

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, December 17, 2020, 6:30 pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
Virtual meeting via Zoom

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Molly Tucker Hasenbank, Tammie Williams, Tami Green, Lyle Smith, Hoot Royer

ABSENT: Don Wysocki, Vice Chair, Jon Salter

STAFF: Bob Waldher, Planning Director; Tierney Cimmiyotti, 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 6:36 p.m. and read the Opening Statement.

NEW HEARING

TEXT AMENDMENT #T-20-083, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, INCORPORATING THE OPPORTUNITY TO CREATE PARCELS TO ACCOMMODATE UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE. The applicant, Umatilla Electric Cooperative (UEC), proposes text changes to the Umatilla County Development Code (UCDC) that would incorporate the provisions of Senate Bill 408 (enrolled 2019) to allow the creation of parcels to support utility facilities necessary for public service on land zoned Exclusive Farm Use as defined in Oregon Revised Statute (ORS) 215.213(1)(c) and 215.283(1)(c). The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. He stated that UEC proposes text changes to the UCDC that would incorporate the provisions of Senate Bill 408 to allow the creation of parcels to support utility facilities necessary for public service on land zoned EFU as defined in ORS 215.213(1)(c) and 215.283(1)(c).

Mr. Waldher explained that UEC worked through the Oregon Legislature in 2019 accomplishing the passage of Senate Bill 408. The intent of this legislation was to create a pathway for utility providers to achieve ownership of the land associated with their infrastructure without using more EFU land than is necessary, something not previously allowed in ORS 215.263. For UEC, this is related to the siting of substations and related infrastructure, but not linear facilities such as transmission lines, which do not require the creation of a new lot.

Mr. Waldher stated that UEC worked with 1000 Friends of Oregon and the Oregon Farm Bureau to develop statutory language that is limited in scope to prevent any parcel created under the statute from being rezoned later if the utility facility ceases to exist. The legislation is not self-implementing and each county must individually adopt regulations for this purpose. In support of this, the applicant has submitted the required application and supporting documents that provide the proposed text changes within the UCDC that will implement the statute.

Mr. Waldher stated that the criteria of approval for amendments are found in UCDC 152.750-152.755. He added 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 EFU zoning within unincorporated Umatilla County. Therefore, the County has the authority to consider and approve the Text Amendment. 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 Wednesday, January 6, 2021 at 9:00 AM.

Mr. Waldher stated that he received a letter of concern and request for clarification from Athena resident Granella Thompson. She asked for more information about Senate Bill 408 and expressed concern about the possibility of increased non-farm or industrial type uses on EFU land. Mr. Waldher reached out to Ms. Thompson via email, assuring her that Senate Bill 408 will not add to the list of uses allowed on EFU land. He explained that the purpose is to allow for partitioning of smaller pieces of EFU land to be used for utility facilities. Ms. Thompson replied that she appreciated the information and did not submit additional testimony for the hearing. Mr. Waldher stated that this was the only public comment or request for clarification received by staff.

Chair Danforth asked for clarification regarding the statement on page 4 of the Preliminary Findings of Fact & Conclusions of Law in the hearing packet. Addressing, *Goal 6 Air Water and Land Resources Quality*, the statement reads, “[t]he proposed text amendment does not seek approval of a specific development but seeks to create the opportunity for land divisions in support of the siting of utility facility infrastructure. The UEC has an interest in owning the land associated with built substations and related items, not linear facilities.” Chair Danforth asked for more information about what are considered to be “related facilities”. Mr. Waldher stated that substations often require other structures like equipment storage buildings, for example. This language was used to allow for partitions to include the entire substation area in addition to other structures related to the operation of the facility.

Applicant Testimony: Tommy Brooks, Attorney, Cable Huston LLP, 1455 SW Broadway #1500, Portland, Oregon, presented applicant testimony.

Also present on behalf of the applicant:

- Carla McLane, Representing UEC, 170 Van Buren Drive, Umatilla, Oregon.
- Wendy Neal, UEC Land Use Specialist; Josh Lankford, UEC Vice President Engineering & Operations; Alec Shebiel, UEC Director of Government Affairs; all located at 750 West Elm Avenue, Hermiston, Oregon.

Mr. Brooks stated that he is part of the UEC legal team and feels that Mr. Waldher gave a good explanation of the request to amend the UCDC text. He explained that this amendment is necessary because UCDC 152.059(c) allows for utility facilities necessary for public service to be established in the EFU Zone (per ORS 215.275). However, at this time there is no process in place to create smaller parcels for this allowed use. As a result, substations are being developed on parcels that are larger than needed, wasting potentially usable farm ground. Mr. Brooks noted this was an unintended consequence and needs to be addressed. He added that this amendment to the text was intentionally written to be very specific and targeted. If approved, there will be no modifications made to the allowed uses in the EFU Zone as part of this request.

Mr. Brooks responded to Chair Danforth’s earlier question regarding use of the term, “related items”. He stated that engineers have a tendency to use the term “substation” to encompass all elements of a substation including; switch yard, fence, outbuilding, poles, etc. The UCDC has more specific language using land use definitions which may limit the interpretation of what is considered to be a utility facility, excluding the other elements which are required as part of the process. The “related items” portion was added to ensure the amendment includes all pieces of the utility facility structure.

Chair Danforth asked if this Text Amendment request only applies to substations and related uses. Mr. Brooks replied yes, and reiterated that this request is specific to substations and related uses.

Opponent Testimony: No comments.

Public Agencies: No comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Chair Danforth stated that she believes this request makes a lot of sense. She likes that the utilities will be able to partition EFU properties in order to purchase the land in smaller acreages, preserving farm ground. Also, the ability for the utility facilities to own the land they are

operating on (instead of leasing) will protect land owners from the liability associated with this particular land use activity and put the liability back on the utility facility, which is more appropriate.

Commissioner Williams made a motion to recommend approval of Text Amendment #T-20-038, to amend the Umatilla County Development Code, incorporating the opportunity to create parcels to accommodate utility facilities necessary for public service, to the Board of County Commissioners. Commissioner Smith seconded the motion. Motion passed with a vote of 6:0.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the November 19, 2020 meeting. Ms. Cimmiyotti identified four grammatical errors to be corrected. Commissioner Hasenbank moved to approve the minutes with noted corrections. Commissioner Green seconded the motion. Motion carried by consensus.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:09 PM.

Respectfully submitted,

Tierney Cimmiyotti
Administrative Assistant

Minutes adopted by the Planning Commission on February 25, 2021.