



# PLANNING DEPARTMENT

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**Minutes of the Public Meeting of the  
Morrow County Planning Commission  
Tuesday, September 29, 2020, 7:00 p.m.  
Bartholomew Building, Heppner Oregon  
(Also video conferenced via Zoom)**

**Morrow County Planning Commissioners Present:** Chair Jeff Wenholz, Vice Chair Mifflin Devin, Stanley Anderson, Stacie Ekstrom, Wayne Seitz, Karl Smith, Greg Sweek, and Rod Taylor.

**Morrow County Planning Commissioners Absent:** Brian Thompson

**Morrow County Staff Present:** Stephanie Case, Planner II/Interim Planning Director; Stephen Wreacsics, GIS Planning Technician; Justin Nelson, County Counsel; Gregg Zody, Community Development Director, and Dianna Strong, Office Assistant.

The Pledge of Allegiance was recited.

**Approval of Minutes:**

Commissioner Taylor moved to approve the Minutes of August 25, 2020. Commissioner Devin seconded; and the motion carried.

Minutes of the Special Planning Commission Hearing on September 4, 2020, were made available earlier today. Staff recommends the Commissioners choose to wait until the October hearing to approve/amend these minutes, so they have time to review them sufficiently. All agreed.

Planning Commission Chair Wenholz read the Planning Commission Hearing Procedures.

Tamra Mabbott was welcomed as the new (returning) Planning Director for Morrow County.

**Land Partition LP-N-484-20: Ronald V. McKinnis, applicant and Kathleen Close and Mari Gordanier, owners.** The property is described as tax lot 1500 of Assessor's Map 5N 27E 20. The property is zoned Rural Residential (RR) and located outside the Irrigon Urban Growth Boundary between 16<sup>th</sup> and 18<sup>th</sup> Streets on Oregon Lane. Request is to partition a 21.45-acre parcel to create 2 parcels. Criteria for approval includes the Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.040 Rural Residential Zone and Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

Planner II, Stephanie Case presented the request.

Comments were received from West Extension Irrigation District, stating this property is within the Irrigation District but they do not have water rights.

Comment was received from County Surveyor Stephen Haddock, stating that a portion identified in the preliminary findings is not listed on the current deed. The applicant has responded and said the clients will receive a corrected deed.

Opened the testimony portion of the Public Hearing.

Ron McKinnis spoke in favor, on behalf of Kathleen Close and Mari Gordanier, property owners. Mrs. Close and Mrs. Gordanier have submitted information to a title company, seeking to obtain a correction deed. Regarding the condition of approval that they seek site suitability, Mr. McKinnis questioned the need, as they have no intention of building on the larger piece of land. Umatilla County Public Health requires it on all residential pieces of property. Discussion followed, regarding how to avoid unnecessary costs when there are no plans for building.

None spoke in opposition. None had neutral comment.

Chair Wenzholz led a discussion of whether or not the Commission should require site suitability for both parcels of land, or just for the smaller parcel #2 as it is the one that will need a plat. Staff recommended we be mindful of the expense for the applicants.

Closed the public testimony portion of the hearing.

Commissioner Sweek made a motion to approve LP-N-484-20, Commissioner Taylor seconded the motion. The vote was taken by roll call, with all Commissioners in attendance voting in favor. The motion carried.

**Land Partition LP-S-485-20: Sylvia Sandford and Richard Sandford III, applicants and owners.** The property is described as tax lot 901 of Assessor's Map 1S 24E. The property is zoned Suburban Residential (SR) and General Commercial (CG) and located West of Lone within the Lone Urban Growth Boundary. Request is to partition an approximately 19-acre parcel to create 3 parcels. Criteria for approval includes MCZO Article 3 Section 3.050 Suburban Residential Zone, Section 3.060 General Commercial Zone, and MCSO Article 5 Land Partitioning.

This Land Partition application for Sylvia Sandford and Richard Sandford III has been withdrawn, as the parcel is within the city limits of Lone, Oregon.

**Replat R-S-058-20: Port of Morrow, applicant, Port of Morrow and Kevin and Candy Chick owners.** The property is described as tax lots 600, 700, and 800 of Assessor's Map 2S 26E 21. The property is zoned General Industrial (MG) and located west of Heppner along State Highway 74. Request is to reconfigure parcels 1, 2, and 3 of Partition Plat 2012-08. Criteria for approval includes MCSO Article 5 Land Partitioning.

Commissioner Devin declared that he is employed by the Port of Morrow, but voting on this application would have no bearing on his job.

GIS Planning Technician Stephen Wreccsics presented the request.

Opened the testimony portion of the Public Hearing.

None spoke in favor or opposition. None had neutral comment.

Closed the public testimony portion of the hearing.

Commissioner Taylor made a motion to approve R-S-058-20, Commissioner Devin seconded the motion. The vote was taken by roll call, with all Commissioners in attendance voting in favor. The motion carried.

**Conditional Use Permit CUP-N-343-20: Energy of Utah LLC, applicant, and William J. Doherty Trust, owner.** The property is described as tax lots 400, 403, and 2400 of Assessor's Map 1N 26E. The properties are zoned Exclusive Farm Use (EFU) and located 12 miles NE of Lexington along Highway 207. Request is to allow by conditional use the construction and operation of an approximately 20-megawatt Photovoltaic Solar Array. Criteria for approval for CUP-N-343-20 includes the MCZO Article 3 Section 3.010 EFU and Article 6 Conditional Uses.

Mr. Wrecsics presented the application and vicinity map.

Commissioner Seitz brought up questions about the lack of a Power Purchase Agreement. The background information for this project states that all of the power produced by the facility will be purchased by Columbia Basin Co-op, but as of this hearing this agreement is not yet in place. Director Mabbott stated that this is not uncommon practice.

Comment letters to add to the record – attached to these minutes:

- Request for continuance from the applicant
- 2 letters from Oregon Department of Fish and Wildlife (ODFW)
- 2 letters from Oregon Department of Land Conservation and Development (DLCD)
- 2 e-mails from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
- Letter from the Federal Aviation Administration (FAA) with a link for their process to submit Determination of No Hazard letters
- Communication with Kimberly Peacher, US Navy
- Supplemental comments from the applicant

Director Mabbott spoke about state agency letters that came in this afternoon, which is not uncommon, and introduced the new DLCD Regional Representative for Morrow County, Anne Debbaut, who participated in the hearing via Zoom.

Director Mabbott spoke about the need for arable soils to be determined by the County, based on the map prepared and presented by Mr. Wrecsics. If a solar project includes 20 acres or more of arable land, it requires a Goal 3 exception. While the applicant does not agree, she and Mr. Wrecsics felt it should be shared with the Commission and added as a Condition of Approval.

Two additional items were addressed that were in the original packet for the August 25 hearing:

- ODFW very clearly recommends including a survey of habitat for special status species in the proposed parcel of land.
- CTUIR Cultural Resources Protection Program (CRPP) recommends an archaeological survey, "due to the proximity to a historic property of religious and cultural significance." In response to the applicant's question as to why there is no inventory of Goal 5 resources, it is necessary to protect them to prevent disturbances of these resources. Staff recommends a cultural survey of the footprint of the solar array.

Opened the testimony portion of the Public Hearing.

In favor:

Bill Adams spoke in favor of the application. Landowners acknowledged there to be only about 10 acres of cultivated land in this area. There is no high-quality farm land on the 88 acres of the site. Mr. Adams spoke about his letter of August 21, 2020. The County is required to accept the ORS standards, even if they have not been adopted into the Morrow County code, as if they are part of the code. He referred to comments in a letter from ODFW, agreeing to conduct the requested survey. Regarding comment letters from the Confederated Tribes of the Umatilla Indian Reservation, Mr. Adams states the lack of specifics makes it impossible to avoid historically significant sites and artifacts. However, if anything were discovered in the excavation for this solar project the work would stop immediately and authorities would be called to investigate.

Ros Vrba, engineer for the project, spoke about the specifics of the project. He declared the late comments given before the last scheduled hearing to be unprofessional. This has happened again today, with maps and comments provided without appropriate time to prepare responses. He spoke about other projects within Oregon, and their commitment to cultural, environmental, and economic concerns.

Chair Wenholz questioned the plan for the output of energy generated by the solar farm, especially since Columbia Basin Electric is already at full power capacity. There is not a prior Power Purchase Contract in place. Mr. Vrba stated that while it is preferred, it is not required to have a Power Purchase Agreement. Columbia Solar will be responsible for necessary upgrades to a substation to accommodate more power. Third-party studies are happening, both by Columbia Basin and by Columbia Solar. Currently there is not an interconnection agreement with Columbia Basin. Bonneville Power Administration and Columbia Basin are obligated to purchase generated power, according to PURPA (Public Utility Regulatory Policies Act).

In opposition: None

Neutral Comments:

Hilary Foote, DLCD Farm/Forest Specialist, sent comments. Anne Debbaut, DLCD Regional Representative, spoke via Zoom regarding these comments. Specific concerns were stated regarding moving forward without applying conditions to insure avoidance of adverse effects to agricultural lands and special status wildlife, as well as assurance that the CTUIR will have their site evaluation request addressed.

Commissioner Anderson asked if the military had any concerns over glare and flight training in the area. Mr. Wreccics referred to communication received from Kimberly Peacher, Navy, which states the proposed project "does not appear to cause an impact to military training or operations."

Steve Cherry, ODFW, offered clarification of the letter, dated September 25, 2020, regarding protection of a Goal 5 resource. Since Goal 5 has not been updated in recent years, ODFW offers to develop a specific resource management plan to help mitigate potential conflicts. Secondly, and probably more important, are the potential risks of adverse effects for State Special Status Species. The most at risk is the Washington Ground Squirrel, which is a state-endangered species, followed by Ferruginous and Swainson's hawks, which are state-sensitive species.

Director Mabbott asked Mr. Cherry about the possibility of determining a habitat without on onsite survey. He confirmed that, without being on the ground, there would not be an adequate way for ODFW to determine if these special status wildlife would be at further risk.

Mrs. Mabbott addressed the fundamental disagreement over some facts. Even if a farmer states the land is unusable, the code defines that there are 22 acres of arable land. Legally, Mrs. Mabbot feels there is not a way to approve this application, without first addressing Goal 3. Secondly, at this point there are wildlife and cultural concerns that could be addressed with conditions of approval, but the Commission needs more information. Overall she feels this application is a bit premature. If this application could be continued, the Planning Department could work with the applicant to fine-tune this application, it might be helpful.

Mr. Adams presented a letter dated September 29, 2020, from Liz Fancher, attorney for the applicant, in response to the September 25, 2020, letter from ODFW. Mr. Adams stated that the land in discussion is not being cultivated and therefore is not arable. The County presenting the arable land maps today is in dispute. Mr. Vrba asked that the record be held open for 7 days to study the County soils map and make changes. The acreage can be cut down to 18, from 20, so a Goal 3 threshold will no longer be of concern. He is sure the County map is incorrect, as this is not arable land.

County Counsel requested a break to review and discuss what Mr. Adams presented, regarding the difficulty in documents presented at the meeting. Upon return to the Commission meeting, Mr. Nelson explained that the process still needs to be handled in a timely manner. The time is for the Commissioners to have adequate ability to formulate what conditions might be necessary to create an agreement between the applicant and any necessary terms which may need added, according to multiple comments from affected agencies.

Closed the public testimony portion of the hearing.

Mr. Nelson explained the difference between the applicant requesting a 7-day continuance, in order to respond to comments, and the Commission voting to postpone a decision until the next hearing. Continuing the hearing to next month could allow staff to meet with the applicant and discuss details in person.

Commissioner Sweek made a motion to continue this hearing to next month's meeting, Commissioner Taylor seconded the motion. The vote was taken by roll call, with all Commissioners in attendance voting in favor. The motion carried.

**Public Comment:** None

**Other Business:**

The next meeting of the Morrow County Planning Commission is scheduled for Tuesday, October 27, 2020 at 7:00 pm.

Meeting was adjourned at 9:10 p.m.

Respectfully Submitted,  
Dianna Strong