

**MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, April 22, 2021, 6:30 pm**  
**Umatilla County Courthouse, 216 SE 4<sup>th</sup> Street, Pendleton, Oregon**  
**Virtual meeting via Zoom**

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**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, Tammie Williams, Hoot Royer, Jon Salter, Cindy Timmons & Sam Tucker

**ABSENT:** Tami Green & Lyle Smith

**STAFF:** Bob Waldher, Planning Director, Megan Green, Planner II/ GIS & Tierney Cimmiyotti, Administrative Assistant

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

**CALL TO ORDER**

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

**NEW HEARING**

**TEXT AMENDMENT #T-21-084, Amendment of the Umatilla County Development Code, incorporating the opportunity to create parcels smaller than 160 acres on Grazing/ Farm (GF) Zoned land.** The applicant requests text changes to the Umatilla County Development Code (UCDC) to incorporate the provisions of ORS 215.780(2)(e) to allow for the creation of parcels between two and five acres in size, each to contain an existing dwelling, on land zoned for forest use or mixed farm and forest use (Grazing/Farm, GF). The criteria of approval for amendments are found in UCDC 152.750-152.755.

**STAFF REPORT**

Megan Green, Planner II/ GIS, presented the staff report. Ms. Green stated that property owners, Nan and Alan Heilman, propose text changes to the UCDC to incorporate the provisions of ORS 215.780(2)(e) to allow for the creation of parcels between two and five acres in size, each to contain an existing dwelling, on land zoned for forest use or mixed farm and forest use (Grazing/Farm, GF). The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

Ms. Green stated that this is a legislative matter because it proposes to amend the text of the UCDC in a manner that will affect county properties located in the GF Zone within unincorporated Umatilla County. Therefore, the County has the authority to consider and approve the Text Amendment request. She explained that the process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision

whether or not to adopt the proposed change to the UCDC. A public hearing before the BCC is scheduled for May 5, 2021 at 9am.

Ms. Green pointed out that the matrix on page 11 of the hearing packet is incomplete. She explained that the BCC adopted a new kind of Land Division under the “Non-resource (EFU or GF Zone) uses other than dwellings” section in January 2021. The box furthest to the right in the matrix should read, “Conditional use permit or land use decision for a Utility Facility allowed under 152.059(C) required first then Review IV”. Ms. Green stated that this update to the language in the matrix has no bearing on this request, she just wanted to ensure all the information in the packet was up to date and accurate.

Ms. Green noted that the following attachments were included in the hearing packets for review; County Preliminary Findings and Conclusions, UCDC Draft Text Amendment, ORS 215.780, Oregon DLCDC email comment and 1000 Friends of Oregon email comment.

Ms. Green explained that she included the complete Oregon Revised Statute section in the packet for review by the Planning Commission. However, the applicant is only seeking approval for a portion of the statute, which is allowed. The only sections of the statute being considered for approval through this request are represented in bold type (ORS 215.780(2)(e), ORS 215.780(4)(a-b) & ORS 215.780(7)).

Commissioner Tucker asked for more information about the recommendations made by 1000 Friends of Oregon. He asked if we have considered making the changes they suggested to the language in order to avoid any issues with possible appeals. Ms. Green stated that we did make the changes 1000 Friends of Oregon suggested, with the exception of adding a Subsection to the proposed amendments with language including, “Neither dwelling was subject to a permit that required removal of the dwelling, neither dwelling was approved under a law that prohibited division of the lot or parcel, and neither dwelling was approved pursuant to a farm use zone provision”. Ms. Green explained that we chose not to adopt that exact language because the statute refers to “at least two dwellings” but does not place a limit the number of dwellings that this could apply to, so the word “neither” does not work well for this provision. She pointed out that the final language can be found on page 10 of the hearing packets under ORS 152.087(2)(e)(3-5).

Commissioner Wysocki asked if there was an estimate on how many parcels would qualify for division if this request were to be approved. Ms. Green stated that in her research she found only 2-5% of properties in the GF Zone would have the ability to qualify for division under this new provision (approximately 30 parcels). Chair Danforth asked if a map has been created to provide a visual representation of affected properties. Ms. Green stated that she did not have a map available but she offered to show her process of coming to this conclusion by assembling a spreadsheet to correlate relevant data. She added that additional research would be required when a new request is made in order to determine that the applicant truly does meet all the criteria for

approval. Therefore, the number of qualifying properties is likely to be even lower than the estimated 30 parcels which have been identified. Chair Danforth asked how many acres of GF Zoned land will be affected by this request. Ms. Green stated that most of the 30 parcels identified are at least 40 acres in size, but some are much larger.

Planning Director, Bob Waldher, added that it would be rare to receive another request like this. He explained that there are very few situations in the GF Zone where multiple dwellings exist on a parcel of this size and still have the ability to partition. It's likely that some dwellings on parcels which appear to qualify as part of staff's preliminary review may have homes that were created through a different approval process, which would disqualify them from this opportunity. Ms. Green stated that in order to qualify the dwelling would have to have been in existence prior to November 4, 1993 and it could not have been approved as a Farm Dwelling or Forest Dwelling. She explained that the dwelling must essentially predate Planning activities in Umatilla County to qualify for this provision.

Commissioner Wysocki asked if there were parameters used to determine if a structure qualifies as a dwelling. Ms. Green stated that ORS 152.087(2)(e)(B) requires that, "[E]ach dwelling complies with criteria for a replacement dwelling under ORS 215.291". To meet this standard the dwelling must be assessed as a dwelling and contain intact walls, a roof structure, connection to a septic system, kitchen sink and heating source.

**Applicant Testimony:** Alan & Nan Heilman, 77439 Meadowood Road, Weston, Oregon. Mrs. Heilman stated that they would like to divide this parcel so her husband can retire. She said the portion that they keep will be reduced from 40 acres to 35 acres, creating a new five acre parcel with a cabin for sale. The sale of the cabin will allow for them to pay off the loan on the remaining 35 acre parcel of land. Commissioner Williams asked how long the Heilman's family has owned this property. Ms. Heilman stated that they have owned the land since 1992.

**Proponent Testimony:** Jerry Baker, Real Estate Agent, Coldwell Banker Whitney & Associates, 841 N 4th Street, Athena, Oregon. Mr. Baker represents the applicants. He reiterated that no new dwellings will be created as part of this request.

**Opponent Testimony:** No comments.

**Public Agencies:** No additional comments.

Chair Danforth stated that she would like to look at a map and inventory of the affected properties before making a final recommendation. Commissioner Timmons agreed that a map would be helpful. Ms. Green stated that she has a spreadsheet representing affected properties but there is no map available at this time. Commissioner Tucker stated that he feels differently. He stated that his understanding is that this request is about a few parcels of land throughout the county in which two or more dwellings are placed next to each other, and the owners may want to separate the dwelling by creating a new parcel. He believes the impact will be minimal

because it does not allow for the creation of new structures or change the uses allowed. He added that he does not need to know where each eligible parcel is located because it will not change his decision. He sees this as an issue the Planning Commission is able to make a policy decision about without viewing a map of every location.

Ms. Green shared her computer screen and gave details about the spreadsheet she created to determine which properties would be affected. She stated that the GF Zone is spread far throughout the county and a countywide map would not necessarily be useful in demonstrating the impact of this request. Mr. Waldher reiterated that although approximately 30 parcels appear to qualify through preliminary research, they do not all automatically qualify. Additional checks will be done when applications are received to research the history of the specific parcel requested. He added that this extensive research may reveal circumstances in which the applicant does not meet the criteria of approval. As a result, the total number of parcels in the GF Zone that truly qualify for division under this amendment are likely fewer than 30.

Commissioner Williams stated that she agrees with Commissioner Tucker. She stated that she is impressed that staff found a way to navigate this issue and find a solution that works for the land owners without causing harm to any other property and she supports this request.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Chair Danforth stated that she was surprised that there was not already a way to approve this request under our code as it is written today. She is pleased that approval of this request will create a new opportunity for land owners to do the same thing the Heilmans are requesting to do.

Commissioner Tucker wanted to be sure that staff has done everything possible to accommodate the requests of 1000 Friends of Oregon to avoid appeal. Mr. Waldher stated that he and Ms. Green included all requests with the exception of one. Ms. Green stated that the one thing not added to the language was a recommendation regarding Subsection (3). The email states that, “[t]he proposal must also include provisions to implement ORS 215.780(3) and (4). Subsection (3) requires the Planning Director to maintain a record of the restrictions of lots that can no longer be divided pursuant to Subsection (2)(e)(E).” Ms. Green stated that the Planning Commission can choose to include this requirement in their recommendation if they feel it is appropriate. Commissioner Tucker stated that he thinks we should include the language. Chair Danforth agreed.

Commissioner Tucker made a motion to recommend approval of Text Amendment #T-21-084 as presented, with the addition of Subsection (10) under UCDC Section 152.087(E), "The resulting parcels shall be added to the County's inventory of parcels that cannot be further divided" and the addition of Subsection (13) under UCDC Section 152.710(G), "The resulting parcels shall be

added to the County's inventory of parcels that cannot be further divided.” Commissioner Wysocki seconded the motion. Motion passed with a vote of 7:0.

### **MINUTES**

Chair Danforth called for any corrections or additions to the minutes from the March 25, 2021 meeting. Commissioner Timmons moved to approve the minutes as presented. Commissioner Royer seconded the motion. Motion carried by consensus.

### **OTHER BUSINESS**

Mr. Waldher welcomed our new Planning Commissioner, Sam Tucker, and thanked him for serving. Commissioner Tucker stated that he is honored to serve.

Mr. Waldher announced that Umatilla County has been working on our annual budget for the upcoming fiscal year. Ms. Green will be taking on additional responsibilities as Transit Coordinator funded through a grant. We are also looking to hire one additional full-time Planner to assist with GIS and mapping duties.

Mr. Waldher stated that staff has been working on a project for the last six months to update Umatilla County’s Natural Hazard Mitigation Plan (NHMP). The County included representatives from all twelve cities, as well as four special districts. The NHMP is a document required by the Federal Emergency Management Agency (FEMA) in order to be eligible for natural hazard funding. He explained that the recent flooding throughout the County has made it more apparent that we need to ensure that we are meeting our requirements in order to maintain eligibility. The emergency disaster declarations made after the wildfires last year resulted in approximately \$150 million in funds available to local jurisdictions. However, agencies must have a NHMP updated within the last five years in order to qualify for the funding. This year County staff has worked nearly 300 hours on the project and the plan is currently under review by the Oregon Office of Emergency Management (OEM) & FEMA.

### **ADJOURNMENT**

Chair Danforth adjourned the meeting at 7:29 pm.

Respectfully submitted,

Tierney Cimmiyotti,  
Administrative Assistant

Minutes adopted by the Planning Commission on May 27, 2021