

**MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, February 27, 2020, 6:30 pm**

Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, Oregon

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COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Gary Rhinhart, Molly Tucker
Hasenbank, Tammie Williams, Hoot Royer, Tami Green
ABSENT: Jon Salter, Lyle Smith
STAFF: Bob Waldher, Planning Director; Megan Green, Planner/GIS; Tierney
Cimmiyotti, Administrative Assistant

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

CALL TO ORDER

Chair Danforth called the meeting to order at 6:30 p.m. and read the Opening Statement.

NEW HEARING

REQUEST FOR PUBLIC HEARING - LAND DIVISION REQUEST #LD-4N-1043-19, MICHAEL MCDONOUGH, Applicant/Owner. A “Request for Public Hearing” was filed on December 23, 2019 in opposition of a proposed Type II Land Division. The request is to divide Tax Lot #800 into three parcels for continued and future development of residential uses. Tax Lot #800 is 12.21 acres and was created through Umatilla County Partition Plat 1999-32. The proposed partition would result in the following parcel sizes: Proposed Parcel 1 – 4.21 acres, Proposed Parcel 2 – 4.00 acres, Proposed Parcel 3 – 4.00 acres. The subject property is zoned Rural Residential, 4 acre minimum parcel size (RR-4) and is located on the east side of Oregon State Highway 207, less than ½ mile south of the City of Hermiston. The subject property is described as Tax Lot #800, in Township 4N, Range 28E, Section 22B.

The criteria of approval for Type II Land Divisions are found in Umatilla County Development Code (UCDC) Sections 152.301 - 152.306 and Section 152.684.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Bob Waldher, Planning Director, stated that the original set of Findings was sent out December, 3, 2019. The Planning Department received a Request for Public Hearing on December, 23, 2019, within the 21 day comment period. The request is to divide Tax Lot 800 into three parcels for continued and future development of residential uses. Tax Lot 800 is 12.21 acres and was created through Umatilla County Partition Plat 1999-32. The proposed partition would result in

the following parcel sizes: Proposed Parcel 1, 4.21 acres; Proposed Parcel 2, 4.00 acres; Proposed Parcel 3, 4.00 acres, which conforms to the minimum parcel size of the RR-4 Zone. He stated that the property is located on the east side of Oregon State Highway 207, approximately ½ mile south of the City of Hermiston and is described as Tax Lot #800, in Township 4N, Range 28E, Section 22B. Criteria of approval for Type II Land Divisions are found in UCDC Sections 152.301 - 152.306 and Section 152.684.

Mr. Waldher explained that the Planning Commission is asked to refer to the Findings and Conclusions and supporting information to determine if the request meets the applicable criteria. The Planning Commission will approve or deny the pending Land Use Request. Approval or denial must be based on substantive, factual evidence in the record, not conclusory statements.

Mr. Waldher referred the Planning Commissioners to a vicinity map of the proposed partition (page 3), The Preliminary Findings and Conclusions (page 9) and the Request for a Public Hearing application (page 5), in the hearing packets for review.

Mr. Waldher stated that he has communicated with various agencies in the process of reviewing this application. He distributed an email from Tom Lapp, ODOT (Exhibit A) and explained that the property access point is off of a State Highway, therefore ODOT has jurisdiction over Access Permits for that area.

Public Agency: Tom Lapp, District 12 Permit Specialist, Oregon Department of Transportation (ODOT) provided an email (Exhibit A) stating that he does not object to the Land Division request. When he is ready, ODOT will work with Mr. McDonough on an application to build the new driveway. Additionally, Mr. Lapp expressed appreciation for Mr. McDonough's willingness to serve both parcels with a single driveway.

Mr. Waldher distributed an email from Tom Lapp

Public Agency: Chris Kowitz, North Central Region Field Services Manager, Oregon Water Resources Department (OWRD) provided an email (Exhibit B) stating that, this development would occur within the Butter Creek Critical Groundwater area. This area has had groundwater decline concerns for many years as evident by the Department's Critical Area designation and associated rules found in Oregon Administrative Rules (OAR) Chapter 690, Division 507. Additionally, he pointed out that this area falls under the Lower Umatilla Groundwater Management Area (LUBGWMA) designation administered by the Department of Environmental Quality (DEQ). He stated that these declines are not likely to improve with continued development in the Critical Area, regardless of how small they are. He feels that it is the magnitude of the small development projects that Umatilla County should consider in its future development plans.

Mr. Kowitz stated that if the applicant is proposing exempt groundwater use, they should be fully aware of exempt uses which are limited to 15,000 gallons per day for domestic uses, ½ acre yard/

non-commercial garden, and 5,000 gallons per day for industrial or commercial. He went on to say that, if the lots are all being served by one well then a shared well agreement should be in place documenting who gets what portion of the exemption, operating and maintenance costs and any easements for water delivery lines. He added that the exemption is in total (not per lot) when only one well is being shared.

Lastly, he stated that the OWRD has identified a couple of entities that hold Municipal Use Permits/ Certificates, but understands that use of those rights is not viable at this location. Mr. Waldher stated that he checked on possible municipal wells that may be in the area and found one belonging to the City of Hermiston. The City stated that they have a policy that they will not extend their water outside of their Urban Growth Boundary (UGB) to serve rural uses like this.

Public Agency: Clinton Spencer, City of Hermiston Planner, provided an email (Exhibit C). He stated that with regard to concerns over potentially servicing this property with municipal water, this is not currently an option. The property is located adjacent to the City's UGB but is not within the UGB, nor the City Limits. Under Policy 23 of the Hermiston Comprehensive Plan, water and sewer service will only be provided to properties within the UGB and then only after annexation of the property. He explained that since the property is not within the UGB now, it is not eligible for connection to municipal services.

Mr. Spencer stated that in order for water to be available, the City's UGB would have to be amended to include the property. However, the likelihood of amending the City's UGB is small at this time. He explained that the City adopted a Housing Needs Analysis (HNA) in 2014 which shows a considerable oversupply of housing lands in the City's UGB. The HNA showed that the City will need a supply of approximately 3,881 housing units by 2030 and has the capacity in the residential inventory to supply 11,893. Therefore, the potential for an update to the City's UGB to incorporate these lands is vanishingly small for the foreseeable future. He added that when the City does consider an expansion to the UGB, it will likely be after 2050 and this land could certainly be a candidate for inclusion at that time.

Commissioner Rhinhart asked if each of the lots would qualify for an exempt well. Mr. Waldher confirmed that is correct. He stated that exempt wells are regulated by OWRD and although it is in a Critical Groundwater Area, by law it is entitled to an exempt well on each of the newly created parcels.

TESTIMONY

Applicant Testimony: Michael McDonough, Applicant and Property Owner, 78678 Highway 207, Hermiston, Oregon. Mr. McDonough stated that he felt Mr. Waldher did a good job of explaining the request. He stated that there is an old feedlot located south of his property which has caused issues with groundwater contamination. He believes that a couple extra wells in the area would help minimize some of that contamination of the water table.

Mr. McDonough stated that he is working with Tom Lapp, ODOT, to apply for one access point off the highway to serve both parcels. He feels this will cause less of an impact on the highway traffic.

Commissioner Rhinhart asked what he uses the ground for at this time. Mr. McDonough replied that he currently uses the land for hay and pasture and there is a small arena. Commissioner Rhinhart asked if the parcel has irrigation rights. Mr. McDonough stated that it has full irrigation rights and they will be transferred upon approval. Commission Rhinhart asked if he will also need to install an irrigation well. Mr. McDonough stated that the entire 12 acre property is irrigated through the Hermiston Irrigation District, drawn off the canal.

Opposition Testimony: Sam Fumoso, 78622 Highway 207, Hermiston, Oregon. Mr. Fumoso stated that he has some concerns about this request. First, he stated that Mr. McDonough's property is on a 1 acre parcel and he does not understand why we are not doing a line lot adjustment to make it an R-4. He said this is not 1998 and not 1999 and we are bringing this into 2020 so it should be agreed to be able to be in an R-4 and kept to an R-4. Second, Mr. Fumoso stated that he is on a shallow, basalt well system. He said they are already low on the table and three more wells will cause more problems. Third, Mr. Fumoso expressed concern about creating another access point off the Highway.

Commissioner Hasenbank asked to clarify which parcel he is referring to as 1 acre. Mr. Fumoso stated that Tax Lot #700 located next door to the subject parcel, is 1 acre. Commissioner Hasenbank explained that the 1 acre Tax Lot #700 is not involved or included in this request to divide Tax Lot #800. Mr. Fumoso stated that Mr. McDonough owns both Tax Lots #700 & #800. Mr. Waldher clarified that is not correct. County records indicated that Tax Lot #700 is owned by person with the last name Rivera. Mr. Fumoso said he does not believe that is correct. Chair Danforth reiterated that the hearing today is only regarding Tax Lot #800 and it has nothing to do with any other Tax Lots in the area.

Opposition Testimony: Don Waters, 78594 Highway 207, Hermiston, Oregon. Mr. Waters stated that he has lived on his property close to 60 years and has experienced problems with his 132 ft. well, especially during the latter part of the summer when he starts pulling air. He is concerned about the potential for new wells and water usage on these 3 new pieces of land. He stated that it's in a restrictive area to begin with and he believes it is just not right to let new wells in this area.

Applicant Rebuttal: Michael McDonough, Applicant and Property Owner, 78678 Highway 207, Hermiston, Oregon. Mr. McDonough stated he only owns Tax Lot #800 which is 12.21 acres. He has lived there since 2013 and upon inspection at that time the well was 65 ft. He added that he has not had a single issue with the well or water level since he has owned the land.

Chair Danforth called for adoption of the comments provided by public agencies to the record. The email from ODOT is adopted as Exhibit A, the email from OWRD, Exhibit B and the email submitted by The City of Hermiston, Exhibit C.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Mr. Waldher made a clarification that the issues concerning the domestic well water do not affect this application because it is not within the jurisdiction the Umatilla County Planning Department.

Commissioner Hasenbank made a motion to approve Type II Land Division, #LD-4N-1043-19, Mike McDonough, Applicant and Owner. Commissioner Williams seconded the motion. Motion passed with a vote of 7:0.

NEW HEARING

PLAN MAP AMENDMENT #P-125-19, Co-adopt City of Hermiston's Ordinance #2289.

The City of Hermiston requests the County co-adopt City Ordinance 2289 amending the comprehensive plan map from urbanizable to urban status for a 7.5 acre tract located at the southeast corner of NE 10th Street and E Elm Ave, a 1.98 acre tract located at the southeast corner of E Diagonal Blvd and E Elm Ave, and a 31.32 acre tract located north of E Diagonal Blvd, east of NE 10th Street and south of E Elm Ave. The City Council also adopted Ordinance 2290 annexing said property effective upon co-adoption of Ordinance 2289.

The criteria of approval are found in UCDC 152.750 - 152.754 and the Joint Management Agreement between the City and County.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Bob Waldher, Planning Director, stated that on November 25, 2020 Hermiston City Council adopted Ordinance 2289, amending the Comprehensive Plan Map from urbanizable to urban for a 7.5 acre tract located at the southeast corner of NE 10th Street and E Elm Avenue, a 1.98 acre tract located at the southeast corner of E Diagonal Boulevard and E Elm Avenue, and a 31.32 acre tract located north of E Diagonal Boulevard, east of NE 10th Street and south of E Elm Avenue. The City Council also adopted Ordinance 2290 annexing said property effective upon co-adoption of Ordinance 2289. He stated that the role of the Planning Commission is to make a recommendation to the Board of County Commissioners (BCC) on co-adoption of the City's Ordinance 2289 which will convert the Comprehensive Plan designation from urbanizable to

urban. He pointed out that there have been a number of similar co-adoption requests brought forth by the City of Hermiston over the past year. The City has a unique requirement in their Comprehensive plan which requires that, prior to rezoning and annexing something from within the Urban Growth Area it needs to be converted the “urban” status.

Mr. Waldher stated that the Hermiston City Council held a public hearing on November 25, 2019 and approved the Plan Map Amendment and subsequently adopted Ordinances 2289 and 2290. This hearing before the Umatilla County Planning Commission is the County’s first evidentiary hearing for co-adoption. A subsequent public hearing before the Umatilla County Board of Commissioners is scheduled for Wednesday, March 11, 2020, at 9:00 AM in Room 130 of the Umatilla County Courthouse. Mr. Waldher explained that the Umatilla County Planning Commission has an obligation to make a recommendation to the Board of Commissioners for co-adoption of the Comprehensive Plan Map Amendment, changing the designation of the property from urbanizable to urban.

TESTIMONY

Property Owner Testimony: Lloyd Piercy, Owner, 33927 Riverview Drive, Hermiston, Oregon & Jackie Sielaff, Project Manager, 82552 D Street, Hermiston, Oregon. Mr. Piercy stated that Jackie is leading the project and he and his wife, Lois, are the owners of tax lot 300. He stated that he and Lois have been planning to develop this property for a while. There are two schools and a baseball field within walking distance and plans to build another school in the area. He believes this will be a great place to build a comprehensive neighborhood. His plans for development include donating a portion of his land for a walking trail to add to the walking loop the City is already developing. They also plan to build a section of housing specific to the fifty-five and over demographic, catering to individuals with mobility issues. He stated that they have spent two years planning and approached the development with a holistic outlook to benefit the community and help alleviate some of the urgent need for housing.

Commissioner Hasenbank asked how many houses will be built on this parcel of land. Ms. Sielaff stated that they are hoping to build 45-55 homes. They have not yet decided if the dwellings will be multi family, duplexes, triplexes or single family. She stated that they are also hoping for an additionally 60 homes in the rest of the R-3 Zone. Mr. Piercy stated that there is a small piece of commercially zoned property as well which could provide space for a small community store. Chair Danforth asked what the NCO designation stands for on tax lot 200. Mr. Piercy stated that it is the City’s Neighborhood Commercial Zone and tax lot 200 houses a substation for the Umatilla Electric Cooperative.

Mr. Piercy stated that they have been working with Oregon Department of Transportation (ODOT) to establish one access point. He and the City both acknowledged that 10th Street is already a difficult street so they opted not to add traffic. Additionally, the new walking path will allow for pedestrian traffic to avoid the highway.

Commissioner Rhinhart asked if there are any existing structures on the property and what is the current use of the land. Mr. Piercy stated that there are no structures and it is currently used as a cow pasture. He believes this will be a very nice addition to the city.

Public Agencies: No additional comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated that it's apparent that the City of Hermiston has given their blessing and many other agencies have provided feedback making it a joint effort to move forward with this project.

Commissioner Hasenbank made a motion to recommend approval of Plan Map Amendment, #P-125-19, to co-adopt City of Hermiston Ordinance 2289 to the Umatilla County Board of Commissioners. Commissioner Wysocki seconded the motion. Motion passed with a vote of 7:0.

A subsequent Public Hearing before the Umatilla County Board of Commissioners is scheduled for Wednesday, March 11, 2020 at 9:00 AM in Room 130 of the Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:54 p.m.

Respectfully submitted,

Tierney Cimmiyotti
Administrative Assistant

Minutes adopted by the Planning Commission on June 25, 2020