



PLANNING DIVISION

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252

Email: planning@umatillacounty.gov

AGENDA

Umatilla County Planning Commission Public Hearing Thursday, September 26, 2024, 6:30PM Justice Center Media Room, Pendleton, Oregon

To participate in the hearing please submit comments **before 4PM, September 26th** to planning@umatillacounty.gov or contact the Planning Department at 541-278-6252

Planning Commission

Suni Danforth, Chair	Emery Gentry
Sam Tucker, Vice Chair	Ann Minton
Tami Green	Malcolm Millar
John Standley	Andrew Morris
Kim Gillet	

Planning Staff

Bob Waldher, Community Development Director
Megan Davchevski, Planning Division Manager
Carol Johnson, Senior Planner
Tierney Cimmiyotti, Planner / GIS
Charlet Hotchkiss, Planner
Shawna Van Sickle, Administrative Assistant

1. Call to Order

2. **Minutes Approval:** April 11, 2024 Meeting, May 2, 2024 Meeting, May 23, 2024 Meeting, and June 27, 2024 Meeting

3. **NEW HEARING: APPEAL OF PLANNING DIVISION DECISION TO DENY TYPE II LAND DIVISION REQUEST #LD-5N-912-24: KALVIN GARTON, APPLICANT/OWNER.** A “Request for Appeal” was filed on August 14, 2024 to appeal the Umatilla County Planning Division’s decision to deny Land Division Request #LD-5N-912-24. The applicant’s proposal is to partition the property located on Assessor’s Map 5N2722, Tax Lot 809. The applicant’s proposed partition would create three (3) lots of at least 2 acres in size. The Land Use standards applicable to the applicant’s request are found in Umatilla County Development Code 152.684, Type II Land Divisions.

4. Other Business

5. Adjournment

COMMUNITY &
BUSINESS
DEVELOPMENT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commission
FROM: Robert Waldher, Community Development Director
DATE: September 19, 2024

CODE
ENFORCEMENT

RE: **September 26, 2024 Planning Commission Hearing**
Appeal of Planning Division Decision
Type II Land Division, LD-5N-912-24
Map 5N 27 22, Tax Lot #809

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND MAPPING

Request

RURAL ADDRESSING

A “Request for Appeal” was filed by Calvin Garton (applicant/owner) to appeal the Umatilla County Planning Division’s decision to deny Land Use Request #LD-5N-912-24. The applicant’s proposal is to partition the property located on Assessor’s map Township 5N, Range 27E, Section 22; Tax Lot #809. As shown in the vicinity map (Attachment A), the subject property is located south of Highway 730 and east of Pleasant View Road. The property is located along the Umatilla/Morrow County border, approximately three (3) miles west of the City of Umatilla. The proposed partition would result in the following parcel sizes: Proposed Parcel 1 – 2.06 acres, Proposed Parcel 2 – 2.02 acres, and Proposed Parcel 3 – 4.02 acres.

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Background Information

PUBLIC TRANSIT

The applicant submitted a Type II Land Division request to the Planning Division on March 4, 2024. Planning Division staff conducted a completeness review of the application and identified that the proposed parcel configuration did not appear to provide adequate buildable space required for rural residential properties, and staff noted several omissions in addressing the criteria of approval for the partition request. A map (Attachment B) prepared by planning staff shows the lack of developable space on the subject property when required setbacks are applied. On March 25, 2024, Planning Division staff emailed (Attachment C) the applicant and their surveyor, Mr. Bill Wells (Wells Surveying), requesting that they submit the omitted information along with paperwork to assist in addressing the criteria of approval required for the Type II Land Division request. Mr. Wells responded that he needed to speak with his client and later requested that staff delay sending out the Preliminary Findings until the applicant and surveyor had a chance to respond to the concerns. On April 8, 2024, planning staff followed up with a “Completeness Letter” (Attachment D) sent to the applicant and their surveyor that formally clarified what information was still necessary in order to proceed with deeming the application complete. The Completeness Letter provided that the applicant had 180 days to respond to the requested information or the application would become void.

In April 2024, planning staff submitted a wetland land use notification to Oregon Department of State Lands (DSL) which is the agency responsible for administering removal/fill laws in the state. A response (Attachment E) from DSL staff on April 17, 2024 identified the likely presence of additional wetlands and recommended that the applicant hire a wetland consultant to prepare a wetland delineation report for DSL’s review and approval prior to any ground disturbing activities. The response from DSL was added to the project record.

Memo

Planning Commission Public Hearing – September 26, 2024
Land Division Request LD-5N-912-24

On June 18, 2024, the applicant submitted a letter (Attachment F) to Planning Division staff that disagreed with the concerns highlighted in the county’s completeness letter and requested the land division request to be processed immediately. Planning staff continued processing the application as requested by the applicant. Affected agencies and nearby property owners were notified of the land division request and, on July 5, 2024, were sent a copy of the Preliminary Findings and Conclusions which denied the land division request. The Planning Division received one email comment (Attachment G) from Morrow County Planning Department regarding access permits. The applicant also provided a comment letter (Attachment H) during the 21-day comment period that disagreed with Umatilla County’s decision to deny the request. No requests for a hearing were received during 21-day comment period.

A Decision letter (Attachment I) and Final Findings and Conclusions (Attachment J) were mailed on July 31, 2024 to the applicant and commenting parties. On August 14, 2024, before the end of the 15-day appeal period, the applicant filed an appeal (Attachment K) of the Planning Division’s decision to deny the Type II Land Division.

Criteria of Approval

Criteria of approval for Type II Land Divisions (partitions in a non-resource zone) are found in Umatilla County Development Code (UCDC) Sections 152.684.

Notice

Notice of the public hearing was mailed on September 6, 2024 to the owners of properties located within 250-feet of the perimeter of Tax Lot 809. Notice was also published in the East Oregonian on September 11, 2024 notifying the public of the applicant’s request before the Planning Commission on September 26, 2024.

Conclusion

The Planning Commission is tasked with making a decision whether or not to uphold the decision of the Planning Division to deny the Type II Land Division request. Approval or Denial must be based on substantive, factual evidence in the record, not conclusory statements. The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Staff have provided sample motions for the Planning Commission’s consideration below.

PLANNING COMMISSION MOTION OPTIONS

Motion to Uphold the Planning Division Decision Based on Evidence in the Record

I, Commissioner _____, make a motion to UPHOLD the decision of the Planning Division and DENY the Garton Type II Land Division, based on foregoing Findings of Fact and Conclusions of Law.

Motion to Reverse the Planning Division Decision Based on Evidence in the Record

I, Commissioner _____, make a motion to REVERSE the decision of the Planning Division and Approve the Garton Type II Land Division, based on evidence in the record and with the following additional Findings of Fact:

_____.

Memo

Planning Commission Public Hearing – September 26, 2024

Land Division Request LD-5N-912-24

Attachments

- **Attachment A** – Vicinity Map
- **Attachment B** – Setback Map
- **Attachment C** – Email Communication Re: Completeness Review (03/25/24)
- **Attachment D** – Completeness Letter (04/08/24)
- **Attachment E** – DSL Wetland Notification Response (04/17/24)
- **Attachment F** – Letter from Applicant Requesting Processing of Application (06/18/24)
- **Attachment G** – Email from Morrow County Received During 21-day Comment Period (07/23/24)
- **Attachment H** – Letter from Applicant Received During 21-day Comment Period (07/26/24)
- **Attachment I** – Planning Division Decision Letter (07/31/24)
- **Attachment J** – Final Findings and Conclusions
- **Attachment K** – Appeal Filing (08/14/24)

ATTACHMENT A

Vicinity Map

KALVIN GARTON, APPLICANT/OWNER

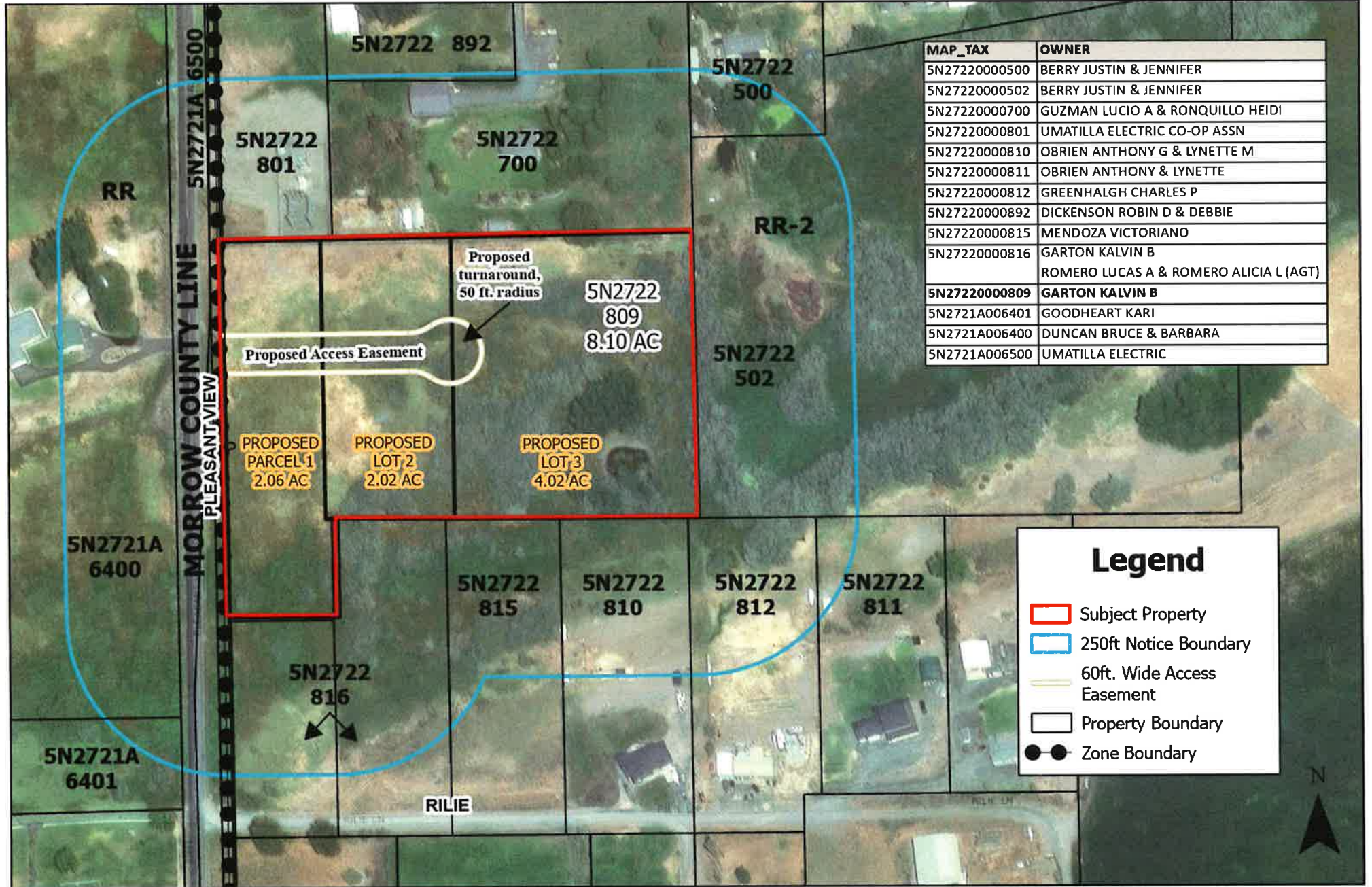
PUBLIC NOTICE MAP

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimmiyotti, Umatilla County Planning Department Date: 9/5/2024

MAP 5N 27 22, TAX LOT #809

REQUEST FOR APPEAL: LAND DIVISION #LD-5N-912-24

Notified property owners within 250 feet of Subject Parcel



MAP_TAX	OWNER
5N27220000500	BERRY JUSTIN & JENNIFER
5N27220000502	BERRY JUSTIN & JENNIFER
5N27220000700	GUZMAN LUCIO A & RONQUILLO HEIDI
5N27220000801	UMATILLA ELECTRIC CO-OP ASSN
5N27220000810	OBRIEN ANTHONY G & LYNETTE M
5N27220000811	OBRIEN ANTHONY & LYNETTE
5N27220000812	GREENHALGH CHARLES P
5N27220000892	DICKENSON ROBIN D & DEBBIE
5N27220000815	MENDOZA VICTORIANO
5N27220000816	GARTON KALVIN B ROMERO LUCAS A & ROMERO ALICIA L (AGT)
5N27220000809	GARTON KALVIN B
5N2721A006401	GOODHEART KARI
5N2721A006400	DUNCAN BRUCE & BARBARA
5N2721A006500	UMATILLA ELECTRIC

Legend

- Subject Property
- 250ft Notice Boundary
- 60ft. Wide Access Easement
- Property Boundary
- Zone Boundary



ATTACHMENT B

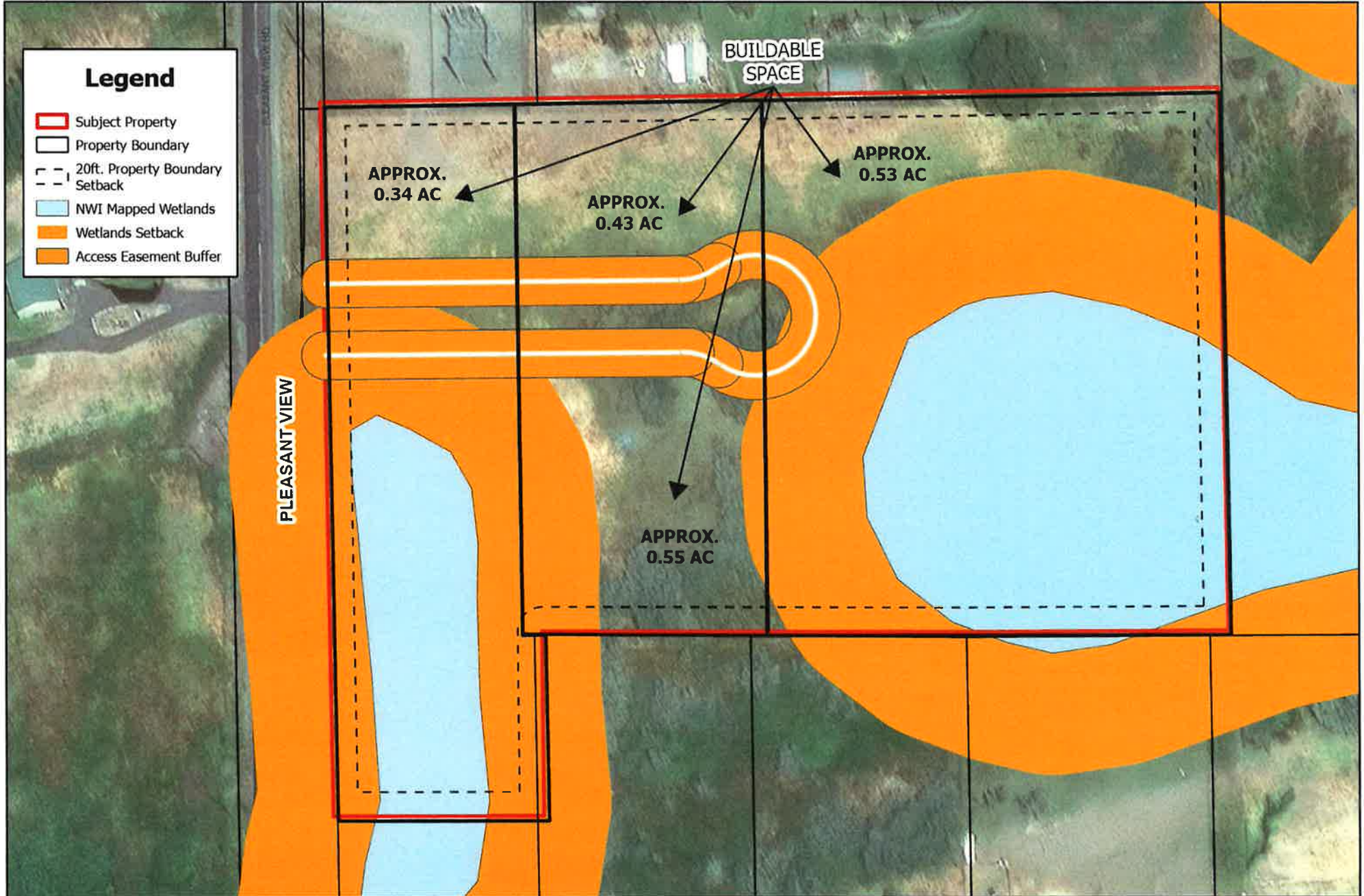
Setback Map

KALVIN GARTON, APPLICANT/OWNER
MAP 5N 27 22, TAX LOT #809
LAND DIVISION REQUEST



**WETLANDS MAP/
BUILDABLE SPACE**

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimmiyotti, Umatilla County Planning Department Date: 9/17/2024



ATTACHMENT C

Email Communication Re: Completeness Review (03/25/24)



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Garton Partition

5 messages

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Mon, Mar 25, 2024 at 1:23 PM

To: Bill Wells <bill@wellssurveying.com>

Cc: Planning Department <planning@umatillacounty.gov>

Hi Bill,

I've worked up the preliminary findings and have discussed the proposal with my colleagues and County Counsel. We do not think the 3 parcel partition will provide adequate buildable space required for rural residential properties, nor meet the requirements of UCDC §152.684 (B) and (K). In addition to these criteria not being met, it appears the proposal will create 3 parcels which will likely require variances to setback requirements for development to occur. As you are aware, we cannot create new parcels that require variances for development.

It may be possible to meet these requirements by reducing the request to two parcels, rather than 3. A robust response by the applicant for both of these requirements would be required.

Please let me know how Mr. Garton would like to proceed. I will hold off on mailing the public notice until I hear from you. If you would like to discuss this in person, I am available for most of tomorrow and Wednesday until 3PM. I will be on vacation beginning Thursday, returning on April 5th.

Thank you,

Megan

--

Megan Davchevski, CFM

Planning Division Manager

Community Development Department



Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

Bill Wells <billwellssurveying@gmail.com>

Tue, Mar 26, 2024 at 7:43 AM

Reply-To: bill@wellssurveying.com

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Megan,

Kal is out of town until next week. I need to talk with him.

Bill Wells

Wells Surveying
P.O. Box 1696
200 SE Hailey #108
Pendleton, OR 97801
Phone: 541-276-6362
Cell: 541-969-8881

[Quoted text hidden]

Megan Davchevski <megan.davchevski@umatillacounty.gov>
To: bill@wellssurveying.com

Fri, Apr 5, 2024 at 12:17 PM

Hi Bill,

I've returned to the office today. Curious as to what the decision was?

[Quoted text hidden]

Bill Wells <billwellssurveying@gmail.com>
Reply-To: bill@wellssurveying.com
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Mon, Apr 8, 2024 at 1:03 PM

Megan,

Kal and I have met and ask that you hold up on sending out the preliminary findings until we have had a chance to respond to your concerns.

Thank you,

Bill Wells

Wells Surveying
P.O. Box 1696
200 SE Hailey #108
Pendleton, OR 97801
Phone: 541-276-6362
Cell: 541-969-8881

[Quoted text hidden]

Megan Davchevski <megan.davchevski@umatillacounty.gov>
To: bill@wellssurveying.com

Mon, Apr 8, 2024 at 2:57 PM

Thank you. I do have some statutory guidelines I must abide by for the timeline, therefore the 30 day review for completeness letter is attached. This is a formality.

Please keep me posted.

Best,

[Quoted text hidden]

 **20240408195338.pdf**
103K

ATTACHMENT D

Completeness Letter (04/08/24)



PLANNING DIVISION

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252

Email: planning@umatillacounty.gov

COMMUNITY &
BUSINESS
DEVELOPMENT

April 8, 2024

LAND USE
PLANNING,
ZONING AND
PERMITTING

Bill Wells
via email

CODE
ENFORCEMENT

Re: Completeness Letter; Template Dwelling Request, Map #4N3726C, Tax Lot #600

SOLID WASTE
COMMITTEE

Dear Bill,

SMOKE
MANAGEMENT

Please accept this letter as comment on the completeness of the Land Use Request Application and supporting documents submitted for a Type II Land Division. Your application materials have been reviewed for completeness and the following are additional items that need to be addressed in order to proceed in deeming your application complete.

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Provide Complete Responses to Type II Land Division Standards in the Umatilla County Development Code;

PUBLIC TRANSIT

- § 152.684(B) If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;
- § 152.684(K) The land division plan must adequately address known development limitations within the proposed Type II Land Division and provide appropriate measures to mitigate the limitation

On March 25, 2024 I sent an email request for you to submit the omitted information along with paperwork to assist in addressing the criteria of approval required for the Type II Partition request. You responded that you needed to speak with your client and on April 8, 2024 responded to my email requesting more time to respond to concerns.

In summary, the intent of this letter is to clarify what information is still necessary in order to proceed in deeming your application complete. As stated in my initial email, Planning Staff do not believe that the land division request, as proposed, satisfies all criteria of approval. Specifically, there is a lack of buildable space, and the application does not address UCDC 152.684 (B) and (K). There are multiple development limitations on the subject property: wetlands, 100-foot wetland setback requirement, and multiple existing and proposed easements.

From the date of this letter you have 180-days, or until October 5, 2024, in which to

respond in writing with some, all, or none of the requested information. Unless the Planning Division receives a response prior to October 5, 2024, your application request will become void on the 181st day, October 6, 2024. On October 6, 2024, all submitted materials, except application fee, will be returned to you.

Please feel free to visit with me about your application or this letter by calling me at 541-278-6246, or if it is more convenient you may contact me via e-mail at Megan.Davchevski@umatillacounty.gov. Thank you for your attention to the above request for additional information.

Respectfully,

A handwritten signature in black ink that reads "Megan Davchevski". The signature is written in a cursive, flowing style.

Megan Davchevski

Planning Division Manager

Enclosures: Email Chain

CC: Calvin Garton, Property Owner
File

ATTACHMENT E

DSL Wetland Notification Response (04/17/24)



Response Page

Department of State Lands (DSL) WN# *

WN2024-0190

Responsible Jurisdiction

Staff Contact Megan Davchevski	Jurisdiction Type County	Municipality Umatilla
Local case file # LD-5N-912-24	County Umatilla	

Activity Location

Township 05N	Range 27E	Section 22	QQ section	Tax Lot(s) 809
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Street Address

NE Corner of Rilie Ln and Pleasant View Rd

Address Line 2

City

Umatilla

Postal / Zip Code

97882

State / Province / Region

OR

Country

Umatilla

Latitude

45.905037

Longitude

-119.430854

Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

Your Activity

- The proposed parcel division may create a lot that is largely wetland and thus create future development problems.

Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

Based on a review of the submitted site plan, the proposed subdivision appears that it may create future development problems with regard to wetlands. The subdivision itself does not propose ground-disturbing activities and does not require a state Removal-Fill permit.

For efficient site planning, I do recommend that the applicant hire a qualified wetland consultant to prepare a wetland delineation report for DSL's review/approval prior to any ground-disturbing activities. A state Removal-Fill permit may be required for construction of the proposed access road and future homes.

Please note that the National Wetlands Inventory (NWI) mapping is one of several desktop resources that should be used to estimate wetland areas. NRCS predominantly hydric soils (shown on the Statewide Wetlands Inventory) and aerial imagery suggest that additional areas beyond the NWI polygons may meet wetland criteria. A site visit by a qualified wetland professional is the only way to be certain of where wetlands are located.

As you move forward with this project, please take a look at the "Hiring a Consultant" section on DSL's "Identifying Wetlands and Waters" webpage for the link to a list of wetland consultants. I would also be happy to provide this contact list directly via email (jessica.salgado@dsl.oregon.gov) if that is easier.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

4/17/2024

Response by:
Jessica Salgado

Response Phone:
541-408-1892

ATTACHMENT F

Letter from Applicant Requesting Processing of Application (06/18/24)

RECEIVED

JUN 18 2024

UMATILLA COUNTY
COMMUNITY DEVELOPMENT

May 3, 2024

Megan Davchevski
Planning Division Manager
216 SE 4th Street
Pendelton, Oregon 96801

Re: Template Dwelling Request Map #4N3726C, Tax Lot # 600

Megan,

Page 198 (CD) Review III. "The following review and approval of a Type IV, Review III Land Division Application may create, upon approval, of up to two new non farming parcels that will be smaller than the minimum parcel size for land zoned E.F.U."

This is the same process that i have used on my last three minor partitions!

I am not applying for anything else except my legal right to create two new tax lots with a remainder of 4+ acres. It does not have to be included. I am not doing a subdivision! I did not find verbiage that gave you "complete authority" to decide that I was doing a subdivision. Your wetland study does not need to be done until I try to develop the remaining parcel. This wetland is manmade! The West Extension District has not pressurized its waters. They have done a lot to reduce their water waste since this existing wetlands map was created. "If" the new owner of the remaining parcel wants to do the Wetland Challenge, he should be allowed to. I believe the "100 foot" buffer could easily be reduced to 50 feet. The flood irrigation canal has been removed and pressurized since the wetland study was done.

Your antigrowth attitude is clearly exposed by your irrational behavior.

I am again asking the Commissioners to terminate your employment.

Please process my two lot application immediately. There is clearly enough building envelope area on the remaining lot. What is your minimum building envelope requirement?

Very truly yours,


Kalvin B. Garton

Accredited Land Consultant, Retired

Cc: Umatilla and Morrow County Board of Commissioners
Michael Breiling, Attorney
Bill Wells, Surveyor
Oregon Taxpayers Association

Editors

Dave Hunnicutt, Oregonian
Property Owners Assoc.
All State Legislators
Governor Tina Kotek

ATTACHMENT G

Email from Morrow County Received During 21-day Comment Period
(07/23/24)



Robert Waldher <robert.waldher@umatillacounty.gov>

LD-5N-912-24 Public Notice

2 messages

Daisy Goebel <dgoebel@co.morrow.or.us>
To: Robert Waldher <robert.waldher@umatillacounty.gov>
Cc: Tamra Mabbott <tmabbott@co.morrow.or.us>

Tue, Jul 23, 2024 at 1:25 PM

Hello Bob,

Thank you for sending us notice of the above-referenced land division request. We see that the tentative decision is to deny the request, however if it is approved at a later time, we would agree with the wording of Condition of Approval #3, requiring the applicant to receive a road approach permit from Morrow County Public Works. We do not have further comments on the application at this time. Please don't hesitate to reach out with questions or requests related to our requirements or standards.

Thank you,

Daisy Goebel, AICP
Principal Planner
Morrow County Planning Department
dgoebel@co.morrow.or.us
(541) 922-4624 x 5506

Robert Waldher <robert.waldher@umatillacounty.gov>
To: Daisy Goebel <dgoebel@co.morrow.or.us>
Cc: Tamra Mabbott <tmabbott@co.morrow.or.us>

Mon, Jul 29, 2024 at 11:23 AM

Hi Daisy - Thank you for taking the time to provide comments. They have been added to the record.

Kind Regards -

Bob

[Quoted text hidden]

--

Robert Waldher, RLA
Director
Umatilla County Community Development Department
Tel: 541-278-6251 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.gov/planning>



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ATTACHMENT H

Letter from Applicant Received During 21-day Comment Period (07/26/24)

RECEIVED

JUL 26 2024

UMATILLA COUNTY
COMMUNITY DEVELOPMENT

6
July 24th, 2024

Robert T. Walden

Community Development Director

Umatilla County Planning Division

216 SE 4th ST

Pendleton, Oregon 97801

Re: Land Division Request #LD-5N-912-24

Dear Robert:

I did not apply for a three-lot subdivision. I applied for two lot minor partition.

In 2023 I withdrew my application because of the added subdivision requirements.

I am currently offering the property for sale as one piece. I have no idea what the new owners will want. They may only want one house. I currently own 1.85 acres x 43,560 = 80,586 square feet of developable land. The wetlands study will be easy to do when the road is built, and the septic designs are done. I was planning on putting all the backup drain fields with easements on the proposed lot two below the proposed access easement. What is the logic for setbacks from an already over sized road easement? You can clearly see that there is an abundance of buildable envelopes. These two lots are all that I am asking for in my minor partition. I may or may not request another minor partition next year. This is the same process I have done three times previously.

This denial only provides more evidence of why this planning division needs to be gutted! You are totally anti-growth!

The wetland issues will be challenged. The irrigation canal of WEST End Extension has been abandoned and pressurized. No one will want to hook onto their water as well water is much cheaper, and most of this pasture sub irrigates. I believe that the setback buffers can be reduced to 50' vs 100 ft'. Please change my application back to a two-lot minor partition

Truly yours,



Kalvin B. Garton

CC:

Bill Wells

Jim Hatley

County Commissioner

Sam Tucker, Planning Commissioner

Don Wysocki, Planning Commissioner

Doug Olson, County Council

3:15 PM
07/26/24 - Attempted to call applicant
to ask if they wanted to appeal to
PC. No answer after several attempts
and voicemail was full.

RTW

ATTACHMENT I

Planning Division Decision Letter (07/31/24)



PLANNING DIVISION

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252
Email: planning@umatillacounty.gov

COMMUNITY &
BUSINESS
DEVELOPMENT

July 31, 2024

LAND USE
PLANNING,
ZONING AND
PERMITTING

Kalvin Garton
1328 NW King Avenue
Pendleton, OR 97801

CODE
ENFORCEMENT

Re: Garton Land Division Final Decision Letter
Land Division Request, #LD-5N-912-24
Map #5N 27 22, Tax Lot #809, Account #149725

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Dear Mr. Garton:

GIS AND
MAPPING

The 21-day comment period for your Land Division request has elapsed without a request for a public hearing. Two comments (see enclosed) were received during the public comment period, one from Morrow County, and one from you, the applicant. A summary of each letter and a response from Umatilla County is provided below:

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Morrow County Planning Department Email (Received 07-23-24)

Planning staff from Morrow County confirmed that if the land division were to be approved, they agreed with the imposition of Condition of Approval #3, requiring the applicant to receive road approach permit from Morrow County Public Works.

PUBLIC TRANSIT

Umatilla County Response

Umatilla County concurs that if the land division were to be approved, Condition #3 would apply.

Applicant Letter (Received 07-26-24)

In general, Mr. Garton, you disagreed with Umatilla County's decision to deny the request and suggested that the request should have been processed as a "two lot minor partition," rather than a three lot subdivision. You also suggested that the wetland study "will be easy to do when the road is built, and the septic designs are done" and, that "the setback requirements for wetland buffers could be reduced for this proposal."

Umatilla County Response

Oregon Revised Statute ORS 92 defines partitioning as the act of dividing land to create not more than three parcels of land in a calendar year. A subdivision means to divide land to create four or more lots within a calendar. Since your requests involves the creation of three parcels, it was processed as a Type II Land Division (Partition in a non-resource zone) and does not qualify as a subdivision.

As described in the enclosed Findings and Conclusions, Aerial imagery, as well as NRCS hydric soil mapping, suggests that wetlands may extend beyond the National Wetlands Inventory (NWI) mapped polygons, and through the area of the proposed access easement. In April, 2024 planning staff submitted a wetland land use notification to Oregon Department of State Lands (DSL) which is the agency responsible for administering removal/fill laws in the state. A response from DSL staff recommended that the applicant hire a wetland consultant to prepare a wetland delineation report for DSL's review and approval prior to any ground disturbing activities. Since construction of the proposed access easement would involve ground disturbing activities, a wetland delineation is required.

In addition, a wetland delineation is necessary to accurately determine the amount of buildable space that is available on each parcel. If current NWI mapping is accurate, the buildable area of all three parcels is extremely constrained, creating a situation where variances would likely be required for future development to meet required wetland and easement setbacks. In the RR-2 zone, structures must abide by a minimum 20-foot setback to all property lines and access easements. Additionally, structures cannot be built within existing utility easements, and all wetlands have a minimum setback requirement of 100-feet to new structures and septic systems. These setback requirements cannot be reduced and would not meet the requirements for a future variance.

On July 31, 2024, the Final Findings were signed, signifying the final decision (Denial) for your partition request. The date the Findings were signed and mailed commenced a statutory 15-day appeal period. This appeal period will be over August 14, 2024.

All notified property owners, affected agencies, and you, the applicant, who participated or testified during the approval process, may appeal the County's decision. Appeals must be made in writing on the proper form available at the County Planning Department office and should include the reasons for the appeal and the alleged errors that the appellant believes were made by the Planning Division in addressing specific land division approval criteria. Appeal of an administrative decision would result in a first evidentiary hearing and the fee for requesting the appeal is \$250.

In conclusion if you have questions about the denial or need additional clarification, please feel free to contact me at 541-278-6252, or if more convenient you may e-mail me at Robert.waldher@umatillacounty.gov

Cordially,



Robert Waldher,
Community Development Director

Enclosures: Signed Final Findings, Comment Letters from Morrow County Planning Department and Calvin Garton (Applicant)

cc: Bill Wells, surveyor
Umatilla County GIS

ATTACHMENT J

Final Findings and Conclusions

**UMATILLA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
FINAL FINDINGS AND CONCLUSIONS
LAND DIVISION REQUEST, #LD-5N-912-24
MAP #5N 27 22, TAX LOT #809, ACCOUNT #149725**

1. APPLICANT: Calvin Garton, 1328 NW King Ave, Pendleton, OR 97801
2. OWNER: Calvin Garton, 1001 SE Byers Ave, Pendleton, OR 97801
3. REQUEST: The request is to divide Tax Lot #809 into three (3) parcels for future residential development.
- The proposed partition would result in the following parcel sizes: Proposed Parcel 1 – 2.06 acres, Proposed Parcel 2 – 2.02 acres, and Proposed Parcel 3 – 4.02 acres (See attached vicinity map for parcel locations).
- In 2023, the Applicant requested approval of rural residential 4-lot subdivision of Tax Lot #809, Subdivision Request #S-062-23. The Applicant later withdrew the application prior to the Planning Commission hearing.
- Tax Lot #809 is largely encumbered by several mapped wetlands, resulting in very limited buildable area. This issue is later addressed under UCDC 152.684(B).
4. LOCATION: The subject property is located south of Highway 730 and east of Pleasant View Road. The property is located along the Umatilla/Morrow County border, approximately three (3) miles west of the City of Umatilla.
5. SITUS: The property is not currently addressed. An address will be assigned at the time development is proposed.
6. ACREAGE: Tax Lot 809 is approximately 8.1 acres.
7. PERMITS: County Planning does not have any permits currently on file for the subject parcel. However, there have been several land division approvals for this request. The following Tax Lots were once a portion of Tax Lot 809: 800, 802, 804, 808, 810, 811, 812, 813, 814, 815 and 816.
8. COMP PLAN: The Comprehensive Plan designation for the subject property is “Rural Residential.”
9. ZONING: The subject property is zoned Rural Residential – 2 acre minimum parcel size (RR-2).

10. ACCESS: The subject property has frontage on Pleasant View Road, Morrow County Road #2625. The applicant proposes a new 60-foot wide private access easement to serve Parcels 1 through 3.
11. ROAD TYPE: Pleasant View Road is a paved, two-lane Morrow County Road #2625.
12. EASEMENTS: The proposed access easement will be 60-feet wide, all 60 feet of width are located on the subject parcel. There is also an existing 15-foot irrigation easement located on the east side of Parcel 3. A new 20-foot irrigation easement is proposed to serve Parcels 1 and 2, the easement will cross the near center of Parcel 3. There is also a blanket easement serving Umatilla Electric across the entire property.
13. LAND USE: The subject property is currently vacant.
14. ADJACENT USE: Surrounding land uses largely consist of farm and rural residential uses.
15. BUILDINGS: There are currently no buildings on the subject parcel.
16. UTILITIES: Currently the property does not contain utilities.
17. WATER/SEWER: The subject property does not currently contain a well or septic system. The applicant understands that these will be required at the time of development.
18. FIRE SERVICE: The subject property is within the service area of Umatilla Rural Fire District.
19. IRRIGATION: The subject property is within the West Extension Irrigation District.
20. FLOODPLAIN: This property is NOT in a floodplain.
21. WETLANDS: According to the US Fish and Wildlife Service National Wetlands Inventory (NWI), the subject parcel contains two Freshwater Emergent Wetlands. These wetlands make up a large majority of Parcels 1 and 3.

Aerial imagery, as well as NRCS hydric soil mapping, suggests that wetlands may extend beyond the NWI mapped polygons, and through the area of the proposed access easement. On July 1, 2024, county staff conducted a site visit to the subject property to view conditions. The property was viewed from several locations along Pleasant View Road and photos were taken. Photos and a description are included below:



Wetland Photo 1 – View of wetlands from Pleasant View Road facing southeast. Vegetation such as rushes, sedges, Russian Olive trees, cattails and reed canary grass was observed, indicating the presence of wetland vegetation outside the NWI mapped area.



Wetland Photo 2 – View of wetlands from Pleasant View Road facing east. Photo taken from approximate location of the proposed 60 foot access easement.

In April 2024, planning staff submitted a wetland land use notification to Oregon Department of State Lands (DSL) which is the agency responsible for administering removal/fill laws in the state. A response from DSL staff recommended that the applicant hire a wetland consultant to prepare a wetland delineation report for DSL's review and approval prior to any ground disturbing activities.

22. NOTICES SENT: July 5, 2024

23. COMMENTS DUE: July 26, 2024

24. AGENCIES: Umatilla Electric Cooperative, Umatilla Rural Fire District, Oregon State Water Resources, Oregon Department of State Lands, Umatilla County Assessor, Umatilla County Public Works, Morrow County Public Works, Morrow County Planning Department, Umatilla County Environmental Health, Umatilla County GIS, West Extension Irrigation District and Umatilla County Surveyor

25. COMMENTS: Umatilla County received a response to Wetland Land Use Notice (WN2024-0190) which was sent to Oregon Department of State Lands (DSL). DSL comments were provided by Jessica Salgado. The comments identified permits that would be required for ground-disturbing activities and recommended hiring a qualified consultant to perform a wetland delineation. WN2024-0190 has been included in the project record.

Morrow County Planning Department provided comment on the proposed Land Division request on July 23, 2024. Morrow County Planning staff confirmed that if the land division were to be approved, they agreed with the imposition of Condition of Approval #3, requiring the applicant to receive road approach permit from Morrow County Public Works. The comments have been included in the project record.

The applicant, Mr. Calvin Garton, provided comment on the proposed Land Division request on July 26, 2024. In general, Mr. Garton disagreed with Umatilla County's decision to deny the request. He suggested that the wetland study "will be easy to do when the road is built, and the septic designs are done." He also argued that the request should have been processed as a "two lot minor partition" and that "the setback requirements for wetland buffers could be reduced for his proposal." Mr. Garton did not request an appeal of the County's decision. The comment letter has been included in the project record.

26. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND DIVISIONS, §§ 152.301-152.306 and § 152.684, Land Divisions, Type II contains the criteria of approval for property that is not in a resource zone. The following standards of approval are underlined and the findings are in normal text.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material:

(A) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements of the Comprehensive Plan. The Umatilla County Comprehensive Plan and Transportation System Plan apply to the rural areas of the county. The applicant's property is designated Rural Residential in the County Comprehensive Plan. The County's Plan was acknowledged by the State of Oregon and subsequently was zoned RR-2 in compliance with the County's acknowledged Comprehensive Plan.

(B) If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances; Umatilla County finds that development on all three parcels will be extremely limited due to the presence of existing wetlands and new and existing easements. In the RR-2 zone, structures must abide by a minimum 20-foot setback to all property lines and access easements. Additionally, structures cannot be built within existing utility easements, and all wetlands have a minimum setback requirement of 100-feet to new structures and septic systems, limiting the buildable space on all three proposed parcels.

Using ArcGIS Pro, Umatilla County developed mapping that overlays existing NWI mapping and existing/proposed easements in order to calculate the potential buildable area¹ as the following:

Parcel 1: 0.34 acres

Parcel 2: north of access easement = 0.43 acres, south of access easement = 0.55 acres, total = 0.98 acres

Parcel 3: 0.53 acres

Of the three proposed parcels, Parcel 2 has the most buildable area at 0.98 acre of the 2.02 total acres. However, the applicant's tentative plat proposes that Parcel 2's buildable area be bisected by the proposed access easement, further limiting building potential of a rural residence, accessory structures, well, drain field and replacement drain field area. While Parcel 3 has a larger buildable area, the area available for development is oddly shaped and is less conducive to rural residential amenities and utilities. Parcel 1 has the least buildable area and is largely encumbered by a freshwater emergent wetland. Furthermore, based on wetland

¹ The Umatilla County Development Code §152.003 defines buildable area as *the space remaining on a zoning lot after the minimum open space requirements (coverage, yards, setbacks) have been met.*

conditions observed in the field by county staff and information received from state DSL staff, it is likely that additional, unmapped, wetlands are present on the subject property, further limiting the buildable area of all three proposed parcels.

Umatilla County finds that if approved, development will be extremely limited on all three parcels. Umatilla County finds that the tentative plan will create three parcels that will likely require variances to wetland setbacks and/or property line setbacks in order to be developed. Furthermore, a criterion for approval of variances includes the following: §152.627 Circumstances for granting a variance (A) Exceptional or extraordinary circumstances apply to the property... or other circumstances over which the owners of property since enactment of this chapter have had no control (emphasis added). Therefore, approval of a variance on either of the three proposed parcels would be extremely problematic to justify. Umatilla County finds and concludes that development of a single-family dwelling, accessory structure, well, septic system and replacement drain field area on Parcels 1, 2 and 3 would be extremely limited and difficult with the RR-2 setback standards and development limitations of wetlands and easements. This criterion is not satisfied.

(C) Complies with the zoning requirements or a proposed change thereto associated with the partition map proposal: Umatilla County finds that the Umatilla County Development Code requires a minimum lot size of two (2) acres for Rural Residential. Tax Lot 809 is 8.10 acres. The proposed partition would result in the following parcel sizes: Proposed Parcel 1 – 2.06 acres, Proposed Parcel 2 – 2.02 acres, and Proposed Parcel 3 – 4.02 acres (See attached vicinity map for parcel locations). As outlined in this section, each parcel created by this land division meets the minimum parcel size for the RR-2 zone. This criterion is satisfied.

(D) Complies with provisions of § 152.019, Traffic Impact Analysis, as applicable. The standards of applicability of UCDC 152.019 will be addressed below:

UCDC 152.019 (B) Applicability: A Traffic Impact Analysis shall be required to be submitted to the County with a land use application, when one or more of the following actions apply:

(1) A change in plan amendment designation; or
(2) The proposal is projected to cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:

(a) An increase in site traffic volume generation by 250 Average Daily Trips (ADT) or more (or as required by the County Engineer). The latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers (ITE) shall be used as standards by which to gauge average daily vehicle trips; or
Umatilla County finds that there will not be an increase of more than 250 ADT. Three (3) parcels will be created through this land division and potentially three

(3) dwellings will be constructed. A single-family dwelling generates approximately 9.52 ADTs during the week day (p. 296, *Trip Generation Manual 9th Edition*, ITE). Thus, three (3) single family dwellings would generate some 30 ADTs, far less than the required 250 ADTs required to complete a Traffic Impact Analysis. This standard is not applicable.

(b) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or Umatilla County finds that the land division is for single-family dwellings and will not increase traffic by vehicles with a 20,000 pound gross vehicle weight. The majority of the increase in vehicle traffic will be personal use cars and pickups. This standard is not applicable.

(c) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or vehicles queue or hesitate, creating a safety hazard; or Umatilla County finds that the proposed parcels are currently served by Pleasant View Road, a Morrow County Road. The applicant proposes to dedicate and develop a new private access road to serve all three parcels. As a condition of approval, the applicant is required to submit verification from Morrow County Public Works that sight distance requirements will be met with the proposed road location.

(d) A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area; or Umatilla County finds that there are no anticipated changes to the internal traffic patterns, thus the proposal will not cause safety issues. This standard is not applicable.

(e) For development within the I-82/US 730 Interchange Area Management Plan (IAMP) Management Area, the location of the access driveway is inconsistent with the Access Management Plan in Section 7 of the IAMP. Umatilla County finds that the proposed development is not within the I-82/US 730 IAMP Management Area. This standard is not applicable.

(E) Roads and recorded easements for access purposes are laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the Planning Director determines it is in the public interest to modify the road pattern; Umatilla County finds that the applicant's land division plan demonstrates that the parcels will utilize a new 60-foot wide private access and utility easement. Modifications to the road pattern are not proposed. However, based on wetland conditions observed in the field by county staff and information received from state DSL staff, it is likely that additional, unmapped, wetlands are present on the subject property, including the area identified for dedication of the 60-foot wide private access and utility easement. Any ground disturbing activities (including construction of access roads) within a

wetland require review and approval from Department of State Lands. Since a wetland delineation of the subject property has not been conducted, Umatilla County is unable to determine if the proposed easement conforms with the development standards. Therefore, as a condition of approval, a wetland delineation shall be submitted to and approved by DSL prior to any on-site ground disturbing activities and construction of the proposed 60-foot wide private access and utility easement. Umatilla County finds and concludes the imposition of the above precedent condition of approval satisfies the criteria.

(F) Dedicated road or public recorded easement shall be provided to each parcel and conform to right-of-way and improvement standards as follows:

(1) If a recorded easement for access purposes in a Type II Land Division will serve three or fewer parcels and will not likely serve other parcels or lots due to existing conditions, such as topography or the size or shape of land, or the parcels are not buildable, the easement or right-of-way is required to be improved to meet the Option 1 or "P-1" County Road Standard as provided in § 152.648 (D). The easement or right-of-way shall be a minimum of 30 foot wide and improved with a surface width of at least 16-feet. Umatilla County finds that if Parcel 3 were not heavily encumbered by wetlands, then it would have the potential to be divided once more. The applicant is proposing a 60-foot wide right-of-way easement that would comply with the County's P-2 Road Standard, therefore, this criterion is not applicable.

(2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turnarounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in § 152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles.

The partition is located within the Umatilla Rural Fire District. Umatilla County finds that the proposed access easement will also include a 50' radius cul-de-sac turnaround for emergency vehicles. A precedent condition of approval is imposed that the final plat will show a 50' radius cul-de-sac, said turnaround must also meet the P-2 County Road Standard. Umatilla Rural Fire District will receive notice of this request. The applicant is required, as a condition of approval, to provide confirmation from Umatilla Rural Fire District that the access easements and turn-around areas are adequate for emergency vehicles ingress and egress.

(3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or "P-2" County Road Standard as provided in § 152.648 (D). The 60-foot right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60-foot rights-of-way or easements

are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.

The applicant has proposed a 60-foot wide private access and utility easement to serve Parcels 1 through 3. Umatilla County finds that if Parcel 3 were not heavily encumbered by wetlands, then it would have the potential to be divided once more, for a total of four parcels to be served by the proposed private easement. Umatilla County finds that the 60-foot access and utility easement shall be improved with a surface width of at least 22-feet. Umatilla County finds that the easement shall be named and the road name must be included on the final partition plat. The applicant is responsible for submitting a road naming application to the Planning Division along with applicable fees. The applicant is responsible for paying for the signs and the County Road Department is the agency that will install the signs. The sign may be installed either on the applicant's property near the County right of way, or within the County right of way, where allowed by County Public Works.

A precedent condition of approval is imposed to improve the proposed road to the County P-2 road standard.

A precedent condition of approval is imposed to improve the proposed cul-de-sac to the P-2 road standard.

A precedent condition of approval is imposed that the applicant submit a Private Lane Road Naming application with applicable fees.

Umatilla County finds and concludes the imposition of the above precedent conditions of approval satisfies the criteria.

(4) Recorded easements or dedicated public roads required in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed and maintained by the county, provided the partitioner pays the expense of the initial investment of making and placing the sign.

Umatilla County finds that Public Works will install a road sign for the proposed private easement as determined above. This criterion is satisfied.

(5) Existing County or Public Roads shall be improved pursuant to the requirements of this chapter. See J. below.

(6) Shall obtain necessary approval and/or permits from either the State Highway Department or County Public Works Director for location, design, and improvement standards of access points onto County Roads, (approved) public roads, or state highways. Umatilla County finds that access shall be provided from the newly created and unnamed private access and utility easement. As a condition of approval, the applicant is required to obtain road approach approval for Pleasant View Road, Morrow County Road #2625 for the new private easement. Umatilla County and Morrow County Road Departments will be notified of this request and given the opportunity to provide comment, any comments may result in additional conditions of approval.

(G) Each parcel under four acres in size, both those partitioned or the remaining piece which are to be for residential purposes, have a site suitability approval from County Environmental Health. A waiver to this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds

(1) The parcel, four acres or under, is to be used for non-residential purposes and the owner's signature to this effect is on the partition form;

(2) The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings.

Umatilla County finds that Parcels 1 and 2 created out of this partition are proposed to be less than four acres in size and used for residential purposes. The Umatilla County Development Code specifically prohibits the placement of septic systems within 100-feet of a wetland. Additionally, because of the limited buildable area on Parcel 3, County Planning finds that site suitability is also required for Parcel 3. A precedent condition of approval is imposed that Parcels 1, 2 and 3 receive site suitability from Umatilla County Environmental Health.

(H) Shall provide easements along existing irrigation ditches that traverse or abut the partition where no such easements have yet been recorded. The purpose of the easement shall be for perpetual maintenance of the ditch and if within an irrigation district, said easement width and purpose shall be approved by the Irrigation District Board. Irrigation ditches were not identified on or abutting the subject property. The property is located within the West Extension Irrigation District, the district will have the opportunity to provide comment on this land division request. The applicant has identified several existing and proposed irrigation easements on the tentative plat. Satisfaction of this criterion is pending.

(I) Considers energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures. Umatilla County finds that due to known and potential encumbrances from wetlands, it is undetermined whether or not the proposed parcel size is adequate to accommodate on-site energy conservation measures. Energy conservation recommendations are specifically identified in the findings and policies of the Umatilla County Comprehensive Plan. Satisfaction of this criterion is pending.

(J) All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division. Umatilla County finds Irrevocable Consent Agreements are required for all newly created roads, including private easements. A precedent condition is imposed that the property owner sign and record an Irrevocable Consent Agreement for the newly created to-be-named road. The agreement will be provided by County Planning. Morrow County Planning and Public Works will be notified of this request and may provide comments regarding any road improvement agreements for Pleasant View Road, Morrow County Road # 2625. Satisfaction of this criterion is pending.

(K) Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation. Umatilla County finds that there are two areas identified on US Fish and Wildlife's National Wetland Inventory that are classified as Freshwater Emergent Wetlands located on the subject property. Furthermore, based on wetland conditions observed in the field by county staff and information received from state DSL staff, additional unmapped wetlands are present on the subject property, and possibly encumbering the proposed access easement and further limiting the buildable area of all three proposed parcels. On this land division request application, the applicant noted, "Wetlands impact portions of proposed parcels. New structures will be placed outside of wetlands and wetland buffers." However, the applicant did not demonstrate how structures, including onsite septic systems, would potentially meet setbacks and not require variances. In addition, a wetland delineation of the property has not been conducted so county staff are unable to determine the extent of wetlands and whether the proposed access easement will impact existing wetlands.

In the 2020 land division findings² which created the subject property's current configuration, Umatilla County found that, "*Parcel 3 [Tax Lot 809] appears to be the only parcel impacted by the presence of wetlands. Furthermore, it will also be the only parcel that could be further partitioned in the future. Therefore, the applicant should develop a wetland mitigation plan when considering future partition configuration, as there is a limited amount of remaining land that would be developable.*"

The applicant submitted an application to Umatilla County without completing the recommended wetland delineation. In addition, the applicant has not addressed the protection of wetlands, nor provided a mitigation plan. As found above, the location of the two NWI mapped wetlands and the likelihood of additional unmapped wetlands makes development on all three parcels extremely difficult and nearly impossible without variances to setback standards to property lines, the wetlands or easements. It is not clear whether or not the proposed access easement impacts unmapped wetlands or if there is adequate buildable space to accommodate utilities required in the rural residential zone such as a well, septic system and replacement drain field area.

² This land division request was process administratively in 2020 as Land Division Request LD-5N-881-20.

Umatilla County finds and concludes the applicant has not addressed the known development limitations of the proposed land division, nor has the applicant outlined measures to mitigate the limitation or impacts to wetlands. This criterion is not satisfied.

(L) Addresses the comments of the appropriate water agency if the proposed Type II Land Division has a water right. Umatilla County finds that the subject property is located within West Extension Irrigation District. West Extension Irrigation District and Oregon State Water Resources will be notified and sent a copy of these findings. Any comments may result in additional conditions of approval.

26. SURVEYING REQUIRED - 152.644 (A) (2) PARCELS CREATED SMALLER THAN 10 ACRES IN A NON-RESOURCE ZONE NEED TO BE SHOWN ON A PARTITION PLAT: Umatilla County finds that this request involves parcels located in a non-resource zone and smaller than 10 acres in size thus the request requires a partition plat to be submitted. The appropriate recording fee for this document will be required.

FINAL DECISION: DENIED

THE GARTON LAND PARTITION REQUEST DOES NOT COMPLY WITH ALL APPLICABLE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, AND IS THEREFORE DENIED.

IF THE REQUEST COULD BE APPROVED, IT WOULD BE SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Pay public notice fee charges as invoiced by the Planning Division. *(Received 07/26/24)*
2. Submit verification from Morrow County Public Works that sight distance requirements will be met with the proposed road location.
3. Submit road approach permit approval from Morrow County Public Works for the 60-foot wide private access and utility easement. If no road approach permit is required, submit verification as such from Morrow County Public Works.
4. A wetland delineation shall be submitted to and approved by DSL prior to any on-site ground disturbing activities and construction of the proposed 60-foot wide private access and utility easement.
5. Improve the new private access and utility easement, to be named, and the 50-foot radius cul-de-sac to the P-2 County Road Standard.

6. Submit a Road Naming Application and the applicable fee to the Planning Division. Receive road naming approval for the new private access and utility easement.
7. Sign and Record an Irrevocable Consent Agreement for the 60-foot wide private access and utility easement, to be named. The agreement will be provided by County Planning.
8. Receive site suitability from Umatilla County Environmental Health for Parcels 1, 2 and Parcel 3. Site suitability reports must be submitted to County Planning.
9. Provide written confirmation from the West Extension Irrigation District that irrigation water rights and easement requirements of the District are satisfied. This may also be satisfied by signatures on the partition plat.
10. Pay, and if applicable, prepay property taxes to the County Assessor's Office.

Subsequent Conditions: The following subsequent conditions must be fulfilled following final approval of the Partition Plan by Umatilla County:

11. Record the Final Partition Plat within two years and prior to signing any deeds. The Final Partition Plat shall include the approved road name on the face of the plat.
12. Obtain zoning permits from the Umatilla County Planning Department to place structures on the parcels with an approved site plan showing setbacks, wetlands, driveways, utilities, etc.
13. Obtain all other permits necessary for development (i.e. septic, building, wetland removal/fill, etc.)

UMATILLA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

Dated 31ST day of JULY, 2024



Robert T. Waldher, *Community Development Director*

Mailed 31ST day of JULY, 2024

ATTACHMENT K

Appeal Filing (08/14/24)

Request for a Public Hearing

RECEIVED

AUG 14 2024

UMATILLA COUNTY
COMMUNITY DEVELOPMENT



216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252
Email: planning@umatillacounty.gov

Process taken from UCDC 152.769

REQUEST FOR A HEARING

The purpose of a notice for a land use request application is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

FILING FEE

Requesting a Public Hearing - \$250

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: December 21, 2023
File Location: H:\shared\FORMS_Master\Request Public
Hearing_DEC 2023.doc

Section 1: Request and Description of Application

This information deals with the Land Use Request Application where a Public Hearing is being requested.

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: LD-SN-912-24
- Type of Land Use Request Application: Land Division Type II
- Decision-Making Body: Planning Director or Other _____
- For a Request of a Public Hearing, Date Notice was sent: _____

Section 2: Contact Information

Name of Submitter(s): Kalvin Garton

Address: 1328 NE King Ave

City, State, Zip: Pendleton, OR 97801

Telephone Number & Email Address: _____

Date of Submittal for Request of a Public Hearing: 08/14/2024

Section 3: Basis for the Request for a Public Hearing

Complete only for a Request for a Public Hearing

The Request for a Public Hearing must be based on issues you feel should be addressed in a public forum. Please describe the reasons you feel that a public hearing should be held before the Umatilla County Planning Commission in relation to the land use request application specified above:

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X

Signature of Submitter

Date

Printed Name of Submitter

X

Signature of Submitter

Date

Printed Name of Submitter

X

Signature of Submitter

Date

Printed Name of Submitter

X

Signature of Submitter

Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: 08/14/2024



Accepted by:

Shawna Van Sickle
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 22905

August 14th, 2024

To: Robert Waldher, Umatilla County Planning Division

Re: Appeal of your denial of LD#5N912-24

Attached please find my previous letter from July 26th 2024 and my \$250.00 fee to appeal your administrative decision. Your “administrative decision” is a retaliatory move because I challenged Megan’s “absolute authority”. You are simply proving my arguments that your planning department is anti-growth. I think this review should go into your department’s performance to Umatilla County. I think your department needs to provide a vision statement to the public of what rural residential growth could occur. The governor wants more rural development to occur. Real planners have visions of what growth should look like. They should be trained in smart growth, affordability, density and should encourage technologies like incinerator toilets, infiltrator drain fields, etc.

Why did your department sue the county for approving Costco at Stateline? Do you have a vision for the commercial development between Milton-Freewater and Stateline? Why did Tamara Mabbot and Carol Johnson fight the retirement community at the Pendleton County Club? Do you have a vision statement for a potential retirement community? Would this minor partition be approved if it was only for two lots? ... Yes, it would. Your argument that it must be three is completely false. Your logic would always create three lots. The remaining parcel was previously created in every case. Why were no wetland studies done years before? I already have septic approvals for standard systems on lots one and two. Your wetlands map shows Pleasant View Lane in the wetlands setback zone. On August 9th I met with Brady Rettkowski of Done Rite Septic installations. He pointed out that the wetlands are distinguishable because Russian Olive trees can not survive unless within five feet of their water source. He thinks the road should be moved to the south 25 feet. He also said that drain fields and back up drain fields could fit in to 4000-5000 feet.

With the 50 cubic yard in or out exemption, it would be foolish to require a study on lot one or two. I talked with Anderson Perry about doing the wetlands study. They agreed to do it for around \$8,000-\$9,000. They said it would take 5-6 months. They only test 2-3 feet down. The D.E.Q. test holes are more accurate.

You have failed to answer:

1. What developmental envelope size is adequate?
2. How many variances are too many?

Your no variance policy further proves your anti-growth attitude.

It appears to me that 10,000 square feet would be an adequate building envelope size. I do not plan on putting the irrigation easement in at all. I would agree to the smaller road easement if it could be expanded in the future to accommodate a fourth home site on the next minor partition. I think I would like to move the smaller road 25 feet to the south. I want your review to appeal my two tax lot minor partition. I will again ask the county commissioners to clean their antigrowth socialist planning commission out be terminations of.

1. Robert Waldher
2. Megan Davidersk

Umatilla County cannot afford their antigrowth visions. Saying “no” to everything is not planning!



Very Truly Yours,
Kalvin B. Garton

CC:

Bills Wells, Surveyor
Brady Rettowski, Done Rite Septic
County Commissioners
Doug Olson – County Council

Jim Hatley, Contractor
Don Wysocki, Planning Commissioner
The Editor
Sam Trexer, Planning Commissioner

6
July 24th, 2024

Robert T. Walden

Community Development Director

Umatilla County Planning Division

216 SE 4th ST

Pendleton, Oregon 97801

Re: Land Division Request #LD-5N-912-24

Dear Robert:

I did not apply for a three-lot subdivision. I applied for two lot minor partition.

In 2023 I withdrew my application because of the added subdivision requirements.

I am currently offering the property for sale as one piece. I have no idea what the new owners will want. They may only want one house. I currently own 1.85 acres x 43,560 = 80,586 square feet of developable land. The wetlands study will be easy to do when the road is built, and the septic designs are done. I was planning on putting all the backup drain fields with easements on the proposed lot two below the proposed access easement. What is the logic for setbacks from an already over sized road easement? You can clearly see that there is an abundance of buildable envelopes. These two lots are all that I am asking for in my minor partition. I may or may not request another minor partition next year. This is the same process I have done three times previously.

This denial only provides more evidence of why this planning division needs to be gutted! You are totally anti-growth!

The wetland issues will be challenged. The irrigation canal of WEST End Extension has been abandoned and pressurized. No one will want to hook onto their water as well water is much cheaper, and most of this pasture sub irrigates. I believe that the setback buffers can be reduced to 50' vs 100 ft'. Please change my application back to a two-lot minor partition

Truly yours,



Kalvin B. Garton

CC:

Bill Wells

Jim Hatley

County Commissioner

Sam Tucker, Planning Commissioner

Don Wysocki, Planning Commissioner

Doug Olson, County Council

DRAFT MINUTES

CO-ADOPTION OF CITY OF HERMISTON COMPREHENSIVE PLAN MAP AMENDMENT #P-136-24

HERMISTON HOME WORKS INC, APPLICANT/ OWNER

The applicant requests the County co-adopt City Ordinance 2356 amending the comprehensive plan map from urbanizable to urban status for an 80-acre tract located on the south side of East Highland Ave. The City Council also adopted Ordinance 2357 annexing said property effective upon co-adoption of Ordinance 2356. The criteria of approval are found in Umatilla County Development Code 152.750 - 152.754 and the Joint Management Agreement between the City and County.

TYPE I LAND DIVISION, SUBDIVISION REQUEST #S-063-24

ABRAHAM AND MAGGIE RODRIGUEZ, APPLICANTS /OWNERS

The applicants request approval to subdivide the property located on Assessor's Map 5N2835, Tax Lot 200. The applicant's proposed subdivision will create eight (8) lots of at least 2 acres in size. The Land Use standards applicable to the applicants' request are found in Umatilla County Development Code 152.665, Type I Land Divisions.

PLANNING COMMISSION HEARING
April 11, 2024

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, April 11, 2024, 6:30pm

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Sam Tucker, Emery Gentry, Ann Minton, Tami Green, Malcolm Millar, and Andrew Morris

COMMISSIONER

PRESENT VIA ZOOM: None

COMMISSIONERS

ABSENT: John Standley, and Kim Gillet

PLANNING STAFF:

Megan Davchevski, Planning Manager, Tierney Cimmityotti, Planner, Charlet Hotchkiss, Planner, and Shawwna Van Sickle, Administrative Assistant

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 6:31PM and read the Opening Statement.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the October 26, 2023 meeting. There were none. Commissioner Tucker moved to approve the minutes as presented. Commissioner Minton seconded the motion. Motion carried by consensus.

Chair Danforth called for any corrections or additions to the minutes from the November 9, 2023 meeting. There were none. Commissioner Gentry moved to approve the minutes as presented. Commissioner Minton seconded the motion. Motion carried by consensus.

NEW HEARING

**CO-ADOPTION OF CITY OF HERMISTON COMPREHENSIVE PLAN MAP
AMENDMENT #P-136-24. HERMISTON HOME WORKS INC, APPLICANT/OWNER**

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planning Manager, presented the Staff Report. Mrs. Davchevski started by introducing the Co-Adoption of the city of Hermiston plan map amendment to change the subject

property from urbanizable status to urban. On March 11, 2024, Hermiston City Council adopted Ordinance 2356, amending the Comprehensive Plan Map from “Urbanizable” to “Urban” for an 80-acre tract located on the south side of East Highland Ave. The City Council also adopted Ordinance 2357 annexing said property effective upon co-adoption of Ordinance 2356 by the County. She stated the City of Hermiston Joint Management Agreement (JMA) Section E (10) requires Comprehensive Plan Amendments applicable in the Urban Growth Area to be processed by the City. The JMA requires amendments to be adopted by ordinance, first by the City, then to the County for co-adoption review. She added the Hermiston City Council held a public hearing on March 11, 2024 and approved the plan map amendment and subsequently adopted Ordinance 2356 and 2357.

Mrs. Davchevski explained 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, May 1, 2024, at 9:00 AM in Room 130 of the Umatilla County Courthouse, 216 SE 4th Street, Pendleton, OR 97801. She concluded by stating 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”.

Chair Danforth asked if any commissioners had questions for Staff. Chair Danforth stated she had questions regarding the map attached with the designation of zoning. She explained she had to guess designations due to missing information. She stated she believed designations “L” as low-density, “M” as medium density, and two “C’s” were commercial. Mrs. Davchevski confirmed and stated the map represented is a city map. Chair Danforth agreed with Mrs. Davchevski and explained further how she’d like some clarification from the applicant regarding those specific designations.

Chair Danforth asked about the description on page six. She mentioned the application depicts an area of over 80 acres. The description lists 33.64 acres and nothing else. She asked if there was a missing page, as it also mentions a section included from East Highland, directly north of said tract and no acreage was noted. Mrs. Davchevski stated this was a legal description of the property as it was adopted in the City of Hermiston ordinance. She confirmed she would check with City of Hermiston to ensure the legal descriptions are complete before the application goes before the Board of County Commissioners.

Chair Danforth referenced Exhibit A – Findings of Fact under policies 4, on page 9 sub-item thirteen explaining the property is not high-value farmland and it has predominantly in hay. She further explained the picture on page 3 shows the property has been irrigated and has a half crop circle. Mrs. Davchevski stated the property is located within the city’s Urban Growth Boundary (UGB) and has RF2 designation, which is a farm designation from the 1972 Development Code. She explained the property may qualify for farm deferral on their taxes, but it’s not considered Goal 3 agricultural lands because it is within the UGB.

Commissioner Morris stated he had a question regarding traffic mitigation from page 9, under Policies 4 (Orderly Urban Growth), 5 (Annexation) and 6 (Conversion) noting number fifteen and sixteen. He asked about Goal 10 on page 11, number thirty-one for population growth, speaking about the future population growth and future housing units. How traffic would impact Highway 395 with already heavy traffic present. Chair Danforth stated this was not a matter before the Planning Commission that evening. Mrs. Davchevski answered his questions regarding page 13, under Goal 12 – Transportation. The city found that the applicant did a Traffic Impact Analysis and they were compliant with the requirements. Mrs. Davchevski stated the applicant may be able to address traffic more, but typically Comprehensive Plan Amendments don't deal with that. She explained development comes much later and usually goes before City Planning, not the County Planning Commission.

Chair Danforth asked if there were any further questions for staff. No further questions were stated. Chair Danforth called for the Proponent testimony.

Applicant Testimony: Mr. Tyler Brandt, 469 SW Cottonwood Dr, Hermiston, OR 97838; Mr. Brandt stated he owns the company Hermiston Homeworks INC. He started by answering some questions regarding the legal description. He mentioned 33 acres was likely regarding the R2 portion only. He stated they were required to do a separate legal description for each zone they were applying for. Chair Danforth confirmed stating the packet reflected the 33-acre zone as currently Future Industrial amended to R2 designation.

Mr. Brandt explained of the roughly 80-acre parcel, approximately 31 acres would be split into Commercial or C2, and then 33 acres of Residential, R2, and the remaining acreage would be Residential, R3. He stated he thinks 30-31% of the acreage would be R3. Chair Danforth agreed and mentioned page 9, subsection twelve stated the breakdown in the packet. She expressed concerns regarding the missing information for the other legal descriptions. Mr. Brandt agreed it was curious that only one description was listed, when there should be several in the application. Mrs. Davchevski stated this could have been missing from the copy sent to the Planning Departments' office but ensured she would confirm the full packet would be sent to the Board of Commissioners for further co-adoption consideration.

Chair Danforth and Commissioner Millar conversed about the total acreage. Chair Danforth stated 5.9 acres and 29.67 acres totals the commercial acreage listed as 33.64 acres. Mr. Brandt stated he believed this project fits Hermiston's housing needs and conforms to all the different codes and laws. He expressed he has worked diligently with engineers, surveyors, City and County staff to get the right information gathered to do this correctly. He stated the build out will be a slow process. The first phase, designed with his engineer, would put 28 lots built over a two-year period. The site plan shows approximately 209 lots, he believes this project will span at least 10-years.

Mr. Brandt added they don't have exact plans for the commercial lots yet. He stated he spoke with city staff, before indicating interest in purchasing this property, about what they thought

could be seen in this area including south of the train tracks and the airport. He expressed if years later the demand for commercial need is not there, then it would be possible to convert this section to more R1 designation. The same would be said for the 5.9-acre piece in the main part of the property. He expressed he believes city staff envision it as a natural extension of the government and educational building to the west, but no plans are official at this time for the area.

Mr. Brandt stated a traffic impact analysis was completed to assume the worst-case scenario for C2, so their options were open in case interest was shown for the area. He expressed plans for the residential properties would be single-family housing and some duplexes. He added the cost is rising in the Hermiston housing market and believes this annexation would help address some of these issues. He concluded that changing the land use designation to something more appropriate now, then it was forty to fifty years ago from industrial is necessary.

Chair Danforth asked if Commissioners had any additional questions. Commissioner Millar asked if he would be the only contractor developing on the property. Mr. Brandt stated he owns the property and would likely build most homes on the property but would be open to selling lots to other builders that want to build there. He reiterated that his plan is to build ten homes next year and see how things progress in the future.

Neutral: None

Opponents: None

Public Agencies: None

Chair Danforth asked if Mr. Brandt wanted to return for any rebuttal. Mr. Brandt declined.

Applicant Rebuttal: None

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated there were no new exhibits. She stated she thought this was a pretty straightforward application. Commissioner Tucker asked if any specific language was needed for the motion. Mrs. Davchevski stated they would need to state they would recommend approval or denial with the application.

Commissioner Tucker made a new motion to recommend approval of the Co-Adoption of the City of Hermiston Comprehensive Plan Map Amendment #P-136-24 to the Board of Commissioners.

Commissioner Green seconded the motion. Motion carried with a vote of 7:0 recommending approval to the Board of County Commissioners.

NEW HEARING

TYPE I LAND DIVISION (SUB-DIVISION) #S-063-24: ABRAHAM & MAGGIE RODRIGUEZ, APPLICANTS/OWNERS

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

Chair Danforth called for the Staff Report.

STAFF REPORT

Ms. Charlet Hotchkiss began by introducing herself and stated the second request tonight is for establishment of a proposed rural residential subdivision with eight lots. According to the applicant, each undeveloped lot will have its' own water source either from an individual domestic well or through a shared domestic well. Individual septic systems are proposed for each lot. The applicant has not indicated if Covenants, Conditions and Restrictions (CC&Rs) will be recorded.

Ms. Hotchkiss stated the property is located north of Punkin Center Road on the southeast corner of Joy Lane and Alpine Drive, about a half mile north of Hermiston city limits. She mentioned the Standards of Approval are found in the Umatilla County Development Code (UCDC) Section 152.665, Type I Land Divisions. Standards for reviewing a subdivision generally consist of complying with UCDC standards, Traffic Impact Analysis standards and subdivision plat requirements.

Ms. Hotchkiss further added that staff had identified one standard that the Planning Commission may find is not satisfied: buildable space. The applicant's tentative plan demonstrates that the proposed Lot 2 (which is 3.43 acres) will have only 18% (0.55 acres) buildable space inside the 20-foot setback requirements, which the Planning Commission may find does not satisfy UCDC 152.648(16)(a)(1). She stated this is because proposed Lot 2 is severely impacted by existing easements; therefore, development on this lot will be extremely limited. This is due to the 250-foot-wide BPA (Bonneville Power Administration) easement that covers a majority of the lot that cannot be built within. Additionally, there is a 75-foot-wide natural gas line easement that stretches across the northern side of the lot, this easement is also not buildable.

Ms. Hotchkiss was called on April 4, 2024 by a representative from Williams NW Pipeline to ensure Planning Staff and Applicants were aware of the existing gas line easements on proposed Lots 1, 2 and 3. I assured him that both Planning Staff and Applicants were aware of the gas line easements and were included in the staff report. She added that while proposed Lots 1 and 3 also have a portion of the existing gas line easement on the property it is a much smaller portion than the gas line easement on proposed Lot 2, and the future owners of proposed Lots 1 and 3 will have adequate building space. Due to the BPA easement and gas line easement on proposed Lot

2 there is not much acreage left for amenities that are desirable on rural lots, such as; a large dwelling, barn and shop structures.

Ms. Hotchkiss referred to page 6 of the packet, where a map showed the buildable space of proposed Lot 2 and how it is significantly less than the other lots within the proposed subdivision. The UCDC Section 152.134 Dimensional Standards(C)(1) allows for a maximum of 30% building coverage on a lot zoned RR-2. The current subdivision layout would not allow the future owner of Lot 2 to build structures that would cover 30% of the total lot area.

Ms. Hotchkiss stated Planning Staff communicated with the applicant, on multiple occasions both in person and by email, with concerns over the lack of buildable space on Lot 2. Suggestions of combining proposed Lot 2 with Lot 1 or Lot 3 were made but ultimately the applicant made no changes to their preliminary plat. She stated the applicant's proposal for a 3.43-acre lot with only 0.55 acres of buildable space creates the potential for future landowners to request a variance to the RR-2 zone's building setback requirements. Ms. Hotchkiss stated UCDC Section 152.627 Circumstances for Granting a Variance (A) states "Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from size or shape, topography, or other circumstances over which the owners of the property since enactment of this have had no control."

Ms. Hotchkiss stated the Umatilla County Planning Division finds a variance to the zone's setback requirements for Proposed Lot 2 could likely not be approved. Since the circumstance that created the need for the variance was created post the enactment of UCDC 152.627, knowingly by the current property owner. Additionally, newly created lots should meet development standards as nonconforming lots cannot be created.

Ms. Hotchkiss explained the Planning Commission may find that the proposed subdivision will make compliance with setbacks difficult for structures typical in a residential zone such as a dwelling, shop building and animal barn. Therefore, the Planning Commission may find that the proposed subdivision must be reconfigured to create more buildable space so that lots are not created which require variances to setback requirements.

Ms. Hotchkiss added alternatively, the Planning Commission may make new findings and approve the tentative plan as presented. These standards are addressed in the preliminary findings and conclusions. However, you may notice that there are several "Planning Commission may find" statements. She stated the Planning Commission may agree or disagree with some or all of these statements based on facts and evidence in the record.

Ms. Hotchkiss stated notice of the applicant's request and the public hearing was mailed on March 22, 2024 to the owners of properties located within 250-feet of the perimeter of Tax Lot 200. Notice was also published in the East Oregonian on March 30, 2024 notifying the public of the applicant's request before the Planning Commission on April 11, 2024.

Ms. Hotchkiss added that a comment was received from Hermiston Irrigation District (HID) on March 25, 2024 and was included in the hearing packets. Staff also received an additional comment from Hermiston Irrigation District on April 10, 2024 stating that HID would prefer the developer pipe the stretch of ditch they are building on, but it is a large expense and not mandatory. However, HID will require that the easement is fenced off on both sides of the ditch easement. HID included their Easement Policy that details their fencing policy. HID also indicated there will be a Development Agreement and Building Permit Agreement that the developer will be required to sign and abide by. She stated this emailed comment will need to be entered into the record as Exhibit A.

Ms. Hotchkiss further explained the proposed Conditions of Approval address road improvement and access standards, including road naming and Irrevocable Consent Agreements, site suitability for septic systems, and the survey and recording requirements with final approval accomplished through the recording of the final subdivision plat. The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Ms. Hotchkiss ended by stating this concluded the staff report unless there are any questions.

Commissioner Tucker asked if given the option of approving the application or could they set conditions on the approval, perhaps a covenant not to sell separately, requiring the applicant to sell Lot 1 and Lot 2 together or Lot 2 and Lot 3 together. Mrs. Davchevski stated she believed the cleaner way would be to approve with the condition of combining Lot 2 with either Lot 1 or Lot 3. Commissioner Tucker agreed and asked if that would require a covenant not to sell separately. Mrs. Davchevski stated it would simply be reconfiguring the subdivision, so the applicant would not have to appear before the Planning Commissioner again.

Chair Danforth stated Lot 6 looks to cross an irrigation ditch and asked how much land existed on the north side of the irrigation canal because it appears landlocked. Ms. Hotchkiss stated the total size Lot 6 is 2.26 acres, including the area north of the irrigation canal. Chair Danforth stated, per Exhibit A, the irrigation district prefers that lot lines meet at the center of the irrigation canals. Which Ms. Hotchkiss reiterated was again stated in their comment. Mrs. Davchevski mentioned she calculated the area north of the canal as approximately .7 acres and this would be non-usable unless the owner or applicant paid to have this area of irrigation piped inground.

Applicant Testimony: Mrs. Maggie Rodriguez, 405 N 1st Street, Unit 101, Hermiston, OR 97838; Mrs. Rodriguez began by stating their application was to subdivide their nineteen-acre parcel into eight 2-acre parcels. She felt this property would be a great area to develop since it has remained vacant for a long time. She stated she envisions this as an area for stick-built homes. She stated residents moving out of the city limits aren't generally looking for water rights and a lot of acreage, they are looking to build a home, space to ride off-road vehicles, build shops or garages and have some buffer between neighbors, per her expertise as a real estate agent.

Mrs. Rodriguez stated she could not find anything within the development code that mentioned minimum buildable size required. She explained Lot 2 would only have .55 acres of buildable space but referenced several recent sales in 2022, where homes with shops and/or garages were built on properties with similar sized lots. She specifically mentioned a property with .61-acre buildable space on a 2-acre parcel, that had easements from BPA (Bonneville Power Administration), natural gas, or an irrigation easement. This property didn't have a large shop, but they did build a 4,200 square-foot home.

Commissioner Tucker asked if giving examples of similar sized properties is a precedent for justifying the usage in size for the two-acre minimum. He stated there may be a lot of properties that were built and meet that requirement but that doesn't mean that they are all usable. Mrs. Rodriguez stated no, she does believe it is important to maintain the two-acre. She reiterated Lot 2 has 3.43 acres of total space, only .55 acres can be built upon, and if new owners want more space to build additional accessory structures than they will need to seek a variance.

Mrs. Rodriguez stated .55 acres is around 24,000 square feet. She mentioned in the past 36 months, there have been 129 home sales ranging between one to seven acres. The median size of those homes was approximately 1,800 square feet. She went into further detail about size of homes and describing how much space would be left over in buildable space after a home was built on a small property, like Lot 2. Commissioner Tucker summarized what the applicant had stated and mentioned as opposed to heeding the advice staff offered about changing the lot size the applicant wants to give more examples locally where people have built on less space. Mrs. Rodriguez stated she didn't understand it that way. She reiterated her interpretation from what staff suggested was that amenities that might be more desirable in such a space.

Commissioner Tucker asked the applicant if the choice was given to her between denying this application or requiring you to either not sell Lot 2 without including Lot 1 or Lot 3, would she prefer the Planning Commission to deny the application. Mrs. Rodriguez stated she would like that they don't deny it but keep it is how it was submitted. Commissioner Tucker spoke in length about the applicants request to keep it as is, and then a possibility of a future homeowner inquiring years in the future requesting a variance. A variance would only be allowed in extraordinary circumstances. He stated the applicant has the ability to change this property to prevent any issues for the future property owners. Mrs. Rodriguez asked how often variances are requested, she stated as a real estate agent she is obligated to tell prospective home buyers the restrictions of the property and would personally inform them because she feels like the issues are obvious for this lot and hard to miss.

Commissioner Millar questioned the buildable space on the map. Chair Danforth and Mrs. Davchevski were able to address his question and state where on the map it showed buildable space. Commissioner Morris asked is Mrs. Rodriguez would disclose the usable versus buildable space in her listing. Mrs. Rodriguez stated she would because she has to disclose those items and dishonesty affects her business.

Chair Danforth asked about Lot 6 as discussed earlier, and how she would market the area to the north that is landlocked. Mrs. Rodriguez stated that area would be less desirable due to it being landlocked and non-usable, but reassured Chair Danforth that if someone wanted water rights it would be very easy since the canal is right there. Chair Danforth asked if the property line was moved to the center of the irrigation canal the lot would not meet the minimum criteria of 2-acres. She also asked about Quail Road and the responsibilities for maintenance, who would bear the financial cost of maintaining that road. Mrs. Rodriguez stated it was currently a private drive and was uncertain of the cost to maintain the roads but thought the property owners nearby would bear that expense. Chair Danforth stated she was asking because this was an issue that comes up many times before. She mentioned CC&Rs would help determine this. Chair Danforth asked if there was any maintenance done on the existing Quail Ave/Drive. Mrs. Rodriguez stated there was almost no maintenance or use on the other road. She mentioned it would be set as a dead-end road to a through road, so she didn't expect there to be an increase in traffic.

Chair Danforth asked if there was any thought put into the road questions. Mrs. Rodriguez stated she plans to have CCRs in place to help mitigate those issues and questions, specifically, to control what type of homes can be built there and restricting the placement of mobile/manufactured homes and only allowing stick-built homes.

Commissioner Millar asked if any conversation occurred with Hermiston Irrigation and whether the area can be piped for ease of development and maintaining the land. Mrs. Rodriguez stated she initially did contact HID and was told no issue existed. It wasn't until perhaps after they received the notice/map and responded with comment two days ago with the request to have the canal piped instead. She stated she felt like that would be very expensive. Commissioner Tucker asked who will pay for the cost to fence or pipe those areas. Mrs. Rodriguez stated she would expect the Planning Commission would ask her as property owner to pay for that it. Commissioner Millar asked if the irrigation canal is currently fenced. Mrs. Rodriguez stated it is not, but a road for access to the canal is all that remains at this time. Commissioner Tucker stated that if a fence were required it would likely mean the landowner would have no access to that area on the other side of the lot to do any maintenance of the land.

Chair Danforth stated the applicant did not take the proposal back to the drawing board after receiving the first recommendation by staff regarding Lot 1 and now Lot 6.

Opponents: None

Public Agencies: Hermiston Irrigation District, Annette Kirkpatrick, 366 E Hurlburt Ave, Hermiston, OR 97838; Ms. Annette Kirkpatrick introduced herself as the District Manager at Hermiston Irrigation District (HID). She stated HID is a Bureau of Reclamation project and that includes federal easements which run from the center line of the ditch, in this case is runs 30-feet from the center north and south. She mentioned HID has a fencing policy which applies to subdivision and land divisions, that requires a 6-foot chain link fence on both sides of the canal to prevent encroachment and protect the federal easements in place. Ms. Kirkpatrick stated the

Bureau of Reclamation requires a 60-foot easement to allow for movement along the irrigation canal with equipment for repairs, etc. She added HID tries their best to work with developers to allow for access as much as possible and added if a gate needs to be added to Lot 6 to allow access to the north side of the canal that could be accommodated. Additionally, the owners could apply for a crossing agreement in order to place a bridge.

Ms. Kirkpatrick also stated many fees exist (ranging from developer fees, to agreements). She mentioned piping can be very expensive but by doing so, odors from agriculture piles/byproducts can be mitigated. Commissioner Millar asked which size of pipe would be needed and if HID would allow piping only done across a single lot. Ms. Kirkpatrick stated they would likely ask for it to be done across the entire development, not individual lots and they would need a 30-inch pipe. Commissioner Millar and Commissioner Gentry asked if piping existed nearby this development and if it would allow them to use the area on the north side of the irrigation canal on Lot 6. Ms. Kirkpatrick stated they would no longer be required to fence along the canal since it would be piped. Ms. Kirkpatrick confirmed it could be an open field.

Chair Danforth asked if HID prefers lot lines go to the middle of the canal, and referred to Lot 5, which does not according to the current map. Ms. Kirkpatrick stated it was not mandatory, but customary with new developments.

Applicant Rebuttal: Mrs. Maggie Rodriguez, 405 N 1st Street, Unit 101, Hermiston, OR 97838; Mrs. Rodriguez stated she feels like adding a bridge would be more feasible than piping would. Chair Danforth stated she heard differently, and that option would be more expensive. Mrs. Rodriguez stated she feels like she would be open to moving the property line for Lot 5 to the center of the canal. She didn't have more to add.

Chair Danforth closed the hearing for deliberation.

Chair Danforth adopted the following exhibits into the record:

Exhibit A; April 10, 2024, Agency comment from Hermiston Irrigation District submitted by Annette Kirkpatrick, District Manager

Exhibit B; April 11, 2024, Agency comment from Bonneville Power Administration submitted by Deborah Rodgers, Realty Technician Contractor

DELIBERATION & DECISION

Chair Danforth stated she enjoys the additions of subdivisions but feels like there are too many issues with this proposal and this application needs to go back to the drawing board. She stated the large number of easements and lack of buildable space on Lot 2 would truly affect the new property owner. Commissioner Minton stated she felt the same especially if/when second or third generation owners come seeking variances due to decisions made in the past that could have

been prevented. Commissioner Tucker agreed with both Commissioner Minton and Chair Danforth and stated he believed Lot 2 should be combined with Lot 1 or Lot 3. He reiterated that Lot 6 also was a problem due to the space north of the irrigation canal that is unreachable to the future owner.

Commissioner Minton stated she felt the triangular section above the irrigation canal on Lot 6 creates too many potential issues with lack of access. Commissioner Green stated she felt the access road presented some issues as well, especially with understanding the financial responsibilities. Commissioner Tucker agreed that too much changing of language to approve this would be unnecessary and believed asking the applicant to start over would be better suited. Commissioner Gentry agreed and stated it was up to the applicant to find a workable solution.

Commissioner Gentry made a new motion to deny of the application due to the smaller buildable space on Lot 2 that needs addressed. The area above Lot 6 that is land locked on the north side of the canal along with addressing road access and maintenance costs, with CC&Rs. Additionally, asking that property lines are moved to the center of the irrigation canal, following the recommendation of the irrigation district based on their federal easements.

Commissioner Morris seconded the motion. Motion carried with a unanimous vote of 7 to 0 for denial.

OTHER BUSINESS

Chair Danforth stated the need to vote for Chair and Vice Chair for the Planning Commission. Commissioner Tucker nominated existing Chair, Commissioner Danforth, to continue as the acting Chair of the Planning Commission.

Commissioner Tucker made a new motion to elect Commissioner Suni Danforth as Umatilla County Planning Commission Chair.

Commissioner Gentry seconded the motion. Motion carried with a vote of 7 to 0 to approve.

Commissioner Danforth made a new motion to elect Commissioner Sam Tucker as Umatilla County Planning Commission Vice Chair.

Commissioner Millar seconded the motion. Motion carried with a vote of 7 to 0 to approve.

Mrs. Davchevski welcomed our two new Planning Commissioner's Andrew Morris and Malcolm Millar. She also mentioned we have another Planning Commission occurring on April 25, 2024 to address two legislative items, one regarding animal density standards, specifically the noise caused by roosters and complaints received over the past several years. The other matter deals with digitizing the Zoning Maps. She stated we no longer have the ability to update them due to changes in software and this allows them to become more accessible to our staff and the public. Ms. Hotchkiss stated packets would be going out that week and to direct any

questions to the Community Development office or to the website where more information was available about the proposed changes. Commissioner Tucker asked if any contact would be considered ex parte contact. Mrs. Davchevski stated if the public wanted to provide comments, to direct them to our office.

ADJOURNMENT

Chair Danforth adjourned the meeting at 8:13PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

DRAFT MINUTES

UMATILLA COUNTY PLANNING COMMISSION HEARING

May 2, 2024

**TEXT AMENDMENT #T-095-24, AMENDMENT
OF UMATILLA COUNTY DEVELOPMENT
CODE, ADOPTING THE OFFICIAL ZONING
MAP AS AN ELECTRONIC MAP LAYER.**

Umatilla County proposes text changes to the Umatilla County Development Code (UCDC) Section 152.029 to archive the physical County Zoning Maps of 1984 and adopt by reference the Official Zoning Map as an electronic map layer within the County Geographic Information System (GIS). The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

TEXT AMENDMENT #T-094-23, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, CHANGING THE LIMITATIONS ON USE AND DIMENSIONAL STANDARDS IN ZONES MUF, FR, MR, UC, CRC, RR-2, RR-4, RR-10 AND FU-10 AND MODIFYING THE LANGUAGE REGARDING USES PERMITTED WITH A ZONING PERMIT TO CLARIFY THE TYPE AND NUMBER OF DWELLINGS ALLOWED IN ZONES MUF, FR, MR, RR-2, RR-4, RR-10.

Umatilla County is proposing an amendment to the Umatilla County Development Code (UCDC), modifying the limitations on use and dimensional standards regarding animal density and setbacks for animal sheltering structures in the following zones: Rural Residential 2-acre minimum (RR-2), Rural Residential 4-acre minimum (RR-4), Rural Residential 4-acre minimum (RR-10), Future Urban 10-acre minimum (FU-10), Commercial Rural Center 1-acre minimum (CRC), and Unincorporated Community (UC) Zones. Umatilla County is proposing to add this same language for animal density to standards to the Forest Residential (FR), Mountain Residential (MR) and Multiple Use Forest (MUF) Zones.

Umatilla County is also proposing an amendment to the UCDC clarifying the uses permitted with a zoning permit for the type and number of dwellings allowed in the following zones: Rural Residential 2-acre minimum (RR-2), Rural Residential 4-acre minimum (RR-4), Rural Residential 4-acre minimum (RR-10), Forest Residential (FR), Mountain Residential (MR) and Multiple Use Forest (MUF) Zones.

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 2, 2024, 6:00pm

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Sam Tucker, Ann Minton, Tami Green, Malcolm Millar, Andrew Morris, John Standley, and Kim Gillet

COMMISSIONER

PRESENT VIA ZOOM: None

COMMISSIONERS

ABSENT: Emery Gentry

PLANNING STAFF:

Robert Waldher, Economic and Community Development Director, Megan Davchevski, Planning Manager, Carol Johnson, Senior Planner, Tierney Cimmiyotti, Planner, Charlet Hotchkiss, Planner, and Shawna Van Sickle, Administrative Assistant

COUNTY STAFF:

Doug Olsen, County Counsel

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 6:04PM and read the Opening Statement.

NEW HEARING

TEXT AMENDMENT #T-095-24, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, ADOPTING THE OFFICIAL ZONING MAP AS AN ELECTRONIC MAP LAYER

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

Chair Danforth called for the Staff Report.

STAFF REPORT

Mrs. Megan Davchevski, Planning Manager, presented the Staff Report. She stated the first request before the Planning Commission tonight is because of a need the Planning Staff have identified in order to update the Umatilla County Development Code, Section 152.029 Zoning Maps adopted by reference to reflect the modern technology available for mapping. This current language refers to the physical maps adopted in 1984 as the Official Zoning Map. She explained the proposed language archives the physical County Zoning Maps of 1984 and adopts by

reference the Official Zoning Map as an electronic map layer within the county Geographic Information System (GIS). The criteria of approval for amendments are found in the Umatilla County Development Code sections 152.750 to 152.755. She stated that this matter is a Legislative matter, because it proposes to amend the text of the Umatilla County Development Code. Therefore, the County has the authority to consider and approve the text amendment.

Mrs. Davchevski lastly explained the process of approval for a Legislative amendment by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC), the Board of County Commissioners must also hold a public hearing and decide whether or not to adopt the proposed change to the Development Code. She stated the public hearing before the Board of County Commissioners is currently scheduled for June 5th, 2024, at 10:00 AM. She concluded that within the packets there are several attachments, the first being the preliminary findings and conclusions, and the second being the proposed text amendment, the existing language that would be removed when the text amendment, if it were to be approved, is struck through and the new language would replace it is underlined and bold.

Chair Danforth asked if any Commissioners had questions for Staff. No initial response received from any of the Planning Commissioners. Chair Danforth asked if this would digitize the mapping and not continue the need for maps on paper. Mrs. Davchevski stated that in a way yes, the maps currently are generated through an old mapping program called Geomedia, which the County no longer uses, hence the reason for the request to change. She added the mapping program used by the County is ESRI ArcGIS. With the transition to ArcGIS, the County Geographic Information System (GIS) department along with the Planning department has found the old ways of making maps are no longer feasible and were much more time inclusive. She explained our work around would be to cease making the old formatted maps, which were basically a copy of the maps produced by the County Assessors office with our Zoning layer applied to them. The Assessors department is still going to make their maps, but Zoning will be available on the Umatilla County Interactive Map. She stated we'll have a similar map that's going to be digital on the website that's going to serve as the official Zoning Map for the County. Those will be available from our department to be printed for anyone who is interested

Chair Danforth stated in one of their recent hearings people looked at the maps and stated, "Well, that's not where my property line is...". She added lots of conversations about the lines weren't quite discernable based on the digitized map, and a surveyor must plot where those property lines exist. She expressed concern regarding not having paper maps any longer and the ability to get a printed map from the County, or if the power goes out. Mrs. Davchevski answered the paper maps available at the County are not survey quality. She added the County plans to keep the ones we currently have and not dispose of them, instead they will be archived. The error seen on the current Interactive Map is because of the aerial, if the aerial image is removed the lines would be as accurate as we can get them without have a surveyor on the ground.

Commissioner Minton mentioned a previous statement from Chair Danforth regarding losing the database and assumed they would be stored and have a back-up for those files. Mrs. Davchevski agreed and stated our IT department has a number of servers that store the data. She emphasized the new mapping program, ESRI ArcGIS, also has a cloud service online to back-up data. She mentioned the old historic maps with the zoning layers have more errors than our current system due to the poor mapping program that was previously used.

Chair Danforth reiterated to staff and the Planning Commissioners to clearly speak into the microphone and hold it close, so all can hear. She asked if any testimony sheets had been received, staff stated none and verified with all virtual attendees. No callers requested to speak.

Neutral: None

Opponents: None

Public Agencies: None

Applicant Rebuttal: None requested

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Tucker stated he felt this was more of a housekeeping matter that brings us closer to the 21st century and made the following motion.

Commissioner Tucker made a new motion to recommend approval of Text Amendment T-095-24 Amending of the Umatilla County Development Code, Adopting the Official Zoning Map as an electronic map layer.

Commissioner Green seconded the motion. Motion carried with a vote of 8:0 recommending approval to the Board of County Commissioners.

NEW HEARING

TEXT AMENDMENT #T-094-23, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, CHANGING THE LIMITATIONS ON USE AND DIMENSIONAL STANDARDS IN ZONES MUF, FR, MR, UC, CRC, RR-2, RR-4, RR-10 AND FU-10 AND MODIFYING THE LANGUAGE REGARDING USES PERMITTED WITH A ZONING PERMIT TO CLARIFY THE TYPE AND NUMBER OF DWELLINGS ALLOWED IN ZONES MUF, FR, MR, RR-2, RR-4, RR-10

Chair Danforth read the opening statement and called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

Chair Danforth called for the Staff Report.

STAFF REPORT

Ms. Charlet Hotchkiss, Planner I, presented the Staff Report. She stated the second request before you tonight is for a proposed text amendment to the Umatilla County Development Code. The proposed amendment would affect all properties within the following zones; Multiple Use Forest (MUF), Forest Residential (FR), Mountain Residential (MR), Unincorporated Community (UC), Rural Residential-2 (RR-2), Rural Residential-4 (RR-4), Rural Residential-10 (RR-10), Commercial Rural Center (CRC) and Future Urban-10 (FU-10). These are all residential zones and other zones with existing animal density requirements. She explained over the past several years the Umatilla County Planning Division and Code Enforcement Department has received numerous complaints from residents regarding roosters in rural residential zones. Noise complaints due to roosters crowing day and night are most prevalent, but also complaints of people keeping large numbers of roosters presumed to be used for cock fighting have been made.

Ms. Hotchkiss added that in order to remedy this ongoing situation in multiple rural residential zones within the county, the Planning Division has proposed new language within the Limitations on Use sections of multiple zones encompassed in the Umatilla County Development Code. The decision to do so was made at the direction of the Umatilla County Board of Commissioners who will have the ultimate decision of whether or not to adopt the amendment in the subsequent hearing on June 5, 2024.

Ms. Hotchkiss shared a video taken outside Milton Freewater at one of the properties where we had received many complaints of exactly what was described. She added that Staff also decided to modify some of the language used within those sections in order to better clarify the meaning of the code, as well as to rearrange and organize certain language to sections where it makes more sense. Such as moving the existing language regarding setbacks for animal sheltering structures (barns, large chicken or other fowl coops, etc.) to the Dimensional Standards sections instead of having it in the Limitations on Use sections of these zones. She highlighted where sections within the UCDC have been moved because there were better suited in a different section, and no language was changed. She added this process has resulted in other minor changes made with the well-being and proper care of animals in mind, as well as the health and quality of life for residents within the zones affected.

Ms. Hotchkiss stated since the public notice was mailed out to affected property owners on April 5, 2024, Planning has received a large volume of calls and in-person visits regarding the amendment. She added there seems to be a lot of confusion and misconceptions surrounding the proposed changes; which is why she prepared this brief PowerPoint presentation to help explain what is and is not changing. She explained the code language on the left side of the slide will remain the same if the proposed amendment is not adopted. This proposed text amendment does restrict the number of roosters and other fowl with loud calls in non-resource zones such as Rural Residential. It does increase the number of small livestock animals such as goats, sheep, etc., from two animals per acre to four per acre, and it adds the same animal density standards to other

non-resource zones such as Forest and Mountain Residential. She added the proposed text amendment does not change the number of cows and horses allowed in non-resource zones, such as Rural Residential. It does not affect resource owned land such as Exclusive Farm Use (EFU) and Grazing Farm (GF). It does not change the property line set back standards for barns and other animal sheltering structures. She mentioned again, it simply moves them to the dimensional standards section within each zone where it is better suited. It does not change your property zoning.

Ms. Hotchkiss explained the current animal density standards for residential properties has been no more than two animals (goats, sheep, cows, horses, etc.) per acre, and has been in place since 1972. While animal density standards are present in the FU-10, RR-2, RR-4, RR-10, CRC, and UC Zones, the proposed amendment will add the same animal density standards to the MR, MUF and FR zones. She explained a specific addition addressing sanitation and proper animal food storage is intended to help curb disease and illness spread through rodents, animal feces and flies. She added that Planning Staff reached out to County Land Use Planners in nearby eastern Oregon counties to inquire about their current animal density regulations in rural residential zones. This slide shows those regulations within Baker, Gilliam, Grant, Morrow and Union Counties.

Ms. Hotchkiss stated Planning Staff received a number of comments regarding this amendment and summarized those for the Planning Commission. We have received at least one comment stating, “this is dishonest, and people are already taxed to death.” This comment did not share any other concerns or references to the amendment. She added several comments in support of limiting the number of roosters in Rural Residential zones were received as well. Some stating they themselves have contacted County Code Enforcement due to their neighbors having a significant number of roosters staked separately throughout their yard and causing an excessive amount of noise day and night. She expressed that multiple comments received stated having neighbors with large numbers of roosters has reduced their quality of life and ability to enjoy their property due to the noise. Some of the comments shared the sentiments that they support amending the code to limit number of roosters since they have learned there is no recourse the Sheriff’s office, Humane Society nor PETA can take based off these complaints alone.

Ms. Hotchkiss also shared a comment received from Northeast Oregon Water Association stating they are supportive of the proposed limiting of the fowl and poultry but have concerns about increasing livestock due to the ground water quality issues. A comment received from rural residential property owner within the LUBGWMA, Tamra Mabbott, shares the same support and concerns.

Ms. Hotchkiss reached out to Jim Johnson, the Land Use and Water Planning Coordinator at the Oregon Department of Agriculture – Natural Resources Program, to inquire about whether or not it is common in Oregon for counties to regulate animal density in Rural Residential zones. Mr. Johnson provided a comment stating that, yes, it is a common practice in Oregon. He shared a

table with other Oregon counties animal density regulations. She added the proposed animal density standards for Umatilla County are similar to those in other eastern Oregon counties. She stated County Staff are requesting the proposed amendments be applicable in the Future Urban (FU-10) zone. Which is located within Hermiston's UGB. The city of Hermiston's Joint Management Agreement (JMA), Section (E)(10) requires County Land Development Code Amendments applicable in the Urban Growth Area to be processed by the City. The JMA states that amendments may be initiated by the city, the County or an affected person. Therefore, the city of Hermiston must co-adopt the text amendment for the standards to apply in the FU-10 zone.

Ms. Hotchkiss expressed that, in addition, Umatilla County is proposing an amendment to the UCDC which clarifies the uses permitted with a zoning permit, specifically regarding dwelling in zones, RR-2, RR-4, RR-10, FR, MR and MUF. Those changes in the Uses Permitted with a Zoning Permit section are being made to define what type of dwelling may be approved and how many may be permitted on a single tax lot, dependent on the zone. She stated the proposed amendment does not change the number of dwellings allowed on each tax lot, the new language is only being used to clarify the existing code language.

Ms. Hotchkiss stated this hearing before the Umatilla County Planning Commission is the county's first evidentiary hearing for the adoption as subsequent public hearing before the Umatilla County Board of Commissioners is scheduled for Wednesday, June 5th, 2024 at 10:00 AM. She stated she would like to point out there's an error in your packets, which states the meeting is being held at 9am it is at 10am. It will be in room 130 of the Umatilla County Courthouse. (Location has been clarified, it will not be held at the Umatilla County Courthouse, but instead has moved to the Vert Auditorium). She concluded that the Umatilla County Planning Commission has an obligation to make a recommendation to the Board of Commissioners to either adopt or deny this amendment to the Umatilla County Development Code.

Chair Danforth had some follow-up remarks with the packet, stating some spelling corrections were necessary. Secondly asked if questions were present for staff.

Commissioner Millar stated he is personally affected by the proposal if it were to pass. He stated he currently has 25 roosters and asked if he would be grandfathered in, and if it does pass what would happen to his property and roosters. Mrs. Davchevski stated the property would have to be compliant with the current standards, which states poultry can't be confined in an area more than 25% of the total lot area. She added if they were in compliance with the Development Code prior to the adoption of this new language they could apply for a verification of a non-conforming use, should there be a future Code Enforcement complaint about the roosters. She continued stating they would have to prove they had roosters before the new language was adopted. Chair Danforth asked if a property owner has the roosters and they are compliant with the 25% of the total lot area and sell their land, including the roosters. How would that affect the new owner of

the property? Mrs. Davchevski answered stating as long as they didn't stop the use for more than one year, they would still remain compliant. She added if the use stops, then they would lose the non-conforming use. Chair Danforth asked if verification of compliance is only needed one time and Mrs. Davchevski confirmed that was correct. Discussion continued regarding the process of how a verification of non-conforming use is determined. Mrs. Davchevski stated it would go before the Planning Commission, where an inventory would occur for the property. At that point it may be established that, at any one time, they would not be able to exceed the number allowed at that point.

Chair Danforth referred to the property, referencing the video shown during the hearing, in Milton Freewater with roosters. She asked if this property was in compliance with the current 25% confined total lot area. Mrs. Davchevski stated they were only cited for non-compliance with the noise ordinance and stated she was not sure if they were in compliance with the current standard for confinement of poultry limits.

Commissioner Standley wanted additional clarification about which animals Code Enforcement complaints primarily are received. He asked if it was specific to chickens and roosters, or cows, sheep, and horses. Mrs. Davchevski stated Code Enforcement typically does not receive complaints about cows or horses but does receive several regarding roosters. Commissioner Standley asked if any numbers could be reported, whether it was only a small number of complaints over a year, twenty to thirty calls a year, or if it was consistent individuals reporting repeatedly. Mrs. Davchevski stated she did not have a count, but the large majority of reporting individuals wrote letters of support in the hearing packet.

Commissioner Morris asked if small businesses operating on properties, listed in this proposal, could have an impact to their businesses. Ms. Hotchkiss stated it was very unlikely unless their business was selling roosters.

Commissioner Tucker stated he had heard many concerns about government regulations on property in Oregon. He mentioned a hypothetical, assuming he is convinced that the Planning Commission should eliminate all regulations concerning these matters in Oregon and eliminate those land use decisions. He asked if it would be within the power of the Planning Commissioners to approve a recommendation eliminating of rules and regulations governing the land use in Oregon or if they were confined to the general issues that was presented in the noticed proposal. Mrs. Davchevski stated their job was to make a recommendation to the Board of County Commissioners on whether they should or should not adopt the proposed language. She added that they could reword the proposed language to a certain degree within reason. She reiterated they could not make decisions about other language outside this proposal. Anything like that would have to go to public notice as required by ballot Measure 56 to all affected property owners. She described more of the process and stated if someone wanted to request a change to the Development Code they could do that, but it would be a separate application altogether.

Chair Danforth asked if this was strictly limited to roosters or if it covered peacocks as well. Ms. Hotchkiss stated all loud fowl would be included in the proposal to limit numbers to two per lot/parcel. Chair Danforth asked if the primary concern was roosters why was there additional language added or changed. Ms. Hotchkiss mentioned the Board of County Commissioners tasked the Community Development department with this amendment. She added since we made changes within these sections in the code, and a Measure 56 notice was required, it would be beneficial to update other language to clarify or conform to updated standards. She stated further that immense research was done with animal density standard comparisons from neighboring counties. Many counties limit their roosters and other loud fowl and we wanted to include that within our proposal. Ms. Hotchkiss explained further about the additions of increasing smaller livestock, as well as modifying language for clarity.

Chair Danforth asked if this is approved, how will property owners know and understand whether they would need to verify compliance. Mr. Robert Waldher stated the original ballot Measure 56 notice was to provide public awareness of the proposed amendments. He added if approved, affected property owners would not receive a subsequent notice, with the exception of those who requested information from the public hearings with the Planning Commission or Board of County Commissioners by signing in to those meetings. Additional notices to the general public are not required and another notice would be very costly.

Chair Danforth referred to page 17, line item 152.133(C), asking if a definition of proper sanitation existed to reference if there is a code complaint. Ms. Hotchkiss stated we do not have a definition in the Development Code relating to proper sanitation. This amendment would allow Code Enforcement a statute to reference for any circumstances surrounding extreme cases. She provided an example about a neighbor that neglected their animals and manure was building up within their enclosures for a long period of time, along with the amount of smell and flies. This circumstance would warrant the use surrounding this code and allow this situation to be remedied. Commissioner Millar asked about the storage of food in metal or other rodent-proofed receptacles. He stated personally he does not do that and doesn't know many farmers that do and followed by asking why that language is added if it will not be enforced. Ms. Hotchkiss stated it was a common practice among other Eastern Oregon Counties and thought it was a good addition to have in our code in case sanitation issues with feed occur, like rat infestations. She stated, again, Code Enforcement is not going to monitor everyone's food storage containers, but it was included so reference could be made back to the code for remedying future complaints.

Commissioner Green referred to page 16, line item UCDC 152.119(D)(4) regarding enclosures for sheltering animals. She asked if someone had a chicken house/pen twenty feet off the property line and the code is passed, would they be applying for a non-conforming use. Mrs. Davchevski stated they would not, due to the fact this language already exists in the Development under UCDC 152.118(D). She added that the proposal only moves where this language is located from Limitations of Use to the Dimensional Standards within the

Development Code, and no new language was added. She reiterated this is reflected throughout the other zones within the packet.

Commissioner Morris asked about page 38, under Applicable Statewide Planning goal findings, on Goal 6: Air, Water, and Land resource quality. He mentioned Goal 6 states it does not apply to this amendment. He inquired about the groundwater pollution in the western part of the county and how this amendment, with the increased animals, would impact the polluted groundwater. Mr. Waldher stated that was something that came to light after the notice was sent out. He stated the department received comments from the Eastern Oregon H2O Group and Northeast Oregon Water Association. Their comment stated increasing the density of animals allowed could negatively impact groundwater, especially in the west part of Umatilla County, which is already impacted by the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). Commissioner Morris asked if it would be appropriate for the Planning Commission to make a proposal to exclude the western part of the County with the increase of smaller livestock. Mr. Waldher stated the Planning Commission could recommend excluding the LUBGWMA area, but perhaps after listening to context from the public attending the hearing.

Commissioner Standley asked if any rules/regulations exist that would have minimized some of the complaints regarding similar issues to the video shown of the property outside Milton Freewater. He asked if this property could be grandfathered in. Mr. Waldher stated the current language in the Development Code states chicken, fowl, rabbits or similar-sized fowl shall be confined on no more than 25% of the total lot area. He added the standard is not very measurable and hard for Code Enforcement to address. The property in Milton Freewater had animals all over their property so it was difficult to measure whether or not they were using 25% of the total lot area. He stated this was one main reason for assigning a number to the proposed amendment, to make a more objective measurement. He reiterated those who may be in violation already could apply for verification of a non-conforming use. Commissioner Standley stated it was a bit difficult for him to address the complaints from public comment tonight and how they were going to help them understand the current situation.

Chair Danforth questioned section UCDC 152.134(B) on page 18, she stated it seemed like repetitive language for setbacks. Ms. Hotchkiss stated any text that is not bolded and underlined refers to existing language and not referring to structures sheltering animals. Mrs. Davchevski added the end of that section was a relocation in text from the Limitations on Standards Sections (UCDC 152.133(D)) and moved to the section titled Dimensional Standards and is replicated throughout the packet in the different zones, like RR-2 and RR-4.

Chair Danforth referenced page 19, UCDC 152.156(B)(a), which speaks about manufactured dwelling as provided in 152.013. She mentioned she looked up the referenced section in the Development Code and it does not mention manufactured home, but it does state mobile home. Mrs. Davchevski stated mobile home is an old term that is no longer used by Oregon State Building Codes Division and manufactured home or manufacture dwelling is often used

interchangeably. She stated the terms have become synonymous. This section was added to clarify single family dwelling. She added that issues with misinterpreting one's ability to have one single family dwelling as well as a manufactured home, which is not the case. Property owners may have one or the other. Chair Danforth stated she has more issues with the UCDC 152.013 definition of mobile home and not manufactured dwelling. She asked if this could be changed throughout the proposed amendment. Mrs. Davchevski stated this is likely something we could change.

Chair Danforth asked how the Commercial Rural Center (CRC) zone would be affected by this proposal. Mrs. Davchevski stated the CRC zone is a very limited zone only one area exists outside of Hermiston near Punkin Center Road. She added the zone intended purpose is for commercial uses serving the nearby residential areas and this zone had animal density standards in it and was included to make the standards across the board for all those zones.

Chair Danforth also asked about page 31, regarding accumulative mixed density referenced under UCDC 152.338(A). Which lists an example for mixed-size livestock the maximum density will remain two per acre, with reference to horses and goats there could only be two at any given time per acre. Chair Danforth asked if regardless of the size of acres would you still only be allowed two roosters. Ms. Hotchkiss confirmed that was correct, only two roosters could be on any sized lot. She added that the measurements are per lot and not by acre.

Chair Danforth also mentioned there was a correction on page 37 in the packet, under Goal 2, it states United States Department of Agriculture and asked if that was supposed to be Oregon Department of Agriculture. Ms. Hotchkiss agreed that was a mistype and would be corrected. Chair Danforth also asked about Goal 4, Forest lands, stating it would not affect forest zoned lands, and asked if Forest Residential would be considered forest zoned lands. Mrs. Davchevski answered stating Forest Residential (FR) zoned properties are not Goal 4 protected lands, they are called exception lands similar to how we have Goal 3, EFU land. The amendment does not apply to Goal 3 or Goal 4 lands.

Chair Danforth expressed questions on page 38, under Goal 9 Economy, does not apply to this amendment. She asked if a landowner is operating a small business with small animals or similar, could this affect them economically. Mrs. Davchevski asked if she meant that the rooster amendment would affect them economically. Chair Danforth confirmed that is what she was inquiring. Mrs. Davchevski stated the findings prepared are draft findings and the Planning Commission can make additional findings. This application does not apply to employment lands, which is what Goal 9 refers to. She stated this would not affect commercial farm uses, like hog and poultry farms, and the existing language in the Development Code regarding those zones are not included in these proposed changes. Chair Danforth asked about page 39, under Goal 14 "Urbanization" unique to Hermiston. She asked if another Future Urban (FU-10) zone could be applied somewhere else in the County in the future and how they would be impacted. Mr. Waldher agreed and stated FU-10 is unique to Hermiston within their Urban Growth Boundary

(UGB). He added it would be up to a city to decide if they wanted or needed to expand their UGB and bring additional lands into the city. He also added that was highly unlikely that another city would adopt the same zoning for FU-10.

Chair Danforth called for proponent testimony, none were present. She then called for opponent testimony.

Opponents: Mr. Roger Robinson, 1040 E Juniper Ave, Hermiston, OR 97838; Mr. Robinson stated he has lived at their property over the past twenty-four years and has four cows on their property. They share their livestock and rotate them on three neighboring properties, not owned by him personally. He asked what would happen if they get caught with too many livestock on his property.

Chair Danforth asked Staff to confirm if verifying compliance would be necessary if the code passes. Mrs. Davchevski stated if the property owners haven't been complying with the code they would need to comply unless they wanted to apply for verification of non-conforming use. Mr. Robinson asked why change something that has worked for them personally. They have too many cattle to keep on a single property, but between his and neighboring properties they would be compliant. Chair Danforth reiterated that Code Enforcement is complaint driven, she is not condoning non-compliance but if they were to not have all four cows on one property then it would likely not cause an issue.

Opponents: Mr. Juan Villarreal, 1080 W Nelson Lane, Hermiston, OR 97838; Mr. Villarreal wanted to know how many animals he could have on his two and one-half acreage. He stated they have goats. The females bear offspring and wanted to ensure he is understanding the numbers he can have so he is remaining compliant. Chair Danforth stated the current Development Code has that information included, but Staff could advise him further. Mr. Villarreal also stated he has two roosters and asked if he would have to remove them. Chair Danforth stated that if this passes property owners would have the ability to apply for verification of compliance. She also mentioned this was not the only hearing, as final decision goes through the Board of County Commissioners.

Opponents: Ms. Donna Daly, 77762 Honeysuckle Lane, PO Box 152, Weston, OR 97886; Ms. Daly stated she has approximately 18 goats on five acres and additionally raises bummer lambs, but then sells them. She asked if the number of smaller livestock she owns would be out of compliance. She also mentioned she has four roosters and realizes they do make a lot of noise.

Opponents: Mr. Justin Stewart, 310 Riley Lane, PO Box 54, Adams, OR 97810; Mr. Stewart thanked staff for giving him the ability to come and speak before the Planning Commissioners. He stated he owns five acres and has goats, chickens, and one rooster. He recalled serving on a council with the City of Adams and realizes what painstaking process it is to hear the issues being addressed and then determining a way to remedy the situation. He stated he was happy to learn a lot regarding the proposal and realized changes may need to be made.

Opponents: Mr. David Turk, 43220 Main St, Pendleton, OR 97801; Mr. Turk stated he came to learn that evening. He stated he does not personally own any livestock and never has. He doesn't understand the reasoning why neighbors are upset about neighboring properties livestock since that is primarily the reason for rural properties.

Opponents: Mrs. Renee Rueppel, 41553 Peter St, Pendleton, OR 97801; Mrs. Rueppel stated she had a few questions. The first, why not just focus on the complaints themselves, instead of trying to change everything to include everybody else. She added why reach out to other counties when we should be asking the residents to see what is and is not working for them. Mrs. Rueppel also asked about eggs hatched and roosters aren't identifiable until they are almost two to three months old. They raise roosters for food and disposing of them prior to maturity or butchering age is a waste of meat. She added they prefer to raise their own food due to knowing what their animals are consuming and feels it is healthier than what may be fed to store-bought and butchered poultry and other goods. She also asked how Code Enforcement makes determinations on complaints and their legitimacy, rather than just complaining unwarranted. She ended with stating livestock control is not necessary, animal control is and is more of an issue.

Opponents: Mr. Dustin Knight, 1280 Minnehaha Rd, Hermiston, OR 97838; Mr. Knight asked if a building was erected for the purpose of being a shed with a setback of 25 feet away from the property lines. He inquired if the purpose of the building was changed to animal sheltering, would he be required to now move this structure another 10 feet from the property line. Additionally, he asked if a property was 3.7 acres, how many livestock could be allowed, and would density allowance round up to be 4 acres or restricted to 3-acre standards. Mr. Knight's remaining question regarding housing development and what permits would be required, frequency, and if annual renewal for homes and those for subsidizing more livestock.

Opponents: Mr. Owen Hegdal, 309 S Broad St, PO Box 388, Weston, OR 97886; Mr. Hegdal was concerned with the proposal because the language seemed too general when it comes to breed sizes, specifically pertaining to rabbits (large or small breed) or miniature versus average breed cattle. He also mentioned it was difficult to determine size of a property utilized for confinement for rabbits, because typically they are underground. He expressed discontent for the changes being forced because of suspected rooster fighting. Mr. Hegdal concluded that all property owners want is to have the freedom to pursue life and how they use their land.

Opponents: Ms. Rochelle McMahon, 80664 Forcade Ln, Hermiston, OR 97838; Ms. McMahon stated she did not understand the number decreasing between mixed-sized livestock in UCDC 152.118. She stated four goat's excrement does not total that of one cow, and believed it was unclear how the number was derived. She also questioned the difference in breed sizes of fowl, specifically Guinea hens, ducks, or chickens. Ms. McMahon ended stating Guinea hens are just as loud as roosters. She added she felt the language was too general and wanted to request to change for more specifics.

Opponents: Ms. Michelle Porter, 460 Blaine St, PO Box 145, Adams, OR 97810; Ms. Porter provided background about her family's farms and what they raise. She stated they have children raising animals for 4-H or FFA and believed these changes would affect their ability to show animals. She stated the changes affect their livelihood with their cow/calf operation on other forest-use areas and will affect other small producers completely.

Opponents: Mr. Daniel Tejada, 82276 Hat Rock Rd, Unit #25, Hermiston, OR 97838; Mr. Tejada stated he does not share the belief that chickens crow day and night. Chair Danforth asked him if roosters crow at night. He stated that was impossible and whoever said that is lying. He added there should not be further restrictions on rights to use land, especially since they pay their property taxes. He further explained how impacts restrict their way of living and decades of hard work. Mr. Tejada expressed how he lives far away from others and his business practices are professional and do not cause disturbances to others. He concluded by stating there are more problems that exist county-wide, and this is not one of them.

Opponents: Mr. Jess Terry, 910 S Townsend Rd, Hermiston, OR 97838; Mr. Terry asked if the complaints being made are brought forth by individuals who live within the cities or out in the county rural areas. He suggested a standard stating that newly relocated individuals to the county rural areas should have to live there for five years before they can make a complaint to Code Enforcement. He believed this would mitigate complaints from people who just want to complain even if it is not substantiated. He stated where they live should matter and this should be considered when Code Enforcement follows up on calls.

Opponents: Mr. Dan McCarty, 72062 Westfield Blvd, Pendleton, OR 97801; Mr. McCarty shared a statistic from sales in Umatilla County topping almost \$400 million a year in revenue through agriculture and of that \$80.6 million from livestock industry products. He stated the complaints seem few and far between and mostly pertain to roosters. Mr. McCarty ended stating he felt this change would affect their bottom line, livelihoods, health and well-being of their families.

Opponents: Mr. Michael Cuneo, 71017 Arabian Dr, Pendleton, OR 97801; Mr. Cuneo thanked the audience and Staff for being there that evening. He additionally added how hard this project must have been for Staff to be tasked with from the Board of County Commissioners and the due diligence done. He stated his concern for his four-acre parcel with animal husbandry practices. He stated the general requirement for a healthy flock and egg production is 6:1 (hens to roosters). Mr. Cuneo mentioned he would be held to the same standards of a property half his size and doesn't understand that reasoning. He provided background on his family practices with stages of life with animals and raising his children. He asked if more research could be done for animal husbandry specifically and alter the numbers in the proposal. Mr. Cuneo stated the like loud-fowl terminology was not clearly defined and is open for much interpretation. He concluded they take great care of their four-acre lot, but even at certain times it is not free of flies.

Opponents: Mrs. Jodi Hinsley, 32945 Thorny Grove Ln, Hermiston, OR 97838; Mrs. Hinsley shared that making amendments to code that is fifty-years-old needs to be done carefully. She added context about her property and what animals she raises. She stated limiting quantities does not suddenly create sanitation. Mrs. Hinsley mentioned raising animals is always going to produce odors. She asked how Code Enforcement measures sound produced by animals. She also mentioned she has a hen that sounds like rooster especially if it is not allowed to free range within their property. She concluded stating language in this proposal needs to be carefully thought out and attention does need to be made regarding irrigated land versus non-irrigated lands.

Opponents: Mr. Jesus Alvarez, 33245 E Columbia Ln, Hermiston, OR 97838; Mr. Alvarez asked staff about how Code Enforcement would mitigate sound when most of it is from dogs. He stated he has a little farm and has grandchildren visit frequently and he uses that time to teach them about animals. He concluded asking staff if the goal was to take these opportunities away from the youth of the area, so they are forced into gangs instead.

Opponents: Mrs. Cynthia Traner, 81187 Sagebrush Rd, Hermiston, OR 97838; Mrs. Traner stated she owns 17 acres and there are peacocks on the property. She stated there are approximately thirty that are free-range. She added they have never been confined to a shelter. She asked if Code Enforcement would come shoot them if they were non-compliant. Mrs. Traner asked if staff would be monitoring the size necessary to shelter chickens, horses, cows, etc. She also asked why noise complaint aren't being addressed as the concerns are raised. She stated that Code Enforcement should increase personnel and handle those issues directly instead of forcing the masses to conform. She added that these changes will make people rely on stores for their meat and not knowing what is being put into their bodies. She questioned the definition of terms with mobile home versus manufactured home.

Opponents: Mr. George Klein, 51491 Highway 332, Milton Freewater, OR 97862; Mr. Klein gave some background including his dislike for animals but had to conform to raising animals due to job loss and difficulties with food/price availability during the COVID-19 pandemic. He described the importance of code, but that it can be used for good or bad reasons. He asked about what codes exist to counteract and protect the people who are raising animals against those who just want to complain and without merit. He also asked if it was necessary to create a code to mitigate the discussed problems in this proposal or if there was a different way to proceed.

Opponents: Mr. Adolf Klein, 50036 Schubert Rd, Milton Freewater, OR 97862; Mr. Klein contrasted the video showing roosters and compared it to the problem with dogs in the area. He stated that if the proposed changes included dogs there was a large community uproar. He gave context about his past and moving cows along the Native American Reservation. He stated an authority figure instructed them to place filters on the streams and the filters clogged up, driving the streams back underground and have never reappeared. He ended by stating rules continue to stem more rules. He believed their freedoms disintegrate with every rule that is made.

Opponents: Ms. Laretta Keene, 2035 W Orchard Ave, Hermiston, OR 97838; Ms. Keene stated chickens have lots of predators including skunks, predatory birds, and dogs. She asked how these changes will affect if a flock gets wiped out or needing younger chickens to continue egg production. She also made comments regarding noise with road traffic. She concluded there is already a way to deal with noise complaints with the noise ordinance.

Opponents: Mr. Brad McMinn, 71479 Gateway Ln, Pendleton, OR 97801; Mr. McMinn asked if a minimum of three calls could be implemented with Code Enforcement before an investigation is conducted on a property. He insisted he would be unable to maintain his flock with the proposed hen to rooster ratio. He also questioned how other fowl, like turkeys or geese, would fall under the same category of loud fowl. He ended asking if the County would be providing disposal for removal of these fowl, and if they would be forced to remove them because of the proposed limitation.

Opponents: Mr. Joseph Stanichak, 57894 Highway 204, Weston, OR 97886; Mr. Stanichak gave an expanded history of his background living in various larger cities, including New York City and his ability to raise chickens. He also mentioned his background with the seminary he runs and currently farms on with a variety of fowl. He stated he uses his practice in the past to teach children about farming and raising animals, he believes it is essential.

Opponents: Mr. Bernard Klein, 1525 NE Wagner Ln, Hermiston, OR 97838; Mr. Klein suggested the Planning Commission include the increase of smaller livestock and to dismiss the rooster limitation along with any other negative regulations. He stated he believes there are too many rules and never take anything away. He stated he believes our leadership isn't enforcing things to the letter of the law, and believes changing leadership influences those changes. He concluded stating the one positive he took from this is many neighbors were not aware of any standards being in place and now do.

Opponents: Mrs. Lisa Pedersen, 1530 SW 11th St, Hermiston, OR 97838; Mrs. Pedersen stated she lives in the FU-10 zone and owns sixteen acres. She is opposed to all the proposed changes because there are too many unknown variables being implied upon versus just addressing the complaints. She stated she believes this could be accomplished by becoming a better neighbor. She mentioned they lease out their land for cow/calf operations. She concluded asking if any recourse action would be taken if someone complains about when cows and calves are separated, and they are loudly crying for their young as opposed to someone playing loud music.

Neutral Testimony: Mrs. Deanna Garrard, 29125 Bridge Rd, Hermiston, OR 97838; Mrs. Garrard asked if this all came about because of complaints about roosters. She stated if this was the main reason why couldn't it just be settled by addressing those complaints instead of proposing a change that affects the majority. She also mentioned the notice received stated the potential proposed changes could affect the value of property and wanted to know how that would happen. She concluded by asking what the cost for a verification of non-conforming use was.

Neutral Testimony: Mrs. Danica Frasser-Fischer, 1055 Juanita Ave, Hermiston, OR 97838; Mrs. Frasser-Fischer stated her, and her husband own twelve acres along Cooney Lane. She stated she was concerned that she was not understanding the proposed changes due to her language barrier. She mentioned English is not her first language, understanding this information is difficult for her. She explained that fifty percent of the population in Milton Freewater and Hermiston are Spanish speakers and the need for inclusion is necessary. She asked if information could be given in multiple languages, so all citizens of the County have equal rights to be informed and to understand.

Public Agencies: None

Applicant Rebuttal: Mrs. Megan Davchevski & Ms. Charlet Hotchkiss, 216 SE 4th Street, Pendleton, OR 97801; Mrs. Davchevski stated that the Community Development Department was tasked with this application by the Board of County Commissioners, due to complaints they had received personally. She added that many in our office are just like the audience and would be affected by these changes and would need to follow the rules.

Mrs. Davchevski explained a number of people asked if their property wasn't in compliance now or they weren't aware of the current animal density standards, what would happen with them and their animals. She stated we have one part-time Code Enforcement officer currently he doesn't drive around the county counting livestock in a pasture and calculating confinement standards in place. She stated Code Enforcement is mostly complaint driven and typically those are environmental issues. She mentioned if a complaint was made regarding the number of chickens or cows on the property, they would investigate and decide whether a violation exists with the current standards. She stated that Code Enforcement takes circumstances into account and may give conditions or a warning period to come into compliance. She stated as long as the property owner is working with Code Enforcement and keeping in communication with them that's as far as it goes it's just warning.

Mrs. Davchevski addressed another question brought before staff. She stated the determination for animal density would be rounded up or down to the closest acreage as a general practice. The example given was for 3.7 acres, we would round that up to 4 acres. She added the current standard for any livestock is two per acre.

Mrs. Davchevski answered the questions regarding focusing on the complaints only instead of changing the code. She stated we must have something in the code in order to respond to a complaint. Currently, if someone has three-hundred chickens contained in one-quarter of an acre on a one-acre property they're in compliance, regardless of how much of a nuisance those chickens may be. She stated another question was asked about existing shelters and the setback requirements. The standards have not changed and are existing standards. She added if a new applicant wanted to permit a new building sheltering animal, those existing set back requirement would have to be met. This permit is an over the counter permit.

Mrs. Davchevski stated the problem with roosters is county-wide, not exclusive to Milton Freewater. She added the video shown was an example of a really extreme situation. She stated livestock do not require a permit. She explained about size differences for different rabbit breeds, and our department explored the option of defining sizes, but it got too convoluted and so in order to simplify things and make it clear, we proposed just having one standard. She added that could be changed, if found necessary.

Mrs. Davchevski stated why have these requirements, in Oregon, counties have the right and the responsibility to regulate land use regulations through their zoning ordinances. She added that Umatilla County has exercised this right since the very beginning of Planning in Oregon in 1972. She stated the main reason is to ensure compatibility with different properties. A residential zone wouldn't permit a heavy industrial type of activity, like a machine shop, because that's not compatible with a residential use.

Mrs. Davchevski reminded the Planning Commission the certain parameters around what they can and cannot recommend for approval. She stated eliminating the animal density standards altogether is not something they could do that evening. She mentioned anyone can make an application to the Community Development office at any time to amend our Development Code. This includes the Planning Commission, they could task our department with that or the Board of Commissioners.

Mrs. Davchevski stated these amendments don't apply to farm (EFU) and forest lands (GF), those are typically bigger properties zoned for exclusive farm use or exclusive forest use, they also don't necessarily apply to 4-H projects. She stated testimonies this evening brought up dogs and isn't something the county mentions frequently in our Development Code in the residential zones. She added one mention includes the maximum number of dogs you can have on a property is three, however this is not something in our proposed language change.

Mrs. Davchevski mentioned there's some issues that we're not addressing because they weren't about the proposed. She mentioned the questions about complaints and whether they lived in the city or not. She added that the county does not have jurisdiction over properties in the city, we'd refer them to the city. She expressed that the rooster video shown was on a rural residential property in the county's jurisdiction.

Mrs. Davchevski stated we cannot put anything in the language saying that if somebody's lived in a property for less than five years and they can't really make any complaints, that's not a land use standard that we could apply. She added that the Community Development department received lots of calls about this amendment. Typically, when people would call, we would explain the proposal to them and most people said, okay that makes sense, or I agree with that. She emphasized that there were a lot of people who let us know they were supportive of these changes but did not show up in person.

Mrs. Davchevski stated our Code Enforcement team cannot do anything with a complaint unless it can be tied to our Development Code. They can't enforce something that's not within the code, which is why we've tried to come up with a solution. She added that solution was the limitation on chickens and roosters that's actually objectively measurable. In the future, if there is somebody that's not in compliance, they have a code that they can point to. She stated of course dogs make noise, but it's not something we regulate unless it exceeds something in the noise ordinance. She added the County has a noise ordinance but does not have an animal control ordinance and is not regulated under land use.

Mrs. Davchevski answered the questions regarding a mobile home versus a manufactured home. She stated a mobile home is personal property and can have wheels but are no longer produced. In order to permit a new mobile home in our county, it must have a HUD label in order to be compliant. She added land use regulations don't allow both a stick-built home and a mobile/manufactured home, you could have one or the other.

Mrs. Davchevski reiterated the language on the postcard that was mailed out, stating it has a legal statement required because of ballot Measure 56 requirements. It's not that it necessarily affects the value of properties, but we have to legally reference on those notices. She stated there were questions about the cost of compliance. She added that if Code Enforcement received a complaint about a property two years from now, and they had more than two roosters causing too much noise. Code Enforcement would investigate and determine the remedy decided for that person to apply for verification of a non-conforming use. She stated an application for that would go through our office, however it is not a common application we receive.

Chair Danforth asked if there was a charge for that. Mrs. Davchevski stated the associated fee is approximately \$500 from what she could recall.

Ms. Hotchkiss continued with their rebuttal answering the following additional questions brought forth in testimonies. She answered a question regarding mixed livestock and the cumulative numbers. She stated an example with horses and goats would be two per acre because of the mixed sizes. If a property owner had just smaller livestock, like goats, you could have four per acre. She stated with comparison to other counties it made sense to limit too many animals in too small of an area. She concluded that 4-H and FFA projects would not be affected by these changes, they would still be permitted. Chair Danforth asked where the language regarding 4-H and FFA products is located. Mrs. Davchevski stated it is included in each zone in the current code. Ms. Hotchkiss expressed the language is represented in the current Development Code but is not included in this application since none of it had been changed.

Ms. Hotchkiss stated the decision to exclude specific breed sizes or types, was because it became too complicated and would ask that common sense be used with sizes of animals or like-size. Fur bearing animals would be that similar to rabbits, chinchillas, or minx.

Commissioner Tucker asked if there was a current noise ordinance and could it be used to address the noise issues with roosters and other like-fowl. He also asked why it wasn't used to address the complaints received like the one referenced in Milton Freewater. He stated that there were many written complaints about the same property included in the packet they received tonight. Mrs. Davchevski stated the County does have a noise ordinance, but it is used for excessive noise and is usually used for noisy sound systems and is enforced by the Sheriff's office. Commissioner Tucker stated evidence was listed in the record stating chickens calling and roosters can sometimes approach 130 decibels and asked if the noise ordinance lists a certain level. He also asked if it could be applicable for noise from an animal, whether it be a dog, chicken or other animal. Mrs. Davchevski stated it would likely be a question for County Counsel, Mr. Doug Olsen, who was present that evening. Mr. Olsen was unable to be heard on record but did state the noise ordinance excludes Agricultural uses.

Commissioner Morris asked to clarify if zoned farmland is excluded in this ordinance. Mrs. Davchevski confirmed this does not apply to Goal 3 agricultural land, like those who operate commercial farming operations. Commissioner Morris reiterated this would not affect those with farm businesses. Mrs. Davchevski stated this was for Rural Residential lands and other residential lands that typically have hobby farms. The primary use for those zones is residential. Commissioner Morris added that if a property was out of compliance the past twenty plus years, they'll still be out of compliance whether the ordinance was passed or not. Ms. Hotchkiss stated that was correct, and odds were that if they had been out of compliance for the last twenty years, it is likely nothing much will change. She also added that in no way would Umatilla County Code Enforcement ask for anyone to put their animals down.

Commissioner Morris asked if property owners would need to submit a form if they wish not to comply with the current ordinances, in effect since 1972. Mrs. Davchevski shared an earlier mentioned comment regarding the process of Code Enforcement and that the property owners would have to prove they complied before any proposed language was adopted.

Chair Danforth stated she felt like someone owning thirteen acres could have an actual homestead farm, actively raise animals and these changes could still impact a small farm. Commissioner Morris asked if they could get a variance to be rezoned as farmland (EFU). Mrs. Davchevski stated that would typically not happen.

Chair Danforth addressed a member of the audience because they stated there was a question that Staff did not answer regarding verifying compliance if they were not compliant with the current code; which states confinement of 25% of their property. Mrs. Davchevski stated they would only need to do that if there was a code complaint. Chair Danforth agreed but stated it would be better to verify before, so they don't wait for a complaint to come in.

Commissioner Green asked about the animal husbandry standards that were mentioned by opponent testimony from Mr. Cuneo. He stated a common animal husbandry practice was one rooster to six hens. Commissioner Green asked what research was done to address that concern.

Ms. Hotchkiss stated that our department researched and found that two roosters to forty chickens was an acceptable ratio for fertilizing and furthering egg production. Commissioner Green asked what sources were used, whether it was comparison to other counties, a veterinarian, or the Department of Agriculture. Ms. Hotchkiss stated they did comparison to other counties as well as research from the Department of Agriculture.

Commissioner Gillet asked if she heard an earlier statement correctly that Code Enforcement team consists of one part time officer or one and a half. Mrs. Davchevski stated our department has one field officer who is part-time and then a coordinator who answers calls, emails and additional correspondence with other agencies full-time

Commissioner Green asked how complaints are vetted when Code Enforcement gets a call about a property. Is it simply a name and address or do you verify whether they are within a certain distance of the property they are complaining about. Mr. Waldher responded for this particular case, the video witnessed was an actual situation where we had a code complaint. He added the Code Enforcement department received numerous complaints probably over the course of a couple years. We coordinated with the Sheriff's Office, who investigated the property. He stated we suspect there is cock fighting occurring but there is no way to prove it is happening. The roosters were chained to barrels. Mr. Waldher explained after several investigations, we actually took a noise monitor to the property and stood next to the neighbor's house. Those measurements did exceed the allowable noise levels. He concluded after consulting legal counsel, we discovered we can't pursue agricultural related noise violations.

Commissioner Green reiterated her question, if someone calls to complain what process is used to verify they are someone who lives in the area and has the right to complain. Mrs. Davchevski stated a complaint can be from anyone, they do not have to live in the vicinity. She explained the process when complaints are received as referenced previously.

Chair Danforth addressed a situation in the auditorium. She restated the appreciation with the turnout this evening and all the responses received. She explained this was time for staff and the Planning Commission to ask and answer questions since all testimony had concluded. There was a large number of the audience who were upset and decided to leave in which Chair Danforth stated was their right.

Mrs. Davchevski thanked the audience member regarding the questions that were missed in the rebuttal response. She stated a language service is not something our department currently offers; however, if a community member requested a copy of the packet in a different language, we could provide that with enough notice to prepare. Commissioner Morris asked given the county is Hispanic, could it become a practice to publish materials in both English and Spanish. Mr. Waldher explained our department does what is required by Oregon State statute but stated it would be a broader policy discussion with the Board of County Commissioners and could potentially be accommodated.

Commissioner Standley stated he felt like this was trying to kill a mosquito with a sledgehammer.

Commissioner Minton asked if there was a discussion on pursuing changes to the noise ordinance to include agriculture or was that ever considered. Mr. Waldher stated our office primarily deals with land use. He stated the noise ordinance is primarily enforced by law enforcement. He added that anyone may propose a change to a county ordinance and would recommend contacting our legal counsel and inform the interest in pursuing such a change. Furthermore, it would go before the Board of County Commissioners for their approval.

Chair Danforth closed the hearing for deliberation.

Chair Danforth adopted the following exhibits into the record:

Exhibit A; April 15, 2024, Comment submitted by Joyce Aniliker & Aniliker Manford Estate

Exhibit B; April 25, 2024, Letter to Planning Commission submitted by Judith Hedberg/Duff

Exhibit C; April 25, 2024, Letter to Planning Commission submitted by Sheri Lynch

Exhibit D; April 25, 2024, Letter to Planning Commission submitted by Sharam Goodwin

Exhibit E; April 25, 2024, Letter to Planning Commission submitted by Tamra Mabbott

Exhibit F; April 25, 2024, Letter to Planning Commission co-submitted by Northeast Oregon Water Association Director, JR Cook; Water for Easter Oregon Executive Director, Justin Green

Exhibit G; April 25, 2024, Letter to Planning Commission submitted by William & Stephanie Jackson

Exhibit H; April 26, 2024, Letter to Planning Commission submitted by Justin Berry

Exhibit I; April 30, 2024, Public Agency Comment submitted by Oregon Department of Agriculture – Natural Resource Programs, Jim Johnson, Land Use and Water Planning Coordinator

Exhibit J; Submitted during May 2, 2024 hearing, Letter to Planning Commission submitted by Roger

DELIBERATION & DECISION

Commissioner Tucker stated he felt there was a pretty unanimous approval for one of the proposed items, which was the increase of small livestock from two to four animals per acre. He stated he felt it was a small improvement, but one they all agreed upon. Chair Danforth asked if

they were proposing no changes to the fowl standard of twenty-five percent. Commissioner Tucker stated he wanted to address each piece separately to simplify their discussion.

Mrs. Davchevski suggested that he make the motion to exclude subsection B and to include the other language. Commissioner Standley asked if they were able to adopt or deny the packet as presented or if it was appropriate for the Planning Commission to do a line by line item analysis and vote. Chair Danforth stated that it does not have to be all or nothing, it could be a portion recommending approval or denial to the County Commissioners. She stated what she believed Mrs. Davchevski was reiterating was to include subsection A, the Limitations of Use which would include UCDC 152.133 on page 17, to include A, exclude B and asked if Commissioner Tucker wanted to also include subsections C, D, and E.

Commissioner Tucker stated for simplicity reasons he was only asking to include subsection A. He added the other issues could be addressed as they discuss later.

Commissioner Tucker made a new motion to recommend approval that include UCDC 152.118(A), 152.133(A), 152.158(A), 152.163(A), 152.173(A), 152.218(A), 152.233(A), 152.263(A), and 152.338(A). All of which address the issue of the number of animals and expand the number of animals that could be used. Commissioner Millar seconded the motion.

Commissioner Morris requested an amendment to the motion to exclude the Lower Umatilla Basin from this motion, in regard to addressing groundwater pollution and contamination. Chair Danforth asked if Commissioner Tucker would amend his motion. Commissioner Tucker stated he would not amend his motion.

There was no second for the motion to amend Commissioner Tucker's vote. Commissioner Morris' motion died.

Chair Danforth called for the vote on Commissioner Tuckers motion. Motion carried with a vote of 5:3 recommending approval to the Board of County Commissioners.

Commissioner Tucker suggested the issue concerning noise could be better addressed by a noise enforcement change in the ordinance. He asked if they could recommend the Umatilla County Board of Commissioners consider modifying this and see if there is a better way than what was proposed.

Commissioner Morris made a motion to adopt the language as it's proposed throughout the packet.

No second was received, so the motion died.

Commissioner Minton mentioned she understood the need to discuss the problems with roosters but didn't feel it was best addressed in the proposed amendment. She agreed with Commissioner Tucker that readdressing the noise ordinance might be more appropriate or other solutions could be researched and brought forth then.

Chair Danforth stated there was not an easy answer for noisy fowl. She added she does not live in the rural areas of the county but does visit it and could see the potential for noise complaints. She stated she doesn't support limiting because in most cases it is the minority that makes changes for the majority. She ended stating personally she doesn't support anything else in this proposal.

Commissioner Standley made a motion to deny this amendment as presented this evening. Chair Danforth clarified that was his request after they just approved a portion of the proposal. Commissioner Morris stated he felt it was irresponsible that this has not been updated for fifty plus years.

No second was received on this motion. Commissioner Standley's motion died.

Commissioner Tucker made a motion to recommend they revisit their noise ordinance to address the issues raised in this meeting, including those specific to Milton Freewater.

Commissioner Green seconded the motion.

Mrs. Davchevski clarified to the Planning Commission that this was not what was before them. They could only recommend approval or denial of the proposed language. She asked if Commissioner Tucker wanted to recommend denial of subsection B with the proposed language. She also added that the Planning Commissioner could suggest they revisit the noise ordinance.

Commissioner Tucker rescinded his prior motion and made a new motion to recommend denial to the County Board of Commissioners to include UCDC 152.118(B), 152.133(B), 152.158(B), 152.163(B), 152.173(B), 152.218(B), 152.233(B), 152.263(B), and 152.338(B).

Commissioner Green seconded the motion. Motion carried with a vote of 7:1 recommending denial to the Board of County Commissioners.

Commissioner Morris made a motion to recommend approval on subsection C throughout the packet.

No second was received. Commissioner Morris' motion died.

Commissioner Millar made a motion to recommend denial to the County Board of Commissioners to include UCDC 152.118(C), 152.133(C), 152.158(C), 152.163(C), 152.173(C), 152.218(C), 152.233(C), 152.263(C), and 152.338(C).

Commissioner Minton seconded the motion. Motion carried with a vote of 7:1 recommending denial to the Board of County Commissioners.

Deliberation continued regarding subsection D and E. Mrs. Davchevski stated these changes proposed were just renumbering of subsections and relocation of Limitations on Use subsection D to under the Dimensional Standards section 4 and rewording "free and clean" to be "clean and free", and then renumbering E to D, and F to E.

Commissioner Tucker made a motion to recommend approval to the County Board of Commissioners for the relocation of the statement, “Barns, sheds, and other structures sheltering animals shall be located a minimum of 35 feet from a side or rear property line and 75 feet from the front property line;” from the Limitations on Use section to the Dimensional Standards subsection 4, rewording free and clean to be clean and free, and then renumbering the Dimensional Standards sections E to D, and F to E.

Commissioner Morris seconded the motion. Motion carried with a vote of 8:0 recommending approval to the Board of County Commissioners.

Mrs. Davchevski stated they needed to address 152.131, 152.156 and so on under (B) subsection (1), (1)(a), (1)(b) and (1)(c) and then striking through subsection (B)(3) and renumbering (B)(4) through (B)(8) to (B)(3) through (B)(7). Chair Danforth asked about UCDC 152.013 and the wording manufactured dwelling when the code does not define it with that language. Mrs. Davchevski stated the Planning Commission could alter the language to state one manufactured dwelling/mobile home. Or they could recommend that the language in 152.013 and throughout the rest of the County Development Code to change the terminology from mobile home to manufactured dwelling.

Commissioner Tucker asked what the easiest way to make that clear for definitional purposes. Mrs. Davchevski recommended having it state, one manufactured dwelling/mobile home.

Commissioner Tucker made a motion to alter the text under Uses Permitted within the RR-2, RR-4, RR-10, MUF, FR and MR zones under Uses Permitted (B)(1)(a) “Manufactured dwelling, as provided in 152.013” to state manufactured dwelling/mobile home. Recommend approval to the Board of County Commissioners under Uses Permitted, subsection (B)(1), (B)(1)(a), (B)(1)(b) and (B)(1)(c), strike-through subsection (B)(3) and renumbering (B)(4) through (B)(8) to (B)(3) through (B)(7).

Commissioner Minton seconded the motion. Motion carried with a vote of 8:0 recommending approval to the Board of County Commissioners.

OTHER BUSINESS

Mrs. Davchevski stated the next hearing for this amendment will be going before the Board of County Commissioners recommending approval of some sections and denial of others. She stated the date for that hearing will be held at the Vert Auditorium on June 5th at 10am. She mentioned there would be a virtual option available as well and would be posted on the County’s website under the County Commissioner Agenda.

ADJOURNMENT

Chair Danforth adjourned the meeting at 10:02PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

DRAFT

DRAFT MINUTES

TYPE III LAND DIVISION, REPLAT REQUEST #LD-1N-127-24:

RILEY & KORY STUMP, APPLICANTS/ OWNERS

The applicants request approval to replat Lots 2 and 3 of Block 2 of Rancho Vista Addition to vacate the shared property line for a homesite at the properties located on Assessor's Map 1N3210AB, Tax Lots 1400 & 1300. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

TYPE III LAND DIVISION, REPLAT REQUEST #LD-1N-128-24

RON & MARY JO PIATT, APPLICANTS /OWNERS

The applicants request approval to replat Lots 2 and 8 of Block 4 of Rancho Vista Addition to vacate the shared property lines to build a shop as an accessory structure to the existing single-family dwelling on Lot 2. Assessor's Map 1N3210AB, Tax Lots 2400 & 2500. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

**PLANNING COMMISSION HEARING
May 23, 2024**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 23, 2024, 6:30pm

COMMISSIONERS

PRESENT: Sam Tucker, Vice Chair; Tami Green, John Standley, Emery Gentry, Ann Minton, Malcolm Millar and Andrew Morris

COMMISSIONER

PRESENT VIA ZOOM: None

COMMISSIONERS

ABSENT: Suni Danforth, Chair; Kim Gillet

PLANNING STAFF:

Megan Davchevski, Planning Manager, Tierney Cimmiyotti, Planner, Charlet Hotchkiss, Planner and Shawna Van Sickle, Administrative Assistant

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

CALL TO ORDER

Vice Chair Tucker called the meeting to order at 6:30PM and read the opening statement.

NEW HEARING

TYPE III LAND DIVISION, REPLAT REQUEST #LD-1N-127-24: RILEY STUMP, APPLICANT, RILEY & KORY STUMP/OWNERS. The applicants request approval to replat Lots 2 and 3 of Block 2 of Rancho Vista Addition to vacate the shared property line for a homesite at the properties located on Assessor’s Map 1N3210AB, Tax Lots 1400 & 1300. The land use standards applicable to the applicant’s request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

Vice Chair Tucker called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

He called for the Staff Report.

STAFF REPORT

Ms. Charlet Hotchkiss stated by introducing herself and the applicant’s proposal. She stated the proposed request is to Replat Lots 2 and 3, Block 2, of Rancho Vista Subdivision to vacate shared lot lines for a home site. She added that the subject properties are located in Rancho Vista Addition Subdivision, south of Pendleton, off of Highway 395 along the west side of McKay Reservoir and Dam. The Standards of Approval are in the found in the Umatilla County

Development Code Section 152.697(C), Type III Land Divisions. Standards for reviewing a Replat generally consist of complying with development standards and survey plat requirements.

Ms. Hotchkiss stated that notice of the applicant's request and the public hearing were mailed on May 3, 2024 to the owners of properties located within 250-feet of the perimeter of Lots 2 and 3 and to applicable public agencies. Notice was also published in the East Oregonian on May 11, 2024 notifying the public of the applicants request before the Planning Commission on May 23, 2024. She mentioned no public comments had been received.

Ms. Hotchkiss explained the Planning Commission is tasked with determining if the application satisfied all of the criteria of approval based on the facts in the record. The proposed Conditions of Approval address the survey and recording requirements with final approval accomplished through the recording of the final survey plat. She stated the decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

She concluded asking if there are any questions from the Planning Commissioners.

Vice Chair Tucker stated he assumed the applicants want this line to be eliminated so that they don't have to worry about additional setbacks. Ms. Hotchkiss stated the applicants own both lots and believe they want to have a bigger lot for their home site. Vice Chair Tucker asked if this could be approved right now they could build, but they want to center their build in the middle of the two properties. Ms. Hotchkiss agreed.

Applicant Testimony: Riley Stump, 3903 NE Riverside Ave, Pendleton, OR. Mr. Riley Stump stated he's like the ability to build a shop and a home anywhere on their property as opposed to two on one side or the other. He stated his request seems pretty simple to remove the line between the two lots, so they can accomplish this.

Vice Chair Tucker asked if the Stumps own both properties. Mr. Stump stated he and his wife own both lots. Commissioner Morris asked if this would change the property line setbacks from others within the subdivision. Mr. Stump stated he did not believe this would change his setbacks just allow for more room for them to build. Vice Chair Tucker confirmed the setbacks would remain the same.

Opponents: None

Public Agencies: None

Applicant Rebuttal: Riley Stump, 3903 NE Riverside Ave, Pendleton, OR. No Request for rebuttal.

Vice Chair Tucker called for any requests for the hearing to be continued, or for the record to remain open. There were none. Vice Chair Tucker closed the hearing. No new exhibits were added to the record.

DELIBERATION & DECISION

Commissioner Minton made a motion to approve the Type III Land Division, Replat Request #LD-1N-127-24 for Riley and Kory Stump.

Commissioner Millar seconded the motion. Motion carried with a vote of 7:0 to approve.

NEW HEARING

TYPE III LAND DIVISION, REPLAT REQUEST #LD-1N-128-24: RON & MARY JO PIATT, APPLICANTS/OWNERS. The applicants request approval to replat Lots 2 and 8 of Block 4 of Rancho Vista Addition to vacate the shared property lines to build a shop as an accessory structure to the existing single-family dwelling on Lot 2. Assessor's Map 1N3210AB, Tax Lots 2400 & 2500. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

Vice Chair Tucker called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

He called for the Staff Report.

STAFF REPORT

Ms. Charlet Hotchkiss stated by introducing herself and the applicant's proposal. She explained the proposed request is to Replat Lots 2 and 8, Block 4, of Rancho Vista Subdivision to vacate the shared lot lines to build a shop as an accessory structure to the existing single-family dwelling on Lot 2. She added that the subject properties are located in Rancho Vista Addition Subdivision, south of Pendleton, off of Highway 395 along the west side of McKay Reservoir and Dam. The Standards of Approval are in the found in the Umatilla County Development Code Section 152.697(C), Type III Land Divisions. Standards for reviewing a Replat generally consist of complying with development standards and survey plat requirements.

Ms. Hotchkiss stated that the notice of the applicant's request and the public hearing were mailed on May 3, 2024 to the owners of properties located within 250-feet of the perimeter of Lots 2 and 8 and to applicable public agencies. Notice was also published in the East Oregonian on May 11, 2024 notifying the public of the applicants request before the Planning Commission on May 23, 2024. She mentioned no public comments had been received.

Ms. Hotchkiss explained the Planning Commission is tasked with determining if the application satisfied all of the criteria of approval based on the facts in the record. The proposed Conditions of Approval address the survey and recording requirements with final approval accomplished through the recording of the final survey plat. She stated the decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

She concluded asking if there are any questions from the Planning Commissioners.

Applicant Testimony: Ron & Mary Jo Piatt, 70380 Lakeside Road, Pendleton, OR. Mrs. Mary Jo Piatt stated they moved back to Pendleton approximately six years ago and purchased the property they currently reside at. She stated when Lot 8 became available last November they purchased it and would like to build a shop on it. She explained they wanted to have storage for their utility and recreational vehicles inside. Mr. Ron Piatt stated they were just seeking approval, so they can do this build.

Commissioner Morris asked since the lots are separate under existing land use law, wouldn't it be OK to already build a structure on Lot 8 or did he hear incorrectly and there isn't a structure already on the lot. Mrs. Piatt stated the lot is currently vacant and they were told they would have to replat in order to build that accessory structure. Commissioner Morris asked if the structure would be used for any kind of living quarters. The Piatt's both stated no.

Commissioner Standley asked how they were able to get the existing property line moved to the north what looked like 30 to 50 feet. He asked if they purchased that ground. Mr. Piatt stated they purchased it from their neighbor to the north. Commissioner Standley asked if it had already been surveyed and cornered and just wanted to clarify because he could not recall where he saw that within the application packet. Mr. Piatt confirmed the survey was already complete.

Commission Millar asked if the shop is built on this lot then another home cannot. Mr. Piatt stated that is correct. Mrs. Megan Davchevski stated a shop is an accessory structure because this is a residential zone. She explained in order for the owners to have a shop on Lot 8, they would have to complete the replat to combine the properties into one. She stated once they remove the line it is complete and cannot be redone or another residence cannot be added to the property.

Commissioner Standley asked if there was any reason they would want access to Mountain View Road. Mr. Piatt stated they received approval for an access permit off of Mountain View Road, so they may access their property from both sides, east and west. Ms. Hotchkiss stated she just received the access permit that day and previously the packet mentioned that was still missing when they were sent out to the Planning Commission.

Commissioner Morris asked if the landowner ever wanted to divide the property again in the future would they be able to do that. Mrs. Davchevski stated they would not be able to do that because both lots are below the two-acre minimum so once it is complete it cannot reestablish that line.

Opponents: None

Public Agencies: None

Applicant Rebuttal: Ron & Mary Jo Piatt, 70380 Lakeside Road, Pendleton, OR. No Request for rebuttal.

Vice Chair Tucker called for any requests for the hearing to be continued, or for the record to remain open. There were none. Vice Chair Tucker closed the hearing.

DELIBERATION & DECISION

Commissioner Millar made a motion to approve the Type III Land Division, Replat Request #LD-1N-128-24 for Ron & Mary Jo Piatt.

Commissioner Gentry seconded the motion. Motion carried with a vote of 7:0 to approve.

OTHER BUSINESS

Mrs. Davchevski stated there is another Planning Commission hearing next month on June 27th. This hearing will be our annual code update to codify state statutes that Oregon State Legislature has changed for zones Exclusive Farm Use (EFU) and Grazing Farm (GF). She stated these are already approved at the state level and we are required to implement them.

Mrs. Davchevski stated the next Umatilla County Board of Commissioners hearing will be held on June 5th at The Vert Auditorium at 10:00 am. Vice Chair Tucker asked what the implications if someone from the Planning Commission wish to address the Board of Commissioners on that matter. He stated he was just curious, as a member of the public. Mrs. Davchevski mentioned she would consult County Counsel and let him know. Vice Chair Tucker stated the Planning Commission had a somewhat contentious piece that the public were very interest in. He asked if there was any indication of whether the County Commissioners hearing would have the same level of interest and attendance. Ms. Tierney Cimmiyotti stated it is hard to tell, but that our office has not received any phone calls following the Planning Commission's hearing but believe a similar turnout is anticipated. Some discussion followed about interest from public and the presence of it on social media between Mrs. Davchevski and Vice Chair Tucker. Mrs. Shawna Van Sickle stated the hearing has been sent to public notice in the local newspapers as always.

ADJOURNMENT

Vice Chair Tucker adjourned the meeting at 7:00PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

DRAFT MINUTES

**TEXT AMENDMENT #T-096-24,
AMENDMENT OF UMATILLA COUNTY
DEVELOPMENT CODE, ADOPTING
LEGISLATIVE CHANGES OF OREGON
STATUTES AND OREGON
ADMINISTRATIVE RULES
GOVERNING EXCLUSIVE FARM USE
(EFU) AND GRAZING FARM (GF).**

UMATILLA COUNTY, APPLICANT

Umatilla County proposes text changes to the Umatilla County Development Code (UCDC) EFU zoning Sections 152.058, 152.059, 152.060, GF zoning Section 152.084 and corresponding EFU and GF Conditional Use and Land Use Decision Sections 152.617 (I) (EE) and (I) (FF). Changes also include reorganizing the County Development Code Non-Conforming Sections 152.591 – 152.600 and insertion of applicable facilities from County Plans into the Type II Land Division Code Section 152.684 for the land division of properties not zoned EFU and GF.

**PLANNING COMMISSION HEARING
June 27, 2024**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, June 27, 2024, 6:30pm

COMMISSIONERS

PRESENT: Tami Green, Acting Chair; John Standley, Emery Gentry, Malcolm Millar and Ann Minton

COMMISSIONER

PRESENT VIA ZOOM: Kim Gillet

COMMISSIONERS

ABSENT: Suni Danforth, Chair, Sam Tucker, Vice Chair, Andrew Morris

PLANNING STAFF: Robert Waldher, Community Development Director, Carol Johnson, Senior Planner, and Shawna Van Sickle, Administrative Assistant

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

CALL TO ORDER

Acting Chair for this evening is Commission Green. Commissioner Green called the meeting to order at 6:32PM.

Commissioner Green read the opening statement.

NEW HEARING

TEXT AMENDMENT #T-096-24, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, ADOPTING LEGISLATIVE CHANGES OF OREGON STATUTES AND OREGON ADMINISTRATIVE RULES GOVERNING EXCLUSIVE FARM USE (EFU) AND GRAZING FARM (GF): Umatilla County proposes text changes to the Umatilla County Development Code (UCDC) EFU zoning Sections 152.058, 152.059, 152.060, GF zoning Section 152.084 and corresponding EFU and GF Conditional Use and Land Use Decision Sections 152.617 (I) (EE) and (I) (FF). Changes also include reorganizing the County Development Code Non-Conforming Sections 152.591 – 152.600 and insertion of applicable facilities from County Plans into the Type II Land Division Code Section 152.684 for the land division of properties not zoned EFU and GF.

Commissioner Green called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

She called for the Staff Report.

STAFF REPORT

Carol Johnson, Senior Planner, stated today's hearing is a Legislative Hearing for a Post-Acknowledgment Plan Amendment (PAPA) amending the text of the Umatilla County Development Code (UCDC). The amendments are due to legislative changes to incorporate Oregon Statutes and land use Administrative Rules, specifically (OAR) Chapter 660, Divisions 6 and 33 affecting lands zoned Exclusive Farm Use (EFU) and Grazing-Farm (GF).

Mrs. Johnson added that each year when the Legislature meets can result in changes to the statutes governing farm and forest zoned lands. Local governments then incorporate these changes through a code amendment process. These amended Code Sections include Umatilla County Development Sections 152.058, 152.059, 152.060, 152.084 and 152.617.

Mrs. Johnson explained today's action includes updates to the Non-conforming Code Sections 152.591 – 152.600, in compliance with ORS 215.130, along with a proposed revision and reorganization of the standards applicable to non-resource Type II Land Divisions contained in UCDC Section 152.684.

Mrs. Johnson stated the Commissioners packets include the staff memo, draft findings, a table of the proposed amendments, and one email comment from Umatilla County Public Works Director, Tom Fellows. She stated in addition to the Public Works Director, the amendments were sent to the County Surveyor and also reviewed by County Counsel. County Counsel responded that any public roads created by land division approval would require the Board of Commissioners to sign the Partition Plat to accept the public road. This has been captured in today's proposed amendment language.

Mrs. Johnson mentioned the Type II Land Division Section has long directed applicants to address elements of the Comprehensive Plan policies related to public facilities and services, as well as, elements of the County Transportation Plan. Research of and addressing these Plans and/or policies by applicants typically were not completed. Staff reviewed these facility and Plan elements and inserted what was believed to be the applicable elements into this update. She stated that in addition to the markup version contained in the packet, the Planning Commissioners received a clean copy of the Type II Land Division section for review. The clean version displays the changes in this section and how it will read without the markups.

Mrs. Johnson stated scrivener errors may exist in the code update but will be corrected in the final version to ensure semi-colons, commas and periods are correctly inserted [per UCDC 152.750 (B)].

Mrs. Johnson concluded the Umatilla County Development Code Sections 152.750 through 152.755 prescribes a two-hearing process for code amendments, with the first hearing before the Planning Commission. The Planning Commission's task is to forward a recommendation on the amendments to the Board of Commissioners. The second hearing is scheduled before the Board of

County Commissioners for final decision on July 17, 2024 at 9:00am in the Umatilla County Courthouse in Pendleton. She stated she wanted to quickly touch on the sections in the table for further explanation and then questions could be addressed by the Planning Commission.

Mrs. Johnson began with UCDC Section 152.058 stating the first section refers to the process of obtaining a zoning permit in an Exclusive Farm Use (EFU) zone for alteration, restoration, or replacement of a dwelling and had only been slightly modified. She stated ORS 215.291 influenced the change. She explained a simple zoning permit is needed if a home still exists on the property and the property owner wants to replace it. If the property owner removes the home or it is burnt down, they have one year to come into the Planning office to submit a zoning permit under the same process. She stated after that year they must submit for a Land Use Decision and prove the home had all the elements that make it replaceable.

Commissioner Standley asked if the process of recommending approval was to adopt all changes or if they can suggest changes to the amendment. Mrs. Johnson explained that with updates where it involves statutes, under ORS 215.283 listed under sub 1 in the statute are uses of right. She further explained we cannot add or take away standards for establishing those uses. Sub-sections under 2 and 3 and further, are conditional uses and we have more latitude to be as restrictive as the statute states or we can be more restrictive. She stated if the Planning Commission does not recommend approval to the Board of County Commissioners we would have to go directly to the statute to implement.

Commissioner Standley referred to page 4, under the proposed amendments to UCDC 152.058 (F)(6)(d)(i), regarding identifiable extreme or high wildfire risk on a statewide map. He mentioned transmission lines and other things that may increase wildfire risk. Mrs. Johnson stated an adopted wildfire map has not been established, it is still a work in progress. She stated this was a newly established standard and deals with fire hardening standards with the residential code and is specific to replacement dwellings within this zone. Mrs. Johnson also urged caution of altering code and applying it to different parts of the Development Code especially when it comes to legislative changes. She also discussed the option for additional latitude for considering safety regulations at the local jurisdiction. Commissioner Standley explained his initial question again for further clarification on changes the Planning Commission would consider if the necessity arose at the local level. Mrs. Johnson stated it would be the same process as that evening's hearing. The Planning Commission could request an amendment to the code. Mrs. Johnson stated if the Planning Commission desires to move forward or the Board of County Commissioners requests to move forward, then staff are tasked with the request.

Mrs. Johnson referenced UCDC Section 152.058, adding small processing facilities approval with a Zoning Permit. She stated Legislature has added this section and redefined the overall square footage of the facility. Previous regulations stated up to 10,000 square feet, now it is anything less than 2,500 square feet. She elaborated that structures under 2,500 square feet would be permitted through a Zoning Permit, anything over 2,500 square feet and up to 10,000 square feet would be

permitted through a Land Use Decision. This was also inserted into UCDC Section 152.617 (II)(1) to clarify the type of agriculture processing facilities based on size.

Mrs. Johnson continued onto page 10-12, she stated the addition of natural hazard residence adds a brand-new use as a conditional use and standards applicable to siting a natural hazard residence. UCDC Section 152.060 (FF) adds the new use for emergency campgrounds and the conditions of approval in the conditional use section UCDC 152.617 (I) (FF). This use is applicable as a result of wildfires. She stated this was implemented in case this would be necessary within Umatilla County.

Mrs. Johnson explained the changes on page 15, UCDC Section 152.084 (K) (2), Grazing Farm/Forest template dwelling. She summarized that changes changed language for better clarification and dissolve any misinterpretations.

Mrs. Johnson stated page 18, UCDC Section 152.591-152.600, is the non-conforming use section. This section has been updated and includes a clean version of this first section under UCDC Section 152.595. She explained this section aligns with ORS 215.130. She reiterated County Counsel has looked at this section and didn't suggest any additions.

Commissioner Standley had a question regarding tracts of land and where the road crosses it. He asked if this spoke to a public versus private road or a deeded easement and the consideration when a road abuts a property. Mrs. Johnson stated it does not specify but the Planning office has always interpreted it spoke about a public or County road, not a private driveway or similar. She stated this was an important issue with the State across various counties and how the template is interpreted and designed along a road. Mrs. Johnson stated more conversations and changes could occur regarding templates in the future.

Mrs. Johnson reiterated her initial comments about the difficulty for individuals to address the old language from the early zoning code, referencing page 23 under UCDC Section 152.684 Type II Land Division Standards for Approval. She gave some history about the evolution of the old zoning ordinance and zoning code and how it was incorporated into the Development Code. She stated some of the Type II Land Division code was from the earlier code before the County Comprehensive Plan was acknowledged by the State of Oregon. Prior to acknowledgment decisions were made by applying the statewide planning goals specifically to uses. The current code references the Comprehensive Plan and isn't very specific and changes were needed to simplify the process. This was done by inserting specifics such as addressing water, septic, etc. Mrs. Johnson stated that minor adjustments may be done and she welcomed any comments that to be taken to the Board of County Commissioners.

Commissioner Standley summarized an excerpt from page 26, UCDC Section 152.684 (C) (4) (e), stating dedication of public roads must be accepted by the Board of County Commissioners prior to recording the final survey partition plat. The Board of Commissioners must sign the partition plat to accept dedicated public roads. He asked who will take care of the road once it has been

created. Mrs. Johnson stated it would not be a County road but it would be a public road. She added that there was some language about ensuring access/utilities is included with those dedications and recognized their importance. She stated the ideal situation would be a creation of a homeowner's association to step up and maintain the roads. Commissioner Standley asked if there was anything the Planning Commission could do to push that ahead and keep from becoming a future issue.

Mrs. Johnson stated there was a potential to bring an update to our entire subdivision section, especially when it comes our multi-use areas like Mountain Residential or Forest Residential. The current code isn't exactly practical because it requires fire hydrants, development that would typically make up an urban subdivision. She stated our goal would be to make it more realistic for the areas it would be implemented in and mirror similar language for our other zones. She added that the current standards, though robust, likely were for an urban subdivision. She stated this is a future goal but is not included in the current code amendment.

Comments from Commissioner Standley regarding how public roads become a County Roads. Mrs. Johnson answered those questions, but they didn't pertain to the amendment and changes proposed.

Opponents: None

Public Agencies: None

Commissioner Green called for any requests for the hearing to be continued, or for the record to remain open. There were none.

Commissioner Green closed the hearing.

DELIBERATION & DECISION

Commissioner Gentry made a motion to recommend approval to the Board of County Commissioners for Text Amendment #T-096-24 adopting the Legislative changes of Oregon Statutes and Oregon Administrative Rules governing Exclusive Farm Use and Grazing Farm zones.

Commissioner Minton seconded the motion. Motion carried with a vote of 6:0 recommending approval to the Board of County Commissioners.

OTHER BUSINESS

Mr. Robert Waldher stated we would have a hearing on July 25th for a second application submission on the previous Subdivision request heard earlier this year.

ADJOURNMENT

Commissioner Green adjourned the meeting at 7:12PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

DRAFT