

**MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, April 27, 2023 6:30 pm**

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**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, Sam Tucker, John Standley, Emery Gentry, Jodi Hinsley, & Tammie Williams

**COMMISSIONERS** Tami Green

**PRESENT VIA ZOOM:**

**PLANNING STAFF:** Megan Davchevski, Planning Division Manager, Tierney Cimmiyotti, Planner II/GIS & Bailey Dazo, 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 6:32 pm and read the Opening Statement.

**NEW HEARING**

**LAND DIVISION REQUEST #LD-2N-208-23: JEREMY PARKER, APPLICANT / JEREMY PARKER & DANIELLE SACKETT, OWNERS.** The applicant requests to Replat Lots 6 and 7, Block 2 of Stewart’s Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant’s proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. 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.

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

**STAFF REPORT**

Megan Davchevski, Planning Manager, presented the Staff Report. The Applicants/Owners Jeremy Parker and Danielle Sackett request to replat Lots 6 and 7, Block 2 of Stewart’s Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant’s proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. 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. Mrs. Davchevski stated the applicants request and the public hearing notice was mailed on April 7, 2023 to the owners of properties located within 250 feet of the perimeter of Lots 6 and 7. The notice was published in the East Oregonian on April 15, 2023 notifying the public of the applicants request before the Planning Commission on April 27, 2023. She also noted the criteria of approval are 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.

Mrs. Davchevski finalized the Staff Report by stating the Planning Commission is tasked with determining if the application satisfies all 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. The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Chair Danforth referred to page eight in the Planning Commission hearing packet and asked why Precedent Condition of Approval number three requires that the applicant pay and possibly pre-pay property taxes to the Umatilla County Tax and Assessment Department? Mrs. Davchevski replied that it is due to the Tax and Assessment Department's timeline for working land divisions and when tax statements are mailed in November. She stated that she believes after July 1<sup>st</sup> you have to pre-pay taxes for the next year to work the Land Division, but further clarification can be received from the Tax and Assessment Department.

Chair Danforth asked if the applicants were present? Staff advised that the applicants were not present. Mrs. Davchevski responded that the hearing notice was mailed to the applicants and there was no response. Mrs. Davchevski advised she spoke with the applicants and they did not indicate if they planned to attend or not. Chair Danforth called for proponents and opponents. Mrs. Davchevski stated she received one phone call from a nearby property owner on April 20, 2023 indicating that they had no issues with the applicant's request. Chair Danforth called for testimony from public agencies. There was none.

Chair Danforth called for rebuttals, there were none. She asked if there were any requests for hearing to be continued or the record to remain open, there were none. Commissioner Williams asked if the property is being well kept or if it is an eyesore? Chair Danforth clarified that they are reviewing the replat request at this time, not the Land Use Decision scheduled for later in the agenda. Commissioner Williams said she was confused and retracted her question. Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Commissioner Tucker stated that in comparison to other hearings recently this one may be less controversial. They are just making one lot out of two, and no objections were made. Commissioner Tucker made a motion to approve Type III Land Division, Replat Request, #LD-2N-208-23; Jeremy Parker Applicant, and Jeremy Parker and Danielle Sackett Applicant/Owners. Commissioner Gentry seconded the motion. Motion passed with a vote of 8:0.

### **NEW HEARING**

**LAND USE DECISION REQUEST #LUD-293-23: DAN & TONJA PEARSON, APPLICANT/ OWNER.** The applicant requests to convert an existing temporary hardship dwelling to a farm-relative dwelling. The subject property is zoned Exclusive Farm Use (EFU).

The property is located at 79089 S Cold Springs Road, Pendleton, OR, in Township 4N, Range 31E; Tax Lot 2201. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.059(K)(7) which codified OAR 660-033-0130(9)(a).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Standley stated that he is familiar with the family and has known Mr. Pearson's father-in-law, Lowell Van Dorn, for fifty years. He stated that he has done business with him and Mr. Pearson Sr. has hunted coyotes on his property. He added that he has discussed this process years in between his service on the Planning Commission. At the time, Mr. Pearson Sr. was asking questions and trying to seek some facts and advice, Commissioner Standley recommended he work with the Planning Department or get a land use attorney. He stated that he wasn't sure if that would disqualify him from voting on this matter or not. Commissioner Standley also added that he has been to the property to purchase and look at equipment at an estate sale Mr. Pearson Sr. had in the previous years. Chair Danforth asked Commissioner Standley to abstain from voting on this matter. Commissioner Standley agreed to abstain. Chair Danforth called for the Staff Report.

### **STAFF REPORT**

Megan Davchevski, Planning Manager, presented the Staff Report. Mrs. Davchevski stated the applicant is requesting approval to convert an existing temporary hardship dwelling to a farm relative dwelling. The property contains an existing single-family dwelling (primary farm dwelling) a 2001 Marlette manufactured home (temporary hardship dwelling), 3,100 square foot barn and several outbuildings. She further explained that the applicant, Dan Pearson, is requesting that his son, Tyler Pearson, live in the previously approved temporary hardship dwelling (2001 Marlette) to assist with operating the equine boarding and training facility. Mrs. Davchevski said the temporary hardship home was approved in 2000. At that time, the property was owned by Monty Hixson (applicant's step-father) and the hardship home was approved for Mr. Hixson's parents, George and Evelyn Hixson, who required care provided by Monty.

Mrs. Davchevski added that in 2017, Dan and Tonja Pearson purchased the property from Monty Hixson, applicant's step-father, and began living in the primary dwelling while providing care to Evelyn Hixson. She added that Evelyn continued to live in the hardship dwelling until late 2021. The Planning Department was contacted on November 10, 2021 by Mr. Pearson, who stated that Evelyn would soon need to be moved to assisted living. She said that Planning Staff informed Mr. Pearson that the temporary hardship home would need to be removed once Evelyn no longer lived in the home, in accordance with the original Conditional Use Permit approval granted in the year 2000.

Mrs. Davchevski further explained the background of this request, stating that on December 28, 2021, Dan Pearson contacted Planning Director, Robert Waldher, and requested information on how to keep the hardship home on the property. Mr. Waldher expressed concerns regarding whether there was a commercial farming operation occurring on the property. Mrs. Davchevski

said Mr. Pearson and his representatives have communicated many times with Planning Staff. Staff had specific concerns if there was a commercial farming operation occurring on the 27.26-acre property, and whether the farm operator or farm relative spent a majority of their working hours on the commercial farm operation. She explained that staff questioned if the existing farm operation warranted additional farm help to the level of requiring a farm relative dwelling.

Mrs. Davchevski said that Planning Staff received the Land Use Decision application from Mr. Pearson on December 30, 2022. Upon request from staff, Mr. Pearson provided additional information and 2021 tax documents on January 11, 2023. The application was processed, and the Preliminary Findings were mailed for a 21-day comment period on January 30, 2023. No comments were received.

Mrs. Davchevski explained that on February 17, 2023 the Planning Department accepted a request for a public hearing from the applicant, Dan Pearson. In the request for a public hearing the applicant stated he intends to demonstrate at the public hearing that he is operating a commercial farming operation. The applicant also stated his belief was that the County is not required to apply the \$40,000 income requirement as a safe harbor for approving a relative farm help dwelling. The applicant believes the requirement is to demonstrate that there is an “existing farm operation.” Additional documentation regarding the commercial intensity of the farm operation was not included in the request for a public hearing.

Mrs. Davchevski explained that on April 14, 2023, the applicant provided four letters to be included in the record and Planning Commission Packets. The letters were from: Pake and Bailey Sorey, Tom and Wendy Sorey, Kelsy and Kristan Garton, and one unknown writer.

Mrs. Davchevski noted that the criteria of approval are found in Umatilla County Development Code (UCDC) Section 152.059(K)(7) which codifies Oregon Administrative Rule (OAR) 660-033-0130(9)(a). She provided that during administrative review, Planning Staff found criteria (7)(a) has not been met:

“(7)(a) A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. A “relative” means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse and is subject to the following criteria.”

Mrs. Davchevski explained that “commercial farming operation” is not defined in Oregon Administrative Rule, Revised Statute or in the County’s Development Code. Staff used a combination of Land Use Board of Appeals (LUBA) “safe harbors” for determining if a farm operation qualifies as a “commercial” farm operation. The “safe harbor” used by staff in the Preliminary Findings of Fact was that the farm operator must devote a majority of his or her working hours to operating a farm on the subject property, and that the farm operation meets or exceeds the income requirement to qualify for a primary farm dwelling.

Mrs. Davchevski further explained the Planning Commission is tasked with determining if the application satisfies all the criteria of approval based on the facts in the record. The Planning Commission may agree with Planning Staff's "safe harbor" determination or may determine a different method for determining how a farm operation qualifies as a "commercial" farm operation.

Mrs. Davchevski concluded the Staff Report by adding the process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed. She stated if approved, a set of Precedent and Subsequent Conditions of Approval must be imposed and staff has identified the appropriate Conditions of Approval in the Preliminary Findings of Fact in the case of an approval.

Commissioner Williams asked if the request was approved, would staff require a new Conditional Use Permit? Mrs. Davchevski directed the Planning Commissioners to the back of the hearing packet on Page 16, subsection B. If the applicant satisfies all the criteria in UCDC 152.059(K)(7)) for establishing a farm relative dwelling, the following conditions of approval apply:

***"Precedent Conditions:***

1. *Sign and record a Covenant Not to Sue Document in the Umatilla County Deed Records.*

***Subsequent Conditions:***

1. *Obtaining a County Zoning Permit for the conversion of the temporary hardship dwelling to a farm relative dwelling. (Land use approval for the farm relative dwelling is valid for four years from the date of the signed final finding. An approval extension for an additional two years may be obtained prior to the expiration of the four-year approval date.)"*
2. *Obtain applicable septic permits from County Environmental Health.*
3. *If the farm relative dwelling is financed, the secured party may foreclose on the homesite."*

Commissioner Tucker asked if this home was originally approved to provide assistance to an elderly person? Now, if approved today, is it being approved because the elderly people will not be there, or assistance is no longer needed? He also asked what the long-term effects would be, if the applicant would have to remove the dwelling once the criteria no longer apply, or if the son decides to move out. Would the dwelling have to be removed or is it approved for eternity?

Mrs. Davchevski responded that it was originally approved for the help of an elderly couple and was to be removed once the need was no longer there. She added that if the application were to be approved the dwelling would be a homesite as long as it stood. Mrs. Davchevski clarified that there would be no requirement for it be reapproved if the son decided to move.

Chair Danforth commented that there were two people waiting in the Zoom waiting room. Staff allowed Tonja Pearson and Suzie Reitz into the Zoom meeting. Chair Danforth asked Commissioner Green (present via Zoom) if she had any comments or concerns. Commissioner Green responded that she had none.

Commissioner Gentry asked if the \$40,000 income requirement is the County's way of identifying if the farm can be classified as a commercial farm? Mrs. Davchevski responded that if someone came in to the Planning Department and wanted to establish a primary farm dwelling on a bare piece of land, state statute requires that the gross farm income be at least \$40,000 from the sale of farm products. Income could be generated by livestock or crops produced by the farm. Commissioner Gentry asked if there was something in place that referenced an acreage in LUBA case law. Mrs. Davchevski responded no. The LUBA decision quantified a commercial farm operation as satisfying the \$40,000 income requirement and the farm operator spent most of their working hours on the farm.

Chair Danforth asked if staff have found a business record for the applicant? Mrs. Davchevski responded that she researched the Oregon Secretary of State website and did not locate a business record. She also went on Google Earth where sometimes businesses pop up and did not locate a business name associated with the applicant or property. Commissioner Williams responded that she did not understand, was staff trying to find a Limited Liability Company (LLC)? Mrs. Davchevski said she was trying to find business documentation for the applicant. Commissioner Williams replied that an individual does not have to have a Limited Liability Company (LLC) to have a business. Chair Danforth responded that business owners could have a Doing Business As (DBA) or a Limited Liability Company (LLC). Commissioner Williams replied if the applicant is reporting what he is earning, it is still considered a business. Commissioner Tucker clarified that there is no statutory requirement or rule that an applicant must have a Doing Business As (DBA) or Limited Liability Company (LLC) and noted that it is good information to know. However, it does not determine the outcome of this hearing.

Commissioner Gentry asked how did the small EFU zoned parcel qualify for the first homesite approval? Mrs. Davchevski responded that she did not research how the home was originally approved, however, her guess is that it was built before 1972, which was when Umatilla County adopted the first Zoning Code. She did find the Zoning Permit that established the 1980 home and it was a replacement dwelling, the previous dwelling was destroyed by fire.

Commissioner Williams asked what ordinances require an applicant to spend more working hours on the farm than another job? Mrs. Davchevski responded that the requirement was established in several LUBA decisions. Chair Danforth asked if anyone had any other questions. Commissioner Wysocki asked if the property is in farm deferral? Mrs. Davchevski responded that she was unsure and stated that would be a great question for the applicant.

**APPLICANT TESTIMONY:** Applicant, Dan Pearson, PO Box 433, Pendleton OR 97801 & applicant's son, Tyler Pearson, PO Box 433, Pendleton OR, 97801.

Mr. Pearson Sr. stated that he brought pictures (Exhibit A) to tonight's hearing. Staff pulled up the property on the Umatilla County Interactive Map. Mr. Pearson Sr. demonstrated the driveway location. He stated the first picture he provided is directly across from the driveway and the other photos are east of the property. He further explained, his property, south of the road is not being used at this time to board horses because the fence is in bad condition. He explained the south

section across from the road of his property has been a pasture for as long as he can remember. Mr. Pearson added that prior to buying the property, his wife, Tonja Pearson, went to Umatilla County Records Department to see if the manufactured home had any title restrictions prior to buying it. Mr. Pearson Sr. found none.

Mr. Pearson Sr. noted that his son, Tyler Pearson, is a horse person and has been around them since he was young. Mr. Pearson Sr. is not a horse person. He shared that the Pearson family thought it would be a good opportunity for his son to build a business using the property. Mr. Pearson Sr. stated he bought the property from his step-dad in 2017 with intentions to board and train horses. He added that Doug Stewart, a family friend, owns a horse business in Jefferson, Oregon, and offered to show the Pearson's how he operates his business. Mr. Pearson expressed that from cleaning stalls to riding horses, his son spends close to 40 hours a week on the farm but not necessarily a 40-hour work week. The Pearson family has a sense of pride in training horses and maintaining the property. Mr. Pearson Sr. believes that within 5 years, they could be considered a commercial farm operation, but at this point they are building themselves to get to that status.

Chair Danforth thanked Mr. Pearson Sr. for his testimony and asked Mr. Pearson Jr. if he wanted to add anything else to the record. Mr. Pearson Jr. said that he helps his father eight to ten hours a week just with maintenance and cleaning the property and Mr. Pearson Jr. stated he works with each horse on average, eight hours a week per horse. He expressed that Mr. Pearson Sr. covered a lot of the information about the property and he has nothing further to add. Chair Danforth asked if the Commissioners had any questions for the applicant? Commissioner Wysocki asked when working with the horses, what services does the applicant offer the patron? Mr. Pearson Sr. replied they are feeding, boarding, and exercising each of the horses for an hour a week to keep them in shape for competition. He further explained that his son boards and trains horses for a client while they are working in Alaska. Commissioner Wysocki asked if the applicant has a gentleman's agreement or do they have a contract? Mr. Pearson Sr. replied they do have a contract; the agreed-to rate is \$35.00 a day per boarded horse but a copy of the contract was not brought to tonight's hearing.

Commissioner Wysocki referred to Exhibit A provided by Mr. Pearson Sr., and asked if there was an old windmill in the background? Mr. Pearson Sr. replied yes, the structure was indeed an old windmill. Commissioner Wysocki asked if the structure at the bottom of the photo was a well? Mr. Pearson Sr. replied they were working on the fence in the past when a woman stopped by and said she grew up on the property. The woman said in the past they had horses, a farm and (referring to the structure at the bottom of Exhibit A) was where the original house was. Mr. Pearson Sr. explained that he was not sure if that structure was a well. Chair Danforth asked Mr. Pearson Sr. how long he has been associated with the property? Mr. Pearson Sr. responded he went out to the property frequently when his step-dad was receiving cancer treatments. Additionally, his wife would stay the night occasionally over thirteen years prior to purchasing the property. He stated that Tyler Pearson was maintaining the property during that time.

Chair Danforth asked who was renewing the Conditional Use Permit annually? Mr. Pearson Sr. responded his family was filling out the renewal. Chair Danforth asked the applicants why they contacted the Umatilla County Planning Department? Mr. Pearson Sr. replied they have been renewing the hardship dwelling application and that is how they knew to contact the Planning Department. Chair Danforth asked how long they have been involved with the property, when the property was purchased in 2017? Mr. Pearson Sr. replied that Monty Hixson owned the property for twenty years prior to Mrs. Pearson and himself buying it. The Pearson family has been going to the property since Tyler Pearson was a child.

Commissioner Hinsley asked Mr. Pearson Jr. if he had another job? Mr. Pearson Jr. replied that he works as a journeyman electrician. He expressed that his goal was and still is to help other people train horses for mounted shooting. He said that the property is his main priority, this is his foot in the door to get his name established. Mr. Pearson Jr. added that he grew up riding horses with his aunt and uncle and has a very diverse knowledge of horses. Commissioner Wysocki asked the applicants if they have a business plan or a plan for expansion? Mr. Pearson Sr. responded that they do not have a written business plan, but they do talk about it and get insight from others on how to grow their business.

Chair Danforth commented that the hearing packet states the applicant is boarding three horses. Mr. Pearson Sr. replied that was correct. Chair Danforth asked if the contract was only for one horse? Mr. Pearson Sr. clarified that the contract was for all three horses. Commissioner Wysocki asked how many horses they could board? Mr. Pearson Sr. replied that with the current barn configuration, the number of horses would depend on how the customer wanted them boarded. Another factor is if the customer wanted them to be separated from other horses. He stated he could fit ten horses in the pasture, but they may need to build more shelters for five to ten more horses. Mr. Pearson Sr. explained that they would be able to have some horses on the pasture south of the road, but for liability reasons, they currently don't put horses on the pasture due to the poor condition of the fence. Commissioner Williams wanted to clarify that the applicant has three boarded horses and owns two other horses. She asked if they are training horses for mounted shooting? Mr. Pearson Sr. replied that Tyler Pearson is working with the horses and has barrel broken them. Mr. Pearson Jr. stated his plan is to show the progress of the horses and sell them, so he can get his name out there as a mounted shooter horse trainer. Mr. Pearson Jr. said a friend of his, Jessie Johnson, has done the same and she has done very well.

Commissioner Williams asked Mr. Pearson Jr. how the business benefits from him living on the property? Mr. Pearson Jr. replied the property is twenty miles from town and he would be driving forty miles round trip to work with the horses and help his parents with maintaining the property. Commissioner Williams wanted to confirm that time is the only factor. Mr. Pearson Jr. replied it is travel expenses as well and he has more knowledge about horses. He said if a horse is injured, his parents only have the knowledge to keep them comfortable until a vet arrives. Mr. Pearson Jr. added that he can administer drugs to the horses and is able to transport them. Commissioner Williams wanted to clarify that it is a time and a safety factor for the horses, also more money could go back into the business if he lived onsite. Mr. Pearson Jr. confirmed.



Chair Danforth stated with a \$40,000 income requirement, how long will it take for the business to get there? Mr. Pearson Sr. replied in 2022 they earned 50% more than in the past and he thinks it would take three to five years to meet the income requirement. Commissioner Williams commented that it takes five to maybe ten years to build a business and pointed out that with the rising cost of gas and other everyday items, it may take even longer to reach that goal. She added it may take 15 years to reach the requirement, and it takes a long time to build a business when you do not have money coming into it.

Commissioner Gentry stated that he knows a few things about horses, and that if someone sold two to three high value horses, it could put them over the income requirement. He also commented that there seems to be two standards that don't fit. This property is less than 30 acres in the Cold Springs area, and nothing against the applicant's property, but the farm revenue rate in Cold Springs is not that high whether you farm or run livestock on it. Commissioner Gentry added, the applicant is trying to figure out a way to make it "jive" when the two standards just don't go together. He stated that this is not a 160-acre farm property that would truly be a commercial farm. He is struggling to make the two standards fit. Commissioner Hinsley asked for the value of a trained horse? Mr. Pearson Jr. replied that a trained horse, depending upon the trainings and title, can sell for \$8,000. He further explained, some shooting horses on average sell \$20,000 to \$30,000, but for an average the applicant's horse would sell for \$10,000 to \$15,000.

Commissioner Wysocki said that he read in the hearing packet that the applicant is providing weed control, and asked what the applicant is doing to control them? Mr. Pearson Sr. responded that he has yellow star weeds and he is pulling a lot of them. He said he does spray occasionally but the ground is so light he can just pull them. Chair Danforth asked the applicant if there is a domestic well on the property? Mr. Pearson Sr. nodded yes. Chair Danforth asked what is the amount of acreage of water that a domestic well could supply? Mrs. Davchevski replied one domestic well could supply up to one-half an acre. Chair Danforth said she was wondering how the applicant is going to grow anything on the property for the horses? Mr. Pearson Sr. responded that on his property the soil is so light, it would be hard to grow crops. Mr. Pearson added that they buy hay to feed the horses.

Chair Danforth asked the Commissioners if they had any other questions. None were asked. She asked Mrs. Pearson who was present, via Zoom, if she had anything to add? No response was made. Chair Danforth asked Suzie Reitz who was also present via Zoom if she had anything to add? She responded that she supports the proposal. Chair Danforth asked if there were any comments from public agencies. None were received. She called for opponents. She called for rebuttal. None were made. Chair Danforth closed the hearing and added Exhibit A to the record.

### **DELIBERATION & DECISION**

Commissioner Tucker asked if the \$40,000 income requirement must be met in any circumstances or are there circumstances in which the income requirement does not have to be met? And is it still possible to approve? He commented that he had the understanding that there could be possible approval if other conditions were met. Mrs. Davchevski responded the criterion that needs to be

met is whether a commercial farm operation is occurring on the property. She stated that a commercial farm operation is not defined in the development code and because of that issue, there has been a lot of LUBA cases surrounding it. She added that LUBA has designated safe harbors to determine if the farm operation is a commercial farm operation. She further explained if the Planning Commission plans to apply a different safe harbor to define it as a commercial farm operation there would need to be findings on what the standard is for determining a commercial farm operation and how it applies to the applicant's request. Commissioner Tucker replied that safe harbors do not necessarily end the discussion and it is possible to find another reason to approve it even though this safe harbor was not met. Staff responded yes.

Commissioner Tucker said staff spoke of a relative farm dwelling for help and asked if this was not possible in this case? Mrs. Davchevski replied a farm relative dwelling and a farm relative help dwelling are the same thing just different terminology. Commissioner Tucker responded that a farm help dwelling is one where there is a four-year authorization with an increase of possible two years. Mrs. Davchevski asked where Commissioner Tucker was reading that? Commissioner Tucker pointed to page 10, paragraph seven, in the Planning Commission hearing packet, it states dwellings that are approved under this section are valid for four years. Mrs. Davchevski clarified that this section pertains to the application being approved and if it was approved, the approval is valid for four years. She further explained that the applicant has four years to meet all conditions of approval, the approval is finalized with an over-the-counter Zoning Permit. Commissioner Tucker asked if all the things we talked about like the \$40,000 income requirement safe harbor still applies in four years? Mrs. Davchevski said if the applicant doesn't get a Zoning Permit within four years they would need to reapply.

Chair Danforth commented that the Planning Commission has seen many hardship dwelling cases where the dwelling has been removed after the person has passed. She said she feels this was known to the family because it was brought to them as a family hardship. She sympathizes with Mr. Pearson Sr., he purchased the property and he was told the second dwelling would stay there. Chair Danforth added that looking at the records, the deed, and trying to do their due diligence with nothing recorded is a problem we have as the County. Chair Danforth made comments that there should be more provisions in our County Development Code. Mrs. Davchevski replied that this is issue something the Planning Department strives manage better today. She noted that when staff are approving hardship homes now, the applicant is required to record a document that will appear in a title search. Chair Danforth responded she was aware and agrees with Commissioner Gentry that the property isn't over 180-acres that is producing a crop and agrees that horses are a business. She expressed that this is difficult a decision for her because she believes it is in the grey area.

Chair Danforth emphasized, if approved, two dwellings will be on the property in perpetuity. Commissioner Wysocki asked if the current dwelling could be replaced if this was approved today? Mrs. Davchevski replied that if it satisfied the replacement criteria, then yes, they could replace it with a new home with the appropriate permit. She commented that there is no requirement for the current dwelling to be removed if ownership changes. Chair Danforth added

that the Oregon Governor wants to have more housing everywhere and possibly RV's. Chair Danforth wondered if this is approved, are there going to be RV's added to the property? This property is not over 100 acres and is smaller, so she is unsure if it can satisfy the criteria as a new business venture. Commissioner Standley asked if he could make a comment. Chair Danforth denied his request.

Commissioner Green said that she has horses and understands the work that goes into them. And it is ideal to have someone onsite. She again mentioned the small acreage of the property and would not be opposed to possibly seeing if it could receive short term approval to see if they can become a commercial farm. Commissioner Hinsley made a comment that her father-in-law boards more horses than the applicant on a much smaller piece of property. Commissioner Hinsley asked who are we to say that we can't make it work for the applicant considering the length of time the home has already been there?

Commissioner Williams stated that she understands the worry of meeting the criteria, but if the applicant wants to run a horse business then they should be able to. If they don't operate the horse business and sell the property, it is just going to sit there as bare 20 acres. She stated that she would like to give him a chance and give them four years to see if they can succeed. She commented that the 20-acre property is good enough for horses; they can feed them hay, train them, and she thinks it would be a good opportunity for the farm operator. She added that she would hate to see the nice dwelling torn down when there is chance for a business in our community. Commissioner Williams stated that she has never heard of mounted shooting horses and believes Mr. Pearson Jr. has a skill that is valuable and could teach others, which is very cool. She believes he could meet the income requirement if given a chance.

Mrs. Davchevski asked to clarify something; the four years is not a deadline for the applicant to become a commercial farm operation, it is a deadline for them to get the Zoning Permit. She added that for the farm relative dwelling approval would be valid for four years. And after four years if a Zoning Permit was not submitted the applicant would need to reapply to establish the farm relative dwelling. Chair Danforth asked what is required of the applicant? Mrs. Davchevski replied that, if approved, the Conditions of Approval require the applicant to supply a Covenant Not to Sue Document to Umatilla County Records and obtain a Zoning Permit. Chair Danforth asked what is the requirement to get a Zoning Permit? Mrs. Davchevski explained that a Zoning Permit is an over-the-counter two-page permit that requires property owner signatures and a site plan. The permit has a \$100.00 fee.

Commissioner Wysocki asked if the applicant would have to go through this process again? Staff responded that the decision made tonight is final unless appealed. Chair Danforth clarified the applicant has four years to get a Zoning Permit. Staff confirmed and clarified that the Zoning Permit finalizes the action. Mrs. Davchevski explained that at a later date if approved, the dwelling could be replaced if the property owner chose to, with permit approval from the Planning Department. Chair Danforth noted that this could be for either home, and that two dwellings on

the property really could increase the value. Chair Danforth asked the Commissioners if they have a motion?

Commissioner Hinsley stated she would like to make a motion to approve, she just needs some help wording it correctly. Mrs. Davchevski clarified that if the Planning Commission were to approve this request then they would need to decide what constitutes a commercial farm operation and how the applicant meets that requirement. Commissioner Hinsley responded that she is going to have some trouble with that. Chair Danforth stated that herein lies the problem, this is a budding commercial farm operation. Commissioner Gentry stated that the property is limited for commercial grazing and crops, the applicant is maximizing the use of the property with what they have available. Chair Danforth stated that if the Planning Commission chooses to approve this request and designate it as a commercial farming operation then 'commercial farm operation' needs to be defined.

Commissioner Williams stated that her understanding when reading the packet, is that the high-income requirement is a result of marijuana and wineries being high value crops. She asked, why can't the Planning Commission make an exception for horses? Mrs. Davchevski explained that marijuana can't be used to qualify for a dwelling as established in the Umatilla County Development Code. Commissioner Williams clarified that she was referring to the \$40,000 income requirement. Mrs. Davchevski responded that the \$40,000 income requirement comes from state statutes for establishing a primary farm dwelling and she pointed out that this property already has a dwelling. Chair Danforth added that the income requirement came from a LUBA decision. Mrs. Davchevski confirmed Chair Danforth's statement. Commissioner Williams asked, why can't the Planning Commission make an exception for horses? Mrs. Davchevski responded that state statute does not allow counties to be less restrictive. Commissioner Williams asked if they can change that? She insisted that staff needs to help the Planning Commission approve this request. She asked why is the Planning Commission even here if they can't change things like that? Mrs. Davchevski replied that the Planning Commission can't change what the requirements are in our code for a primary farm relative dwelling tonight, but what they can do is define what a commercial farm operation is. She further explained that the Planning Commission decides if an operation is a commercial farm operation or a hobby farm. Commissioner Williams asked if the Planning Commissioners can make the decision when the commercial farm earns \$2,000 or \$3,000 a year? Mrs. Davchevski clarified that the Planning Commission's cannot change the income requirements for a dwelling, but they can define what constitutes a commercial farm operation.

Commissioner Green stated she believes this is a commercial farm operation because they are selling a farm product for a profit. She referred to the livestock and crops as a product being sold on the market for a profit, as a business. She asked the Planning Commission if that makes sense to them? Commissioner Williams asked staff if a definition like what Commissioner Green presented would be enough? Mrs. Davchevski responded that it is the Planning Commission decision. Commissioner Williams commented that she likes what Commissioner Green defined as a commercial farm operation and asked her to repeat it. Commissioner Green restated that a commercial farm operation is defined as farming operation producing a product which is being

sold on the market for a profit. She added that in this case the farm operator is selling horses. Chair Danforth stated that the farm operator is not just selling horses, he is training them. Commissioner Green stated that she knows the farm operator provides a service, but he is also providing a product because he sells the horses once they're trained. Commissioner Williams asked staff if that definition would work? Mrs. Davchevski replied that it is not staff's decision, it is the Planning Commission's decision.

Commissioner Hinsley made a motion to approve the request, stating that she believes the farm operator is selling horses for profit and that constitutes a commercial farming operation. Others agreed that the farm operator is providing farm related services, as well. Chair Danforth explained that language like that would limit all commercial farming operations to only services for horses, therefore we shouldn't specify what kinds of specific products and services unless we want to limit the definition to only include those listed. Commissioner Williams asked to add livestock to the definition. Commissioner Green stated a commercial farming operation is a type of farm in which crops and livestock are sold on the market for profit. Commissioner Gentry stated that she needs to add services as well.

Commissioner Hinsley asked if they are not establishing the reason to approve this, but they are establishing a whole new code? Mrs. Davchevski clarified that they are establishing a basis to define this operation as a commercial farm operation for establishing a farm relative dwelling. Commissioner Tucker stated that he has a question, he was not aware that any decision that they make would define the terms applicable to this hearing would have to be applied to any future requests? Mrs. Davchevski responded that tonight's decision will not affect the development code, but it could be referenced in future decisions related to farm relative dwellings. Commissioner Tucker stated this decision made by this body is applicable and it could be referenced in the future. Commissioner Hinsley replied any time we are going outside the Development Code they would be here talking about it again. Commissioner Tucker stated the Planning Commission doesn't want to say we are going outside the County Development Code; The Planning Commission wants to say that this decision is consistent with Umatilla County Development Code. Commissioner Hinsley commented they would still have to come and present it. Mrs. Davchevski clarified that the Planning Commission is interpreting what a commercial farming operation is and how it applies to this request. Commissioner Williams said the Planning Commission is not changing the Umatilla County Development Code, but they are making a decision that could possibly be referenced back in the future. Adding that they are the ones who choose if it is common sense or not, and they all have the right to vote on tonight's hearing.

Commissioner Hinsley made a motion to approve this request, stating this is a type of farming in which crops and livestock are sold, and services are provided for a profit. Mrs. Davchevski responded the motion statement is in the Planning Commission's findings and directed Commissioner Hinsley to the sample on page thirty of the hearing packet. Chair Danforth asked if the farm operator would still have to spend most of their time working on the farm? Mrs. Davchevski clarified that the findings would still change from what is in the packet. On page twelve, this statement would change to say the Planning Commission finds the farm operator sells

a product and provides a service for a profit, the farming operation is a commercial farm operation. Commissioner Tucker stated based upon the evidence that was heard in this case, the farm operator spends half their time working on the farm. He explained based on Mr. Pearson Jr.'s testimony, removing vacation and sick leave, the farm operator is at 35 hours a week at another job. The Planning Commission could say based on this, the farm operator devotes half their time to the farm operation and this would support the motion on the table. Mrs. Davchevski clarified the sections that refer to the income requirement would be removed because that was the safe harbor that staff referenced. Commissioner Tucker stated that the Planning Commission is not using a safe harbor and that he would somewhat support the decision based on the number of working hours the farm operator devotes to farm operation.

Commissioner Hinsley made a motion to approve this Land Use Decision with the following findings: because it is a commercial farm operation, because the livestock are sold for a profit, because the farm operator provides services, and the farm operator devotes half their working time to the farm operation. Commissioner Gentry seconded the motion. Motion passed with a vote of 5:2.

### **MINUTES APPROVAL**

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

### **OTHER BUSINESS**

Mrs. Davchevski stated the Planning Department had been renamed Community Development Department and there has been some reorganization. Robert Waldher is now the Community Development Director and is focusing more on economic development. Megan Davchevski is now the Planning Manager and oversees the planning side of the department. Tierney Cimmiyotti has been promoted to a Planner. Mrs. Davchevski introduced our new Administrative Assistant, Bailey Dazo. She also added that there is a vacancy for one Planning Commissioner. The next Planning Commission meeting on May 18<sup>th</sup>, 2023 is going to be a week early and will be taking place at the County Courthouse in the Commissioner's meeting room, 130.

### **ADJOURNMENT**

Chair Danforth adjourned the meeting at 8:14 pm.

Respectfully submitted,  
Bailey Dazo, Administrative Assistant

Minutes adopted by the Planning Commission on July 27, 2023