountain

Wildlife Rehab Center. Discussion followed on bird fatalities and mitigation on federal lands.

**Opponent Testimony:** Randy Rupp, 176 (inaudible) Richland, WA, and Patrick Gregg, PO Box 218, Pendleton, OR, representing Mr. Rupp. Mr. Rupp briefly requested that the Planning Commission deny the application, (inaudible) and stated that the line can be built elsewhere. He stated that this big corporation was running over an individual and shouldn't have the right to steal his land.

Mr. Gregg confirmed that his client had not signed a lease with Pacificorp. He advised that Mr. Rupp owns 6-7 miles of land in the proposed project scope of 22 miles in Umatilla County. Mr. Rupp stated that he is not trying to stop Pacific Power, but he contends that they do not need another line to do it. Discussion followed on interruption of power service to customers. Mr. Gregg talked about "double-stacking" the lines, and how this would not create a bigger problem if something happened to the existing line. He stated that they believe cost to be the defining reason behind the proposed project, which does not meet the standards. He pointed out that there was very little explanation from the applicant in the additional technical memo about cost not being the defining reason behind the project. Mr. Gregg discussed various reasons why they believed that all the reasons provided by the applicant all came back to cost as the basic reason for wanting to build the line where it is. They do not believe that the applicant has sufficiently explained why cost is not the primary reason, and requested that the application be denied.

Mr. Rupp stated that there were other landowners who opposed this project but did not come to the hearing because they didn't believe that they could fight something like this because they didn't own enough land.

**Public Agencies:** None offered.

**Rebuttal:** Mr. Hicks stated that cost seemed to be the primary concern from the opponent, and they stated they did address the code in their supplemental memo. According to Chapter 152.617 (II7A2), cost alone cannot be the sole consideration for a project. He said they provided evidence that the site is within 500 feet of existing transmission lines to meet polity guidance from the State of Oregon to minimize impact to; avoid potential development in wetlands, proximity to existing structures, minimize impacts to farm ground and encroach upon active farm uses and satisfy feasibility and reliability which is the key consideration. All these points illustrate that it is not based on cost alone.

Mr. Fritz discussed what would happen if they were to lose one line, and how the second line increases their reliability of service to their customers. He stated that it does cost more to double circuit, but this is not their primary concern. They would need twice the amount of right-of-way for a larger 500 kV line, based on safety codes. He discussed in detail how they determined the best way to site this project. Discussion followed on the question of double-circuiting. Mr. Fritz said they are only double-circuiting in some

places where they are able to. He confirmed that they have lost lines before and had to replace insulators and conductors, and they lose lines to wildfires every year. In addition to catastrophic loss, it involves taking the line out of service for routine maintenance.

Chair Randall asked if there was any kind of solution for Mr. Rupp's concerns, and if double circuiting on a small portion of his land would be a viable option. He reminded the Planning Commission that the decision at this hearing would not involve Mr. Rupp's land.

Commissioner Lee asked if they had considered a buried line. Mr. Fritz said it would require much more land for a 230 kV line, and the environmental impacts are bigger as it requires more land to dig up to bury the line. Mr. Fritz talked about the requirements for burying a transmission line, and why buried lines are more difficult to maintain. It only makes sense to bury lines in urban settings as they are sited with other buried utilities.

Chair Randall closed the hearing and moved to deliberation. Commissioner Marlatt asked if this application was only dealing with the landowners who had signed the lease agreement with Pacificorp, and it was confirmed that the other landowners who haven't yet signed would have to submit a separate application. Commissioner Lee stated that the line needed an upgrade. Commissioner Danforth agreed and stated that the infrastructure needed rebuilding, and she supports energy co-location and corridors. She said she understood Mr. Rupp's position and hoped that the suggestion for the applicant to work with him would work out.

Commissioner Danforth moved to approve #C-1248-15 and LUD #185-15, and Commissioner Lee seconded the motion. Motion was approved by a vote of 6:2.

#### **CONTINUED HEARING:**

**PLAN MAP AMENDMENT #P-114-15, ZONE MAP AMENDMENT #Z-305-15, AND TEXT MAP AMENDMENT #T-15-060 FOR WEBB SLOUGH QUARRY, OREGON DEPARTMENT OF TRANSPORTATION (ODOT), applicant.** Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Webb Slough quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the west side of US Highway 395, at Mile Post 34.80, described as Township 3 South, Range 30½ East, Sections 12 & 13, Tax Lot 503. Standards of approval are provided in Oregon Administrative Rules (OAR) and include OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that ODOT submitted a Post-Acknowledgement Plan Amendment (PAPA) application requesting that the county include the expansion of Webb Slough quarry as a significant aggregate site. Mr. Waldher referred to a figure on the screen and noted that it was also included in the October hearing packet. The existing quarry located on Tax Lot #503 is 11.2 acres and ODOT recently expanded it by 19.98 acres with land needed from the owner of Tax Lot #500. He pointed out that our department has not yet received an application for a boundary line adjustment and said it's typically approved prior to processing the application for the plan amendment. He recommended that, as a precedent condition, the applicant will be required to complete and submit a boundary line adjustment application for Tax Lot #500 to finalize the process.

Mr. Waldher noted that the county code has not been updated with the division 23 rules for aggregate. The OAR 660-023-0180 will be used to establish findings. The application constitutes a PAPA and is subject to criteria listed in OAR 660-023-0030. Mr. Waldher advised the Planning Commission on their options for a decision. They may decide to amend the comprehensive plan to add the Webb Slough quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. Following approval of the Planning Commission this comprehensive plan and map amendment will be heard before the Umatilla County Board of Commissioners.

Chair Randall asked if the Commissioners will be hearing about this prior to the Boundary Adjustment. Mr. Waldher said that is his understanding, and as a condition of approval the county planners office would ask the applicant to submit a supplement that includes the boundary line adjustment in their application. He clarified that the tax lot #500 was deeded to ODOT but not processed through the Umatilla County Planning Dept.

The applicant, Mr. Knight, stated that he did submit an application for the boundary line adjustment after receiving the required signatures. Chair Randall requested that the applicant testimony begin so the conversation becomes part of the meeting record.

**Applicant Testimony:** Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Mr. Knight stated that it was his understanding that they had submitted an application for the boundary line adjustment some time ago but he is willing to resend the paperwork. It was discussed that he was working with a Planner who no longer works for the County. The office will work with Mr. Knight to locate the previously submitted application or complete a new application, if necessary. Mrs. Johnson advised that we cannot accept a copy of the document, as the signatures on the form are required to be original when they are recorded in County Records. Commissioner Rhinhart mentioned the property involved was part of George Wachter's place in an area formerly known as Ridge, OR. Chair Randall clarified that the only condition on the Staff Report was that they complete a boundary line adjustment, and Mr. Waldher confirmed this was correct.

Mr. Knight stated that the Planning Department had received a letter from a surrounding property owner who was concerned about dust and farming. Mr. Knight reminded the commission that the DEQ requires ODOT to meet all air quality standards on the property. Mr. Waldher noted that the letter received was regarding the Weston Mountain quarry, not the Webb Slough quarry. They agreed it was a matter for the next hearing.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

**Rebuttal:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Rhinhart noted there is currently a sign indicating, "No Trespassing, No Dumping, No Shooting" as the site is located right next to the road and has been known to be an area of the highway where people have shot guns toward the highway. There was a discussion about signage in the area. He wanted to be sure the sign would remain visible to the public and he requested that it be added this as a condition to the Commission's approval of these amendments.

Commissioner Rhinhart moved to recommend approval of Plan Map Amendment #P-114-15, Zone Map Amendment #Z-305-15, and Text Map Amendment #T-15-060 with the condition that they provide the proper signage and complete the boundary line adjustment. Commissioner Tammie Williams seconded the motion. Motion was approved by a vote of 8:0.

#### **CONTINUED HEARING:**

**PLAN MAP AMENDMENT #P-115-15, ZONE MAP AMENDMENT #Z-306-15, AND TEXT MAP AMENDMENT #T-15-063 FOR WESTON MOUNTAIN QUARRY, ODOT, applicant.** Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Weston Mountain quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the southeast side of State Highway 204, at Mile Post 2.2, described as Township 4 North, Range 35 East, Sections 24, Tax Lot 7303. Standards of approval are provided in OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that this issues is similar to the last issue discussed and displayed the map on the overhead

screen. Mr. Waldher referred to a letter received on October 26th from Ms. Corinne Stumbo, owner of Tax Lot #7201 & #7202. Mr. Waldher stated that in the letter Ms. Stumbo raised concerns about traffic conflicts between trucks accessing the quarry and farm equipment that will need to enter and exit the adjacent farm fields. She asked ODOT to consider improving the access approach to the farm field. The applicant is aware of the request and received a copy of the letter.

The criteria for approval for this application are the same as they were for the Webb Slough quarry. The Planning Commission may decide to amend the Comprehensive Plan to add Weston Mountain quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. The Planning Commission's recommendation will also be given to the Umatilla County Board of Commissioners for final approval.

Commissioner Rhinhart wanted to be sure they plan to use existing access and not create a new one and the applicant confirmed this to be true.

**Applicant Testimony:** Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Commissioner Rhinhart asked Mr. Knight if he has reviewed the letter from Ms. Stumbo and if he has any concerns about what she has brought up. Mr. Knight confirmed he has read the letter and assured the Commission that they are required to address those things within their process. There won't be any new access and no use of an underground natural gas line. Mr. Knight has not contacted Ms. Stumbo and does not plan to because they have addressed her concerns in the application and meet the criteria. Commissioner Rhinhart said it makes sense to talk to the property owner about her concerns.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

**Rebuttal:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Williams opened a discussion about the concerns raised in the letter. Commissioner Rhinhart has seen the quarry and doesn't think the concerns are justified because they won't be creating any more dust than they already do. He noted there is a steep downhill slope and a pond is up above the site. In the area where the road enters and exits the visibility is rough. He mentioned it would be neighborly for the applicant to talk to the land owner and let them know they were doing their best to make everyone happy.

Commissioner Rhinhart moved to recommend the Plan Map Amendment #P-115-15, Zone Map Amendment #Z-306-15, and Text Map Amendment #T-15-063 to the Board of Commissioners with proper signage posted. Mr. Waldher noted the office has completed a boundary line adjustment for this application. Commissioner Lee seconded the motion.

Motion was approved by a vote of 8:0.

**OTHER BUSINESS:**

On behalf of Tamra Mabbott, Mr. Waldher distributed a document with information on new changes coming to the National Flood Plain Development Program through FEMA and working with NOAA.

Mr. Waldher introduced the new Planning Commission member, Tami Green. Tami gave a short bio of herself; Her family is originally from the area and recently moved back to be close to family after being in Baker County for the past 25 years. She is married and has two daughters. Tami served as County Clerk for the County of Baker for 14 years and worked for the county for a total of 17 years. She hopes to use her experience to contribute to the Commission and appreciates the opportunity to serve. Tami resides on Patty Creek Rd. The Planning Commission welcomes Tami Green.

**ADJOURNMENT:**

Chair Randall adjourned the meeting at 8:32 p.m.

Respectfully submitted,

Gina Miller  
Secretary

( Minutes adopted by the Planning Commission on \_\_\_\_\_)