

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS
Land Use Hearing of June 7, 2010
1:30 p.m.
Doherty Conference Room
Stafford Hansell Government Center
Hermiston, Oregon

** **

COMMISSIONERS PRESENT: Dennis D. Doherty, Chairman; Bill Hansell, Vice Chairman; Larry Givens, Commissioner

COUNTY COUNSEL: Doug Olsen

MEMBERS & GUESTS PRESENT: Tamra Mabbott, Umatilla County Land Use Planning Director; Stan Foster, Principal for Public Affairs Research Consultants; Kevin Kiernan, Principal for The Kiernan Companies

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CALL TO ORDER

The meeting was called to order at 1:33 p.m. Chairman Doherty reminded all present that the meeting is a public forum, explained the order of events for the hearing and conducted the requisite recitations as required pertinent to the conduct of a land use planning hearing in the State of Oregon.

Commissioner Hansell stated for the record that he had been friends with the property owner and with Stan Foster for many, many years.

BUSINESS ON AGENDA

Staff Report: Tamra Mabbott presented the staff report to the Board as follows:

- The Planning commission approved the application unanimously a week and a half previous to the present hearing.
- The applicants would prefer to operate on an accelerated schedule with plans to break ground by early fall.
- The applicants engaged in coordinated agency discussion prior to the planning commission hearing.
- Both ODOT and LCDC provided letters of support for the proposal and those were included in the file provided to the Board of Commissioners.
- Tamra Mabbott then provided a PowerPoint presentation showing the location as situated with a small section of the subject property having split zoning. There was a pending construction review on adjacent properties which were previously decided upon for the applicants Flying J and Petro.

- The proposal would rezone the property so that the west side would be LRLI and the east would be LI with an LU Overlay having a Goal 3 exception. There had been no water rights since 1984 making the property unqualified for a farming exemption.

- On the east half of property, an exception to Goal 14 was requested due to the size of the facility and type of use (urban). The record reflected that a goal 14 exception was requested for the east side of the property only.

Commissioner Hansell asked for the location of the Port's water system. Tamra Mabbott explained that the source was on the other side and considerably up Westland Road.

Commissioner Hansell asked why the need to split the zoning. Tamra Mabbott explained that it was necessary to ensure that the property's use met the state's requirements.

Commissioner Doherty asked if any of the property was at one time in the boundaries of the Depot. Stan Foster and Roger Bounds, the property owner, stated that the property had been in the Bounds family for about 90 years. So, there was no chance of any of it having been part of the Depot.

Stan Foster explained further that the property access to the roads would be Westport Lane.

Commissioner Givens asked which two buildings were immediately adjacent to the property. Those two buildings were Hales' onion sheds.

Tamra Mabbott continued as to the characterization of Westport Lane, which was a public easement, dedicated by the Port.

Commissioner Hansell asked about the water rights for the property. Tamra Mabbott explained that a permit would be issued for an exempt well to be drilled.

- Transportation impacts: Westport Lane and Westland and then Westland/Walker/Lamb would need improvement. A design was submitted by Kiernan and supported by the county's Public Works Director. The estimate, provided by Swaggart in support of those improvements, amounted to about \$141,000.

- The planning commission in its motion of May 27th set forth the conditions for approval. The variance was approved by the commission and, therefore, no further action on that was requested of the Board of Commissioners. However, per the development agreement, the actions to be addressed were summarized as 3 specific items: the applicant would cooperate in installing turn lanes to address the impacts to Westland Road at Westport Lane, the applicant and county would sign and record the development agreement to complete improvements to Westland Road, and the applicant would participate in an agreement with the tenants and owners on Westport Lane addressing necessary improvements and maintenance to the lane. Tamra Mabbott suggested that the development agreement could be finalized at a later date and heard at that time.

A traffic study was provided by the applicant, which showed a minimal impact on the intersection, but the consultant providing the traffic study was the same who did a previous study on the same intersection. Commissioner Givens asked how many trucks were expected to travel through the intersection each day. Kevin Kiernan answered that up to 60 triples per day were expected to travel through the terminal. Commissioner Givens asked for clarification as to whether that was approximately 60 in and 60 out per day. Stan Foster explained that the total for study purposes was 128 in off peak hours.

Tamra Mabbott commented that the specific terms of the agreement could be worked out after the fact and that Tom Fellows was comfortable with the road design as provided by Kiernan.

Commissioner Doherty was looking for direction on the alternatives and whether it was worth more to provide county assistance on the Westport/Westland decision and to work on having more funding available for the Westport/Westland/Lamb intersection.

Applicant's report: Stan Foster provided a report, beginning with his statement that he understood that Tom Fellows believed that he could provide the improvements to Westland and Westport at a savings. The applicant had no intention to set any precedents, but that the record was developed for a Goal 3 exception because the property's earth was a Class 7 soil. As a result it was not zoned LI originally due to the amount of property, although the situation next to freeways would logically set it as LI. He then cited the Cal Poly Fed Ex model report to establish FedEx's commitment to siting its facility on the Bounds' property. Stan Foster also explained that due to the load length requirements of the neighboring states and Oregon, the location was a prime situation. Among the criteria for setting the facility outside city and UGB limits were concerns for safety and the ability to participate in gray water reclamation at the facility. That would also reduce the draw on groundwater. The facility would bring 60 family wage jobs to the area.

Commissioner Input:

Commissioner Doherty reminded the Board that it had yet to adopt the record for the hearing.

Commissioner Hansell moved to adopt Exhibits 1 through 8, plus the material prior to exhibit 1 and including the addition to exhibit 7. Commissioner Givens seconded the motion accepting into record exhibits 1 through 8, including number 7 which was attached today and the requests for approval submitted and maps treated as part of the staff report. Under discussion, it was clarified that exhibit 7 was a draft proposed development agreement. **Question was called and the motion carried 3-0.**

Kevin Kiernan provided an explanation of the facility purpose and gave the history of the corporate search for a hub facility. He came on board with FedEx in February as a contracted developer and much of the siting and logistics decision process took place prior to his involvement.

He used the design map to show the property situation, explaining that no customers would be served at that facility. The administrative office would take up about 3,000 square feet with the remaining structure dedicated to freight.

He then described the cross dock concept and explained how the freight distribution was done via cross country trucking on a hopscotch basis. The employees at the facility would be residents of the area, which would have a shop facility and fueling station.

Expansion was contemplated and worked into the traffic study provided. The regional hub was strategically located with an anticipated 25 to 40 year life span. This particular facility was a 40 year facility.

Commissioner Doherty asked if the trucks were company owned or leased. Kevin Kiernan answered that he believed that the company owned the trucks. Commissioner Doherty asked if when a driver were hired and was assigned a truck, would they be running shifts. Kevin Kiernan explained that the company used day cab units where the driver left the terminal, arrived at the Seattle terminal, switched trailers and returned to the local terminal in one shift. There might be the odd occasion where the driver would return the following day, but since most of the freight was required by morning, the runs

would be done at night. The Pacific Northwest hub was planned with an emphasis on links into Canada.

Commissioner Hansell asked where the triples would originate from. Kevin Kiernan explained that those would be restricted to Idaho and Oregon.

Commissioner Givens asked if the drivers would be required to live within a certain distance in order to be on call. Kevin Kiernan knew of no such requirement and added that there were 26 non-driver positions.

Commissioner Givens asked if the company expected expansion. Kevin Kiernan responded that the facility was expected to operate at 50% capacity within 3 years, at 100% in 15 and then after that expansion was expected which would allow for an additional 36 docks. Stan Foster explained that there was a reciprocal easement for Westport Lane with an agreement already existing. Kevin Kiernan commented that the existing agreement calculated maintenance on the acreage of the holder/participant rather than the amount of property in actual use.

Commissioner Doherty asked if there would be an opportunity to revisit the Westland Road improvements through the development agreement. Stan Foster commented that he discussed the proposal with Tom Fellows and felt that both the applicant and the Public Works Director were comfortable with the agreement, which was based on a share of usage of less than 1%. This was based upon traffic counts and existing operating models. Kevin Kiernan added that an offsite allowance was built into the developers' budget and unless the project exceeded that allowance, there was no need to obtain further authorization from Fed Ex. If the negotiators moved the cap of \$150,000 higher, that would need to go back to Fed Ex.

Commissioner Doherty asked if the cap would be exceeded in event that the new bays were included. Kevin Kiernan responded that the expansion was already included in the study. Commissioner Doherty asked if the other 30 acres had been taken into consideration. Stan Foster stated that if there were a transportation impact fee for all subsequent development, it would be appropriate to be used for maintenance via the county budget process.

The staff report portion of the hearing was closed.

Public Comment: Commissioner Doherty called for public input, input from opponents and public agency rebuttals at 2:42 p.m. No comments of any sort were received and the public hearing was subsequently closed.

Deliberation and Decision: Commissioner Doherty wished it to be confirmed that the intersection management plan would not be impacted. Tamra Mabbott affirmed that there would be no need to amend that plan.

Commissioner Hansell stated that he wished to commend PARC and The Kiernan Company for their attention to completion of due diligence. His reading of the letter from Jon Jinnings of LCDC determined that the support was conditional depending on the county's action and that would leave the responsibility for response to the developer.

Commissioner Hansell commented that he would prefer to have Kiernan to contract the work on the intersection in order to keep the budget and schedule under their control. He also suggested that the company may wish to engage the private sector to complete the work to avoid impacting the county work schedule and budget due to fluctuations in commodities costs, i.e. asphalt costs.

Commissioner Givens expressed concerns on the cap due to the uncertain economic times.

Commissioner Doherty commented that he would be inclined to do whatever was necessary to improve the Walker/Westland/Lamb intersection, but his colleagues had spoken and he would follow that lead.

Land Use Hearing Minutes

6/7/10

Page 4 of 5

He also commended the degree of collaboration and due diligence and indicated that he would hear a motion to accept the recommendation of the planning commission comp plan amendment, defer final approval of development agreement and findings adopting Ordinance Number 2010-03 and set the approval of the development agreement for Thursday, June 10, 2010 with the proposed conditions. **Commissioner Hansell moved to accept the recommendation of the planning commission comp plan amendment, defer final approval of development agreement and findings adopting Ordinance Number 2010-03 and set the approval of the development agreement for Thursday, June 10, 2010 with the proposed conditions and included the Goal 3 and 14 exceptions. Commissioner Givens seconded with discussion of the findings and changes to the development agreement.** Doug Olsen explained that there were no other development agreements related to that particular road and that the agreement would be amended to agree to the applicant carrying .68% of the responsibility for the improvements and maintenance. **Question was called and the motion carried 3-0.**

ADJOURNMENT

The meeting was adjourned at 3:06 p.m.

Respectfully submitted,

Laura Headley
Executive Secretary
Umatilla County
Board of Commissioners