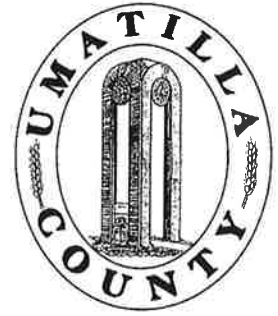


Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Board of Commissioners

FROM: Brandon Seitz, Assistant Planner *BS*

DATE: September 8, 2016

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

RE: September 28, 2016, Board of Commissioners Land Use Hearing
Appeal of Conditional Use Request #C-1264-16

SMOKE
MANAGEMENT

Background Information

GIS AND
MAPPING

Mr. Rod Rainey, the applicant and facility manager of the Power House Residential Drug Treatment Center, submitted a Conditional Use Permit application requesting approval of a Convalescent Home on May 16, 2016. The application is for a drug and alcohol treatment facility for a maximum of 15 patients. The subject parcel is zoned Rural Residential (RR-4) with a four acre minimum lot size. The primary dwelling is a large stick built dwelling located at the south end of the property near the road. A second manufactured home is also located on the property near the northeast corner of the parcel.

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

The property has historically been used as a nursing home/adult foster care facility. The proposed facility would be located in the primary dwelling that was established as a nursing home in approximately 1966. The Planning Department was unable to verify when the nursing home stopped operation. In 2008, an adult foster care, residential home, was approved in a second dwelling located on the parcel for up to five adults. As of March 2015, planning approval for the facility had expired.

Standards of Approval

When Mr. Rainey inquired about the opportunity for establishing a drug and alcohol treatment facility it was determined by planning staff and County Counsel, that the facility could be approved as a Conditional Use Permit for a convalescent home. Currently under Oregon Revised Statutes 197.660 a residential treatment center is defined as either a residential home for five or fewer individuals, or a residential facility for six to fifteen individuals.

In an RR-4 zone the County Development Code allows for a residential home upon issuance of a Zoning Permit. A rest home, home for the aged, nursing home or convalescent home is allowed conditionally. It was determined by the Planning Commission that a convalescent home was intended to include a facility housing six to fifteen individuals.

Memo

Board of Commissioners Land Use Hearing – September 28, 2016
Appeal of Conditional Use Request #C-1264-16

A specific definition for a convalescent home is not provided in the Development Code. However, the generally accepted medical definition of a convalescent is, “recovering from sickness or debility: partially restored to health or strength” (Merriam-Webster, Medical Dictionary). The Planning Commission determined that a person suffering from drug and alcohol addiction is considered to have a disability and would meet the definition of a convalescent.

To summarize, the Planning Commission determined that a residential facility for six to fifteen individuals could be permitted as a convalescent home, and a person suffering from drug and alcohol addiction would meet the definition of a convalescent. The Planning Commission unanimously determined that the proposed facility qualifies as a convalescent home and may be permitted as a conditional use in a Rural Residential zone.

Planning Commission Hearing and Appeal

Due to the number of comments received for a similar facility in 2015, also submitted by Mr. Rainey, the Planning Director referred the application directly to the Planning Commission for a decision. Public Notice was mailed to affected land owners and agencies on June 3, 2016. The notice was also advertised in the Saturday June 11, 2016 edition of the East Oregonian. Based on the determination that a person suffering from drug and alcohol addiction meets the definition of a convalescent the Planning Commission voted 6-0 to approve Conditional Use Request #C-1265-16. An appeal of the Planning Commission’s decision was received by the Planning Department on July 14, 2016.

Attachments

The following attachments have been include for review by the Board of Commissioners:

- Signed Planning Commission Final Finding and Conclusions
- Planning Commission Hearing Minutes
- Oregon Revised Statutes 197.660 (Definitions for Residential Facility & Home)
- Oregon Revised Statues 443.400 (Definition for Residential Facility & Home)
- Public Hearing Notice
- Notice of Appeal

**UMATILLA COUNTY PLANNING COMMISSION
FINAL FINDINGS AND CONCLUSIONS
RAINEY CONDITIONAL USE PERMIT REQUEST, # C-1264-16
Map # 5N 29C, Tax Lot # 3391, Account # 130085**

- 1. APPLICANT:** Rodney J. Rainey, 32405 Diagonal Road, Hermiston OR, 97838.
- 2. OWNERS:** Michael Atkinson, 29735 Bridge Road, Hermiston OR, 97838.
- 3. REQUEST:** The applicant requests approval of a Conditional Use Permit for a residential adult care facility for alcohol and drug treatment, "Convalescent Home", for up to 15 clients. The Umatilla County Development Code (UCDC) does not address the operation of a residential care facility (alcohol and drug treatment) as a land use in any Rural Residential Zone. The closest description for the proposed land use in the UCDC is a convalescent home. A specific definition for a convalescent home is not provided in the UCDC. However, the generally accepted medical definition of a convalescent is, "recovering from sickness or debility: partially restored to health or strength" (Merriam-Webster, Medical Dictionary). Clients treated for alcohol and drug issues would meet that medical definition and a convalescent home may be permitted with a Conditional Use Permit.
- 4. LOCATION:** The subject property is located on the north side of W Walls Road, approximately a half mile west of the W Walls Road and Highway 207 intersection.
- 5. SITUS ADDRESS:** The parcel has two addresses 32773 and 32755 W Walls Road, Hermiston, OR, 97838.
- 6. ACREAGE:** The parcel is 4.75 acres.
- 7. PERMITS:** Land Use Permits:
- 1) ZP-75-1008: Issued April 29, 1975, for a 780 square feet mobile home.
 - 2) ZP-79-097: Issued April 5, 1979, for a 14' x 70' mobile home and 20' x 40' storage shed.
 - 3) ZP-86-002: Issued January 7, 1986, for a 30' x 40' shed.
 - 4) ZP-89-030: Issued March 27, 1989, for a replacement mobile home 66' x 28' and addition to existing shop 15' x 40'.
 - 5) ZP-97-127: Issued May 16, 1997, for an addition to existing residential facility 18' x 26'.
 - 6) ZP-98-048: Issued March 3, 1998, for an addition to existing shed 20' x 40'.

- 7) ZP-08-214: Issued October 21, 2008, establish adult foster care for 5 adults in an existing manufactured dwelling, permitted by ZP-89-030.

- 8. COMP PLAN:** The parcel is designated Rural Residential by the Comprehensive Plan.
- 9. ZONING:** The parcel is zoned Rural Residential (RR-4) four acres minimum.
- 10. ACCESS:** The parcel has access from W Walls Road.
- 11. ROAD TYPE:** W Walls Road is a gravel County maintained road (#1258W).
- 12. EASEMENTS:** The parcel does not have an easement.
- 13. LAND USE:** The parcel is developed with two dwellings and a shop. One of the dwellings was used as an adult foster care/nursing home that was established around 1966. As of March 30, 2015 planning approval of the adult foster care home was voided. Both dwellings are currently vacant.
- 14. ADJACENT USE:** The adjacent land uses are mixed between residential and farm uses. There are several rural dwelling on lands zoned for residential use in the area. In addition there is irrigated farm land and pasture lands in the area.
- 15. LAND FORM:** Columbia River Plateau.
- 16. BUILDINGS:** The parcel has been developed with two dwelling and a shop.
- 17. UTILITIES:** The parcel is served by Umatilla Electric and Charter Communication.
- 18. WATER/SEWER:** There is a domestic well and sanitary sewage disposal system serving the dwellings on the property.
- 19. FIRE SERVICE:** The parcel is located within the Hermiston Rural Fire District for protective services.
- 20. IRRIGATION:** The parcel is located within the Hermiston Irrigation District.
- 21. FLOODPLAIN:** The parcel is not located within a designated floodplain.
- 22. NOTICES SENT:** June 3, 2016.
- 23. PLANNING COMMISSION HEARING DATE:** June 23, 2016

24. AGENCIES: Oregon Dept of Human Services, Oregon Health Authority, Oregon Fire Marshall, Oregon Dept of Environmental Quality, Oregon Building Codes, Umatilla County Assessor, Umatilla County Public Works, Umatilla County Public Health, Hermiston Irrigation District, Hermiston Rural Fire District, City of Hermiston, and Umatilla Electric.

25. HEARING

SUMMARY: The Umatilla County Planning Commission heard testimony from Rod Rainey, the applicant, and Melissa Homan, Director of the Power House Treatment Center, in favor of the proposal. Don Stauffer, Mary Vaughn and James & Janis Beardsley, notified land owners, provided testimony in opposition of the proposal. Mr. Rainey and Mrs. Homan both provided testimony for a similar application before the Planning Commission in February but were asked to give a general overview of their facility, operations and clients.

Those in opposition to the application raised a number of concerns to the Planning Commission. The primary concerns focused on the following issues:

- A drug and alcohol treatment facility does not meet the definition of a convalescent home.
- The proposed facility is not compatible with adjacent land uses, (residential single family dwellings with raising children in the community).
- If approved the proposed facility would lower area property values.

During the hearing there was differing testimony about whether drug and/or alcohol addiction meets the definition of a convalescent. The Planning Commission determined a person suffering from a drug and/or alcohol addiction is considered to have an illness/disability. Therefore, the proposed drug and alcohol treatment facility meets the purpose of a convalescent home. A convalescent home provides treatment for an illness and the facility may be processed as a Conditional Use Permit.

The Planning Commission also recognized concerns of the neighbors and imposes additional conditions of approval: 1) That the applicant shall complete the existing fence along the east side of the property, 2) the approval would be subject to review one year after the date of the final decision and subsequently every 5 years. If during review the application is found to be out of compliance with the applicable standards or a condition of approval, the decision may be referred back to the Planning Commission and/or approval may be voided subject to Section 152.613 (F).

In addition, the Planning Commission clarified that approval of the treatment facility would be in the large dwelling located adjacent to W Walls Road and not the manufactured home located on the northeast corner of the parcel.

26. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE to establish a “CONVALESCENT HOME” in an existing dwelling on RR-4 land is allowed through approval of a Conditional Use Permit as provided in Section 152.616 (UU), pursuant to Section 152.615 (A)-(L) and Section 152.560. The standards for approval are provided in underlined text and the responses are indicated in standard text.

152.616 STANDARDS FOR REVIEW OF CONDITIONAL USES AND LAND USE DECISIONS

(UU) Rest home, home for the aged, nursing home or convalescent home.

(1) The activity is compatible with existing adjacent land uses; The application is for an alcohol and drug treatment facility that would be located in an existing dwelling that was operated as a 15 patient nursing home. The proposed treatment facility would have the same number of maximum patients. The applicant has indicated that staff is onsite 24 hours a day 7 days a week to provide treatment and monitor the patients. Patients are not allowed off-site for any reason without staff. All visitors must schedule visitations in advance and multiple visitors at one time are avoided.

The Umatilla County Planning Department finds that the proposed facility would have the same maximum number of patients as a previous care facility, the difference would be in the type of care received. The applicant has indicated that reasonable measures will be taken to ensure impacts to surrounding properties are minimized. Therefore, the proposed treatment facility is found to be compatible with the existing adjacent land uses. This criterion is met.

(2) Adequate area for off street parking is provided for both employees and visitors; The Umatilla County Planning Department finds that the applicant has indicated there is adequate room on the parcel for the required off street parking and that the patients are not allowed to have personal vehicles. The off street parking requirements are address below. A condition of approval is imposed to show on the final site plan the required 15 parking spaces. Satisfaction of this criterion is pending.

(3) Landscaping shall be provided and maintained around the perimeter of the activity and through the open area; The Umatilla County Planning Department finds that the subject property is maintained with appropriate residential landscaping around the dwellings. This criterion is met.

(4) Suitable methods for fire escape are available for each room in the home; The Umatilla County Planning Department finds that the applicant has indicated that suitable methods for fire escape are available for each room. However, a condition of approval is imposed to comply with all applicable Oregon Fire Code standards and provide verification of compliance to the Umatilla County Planning Department. Satisfaction of this criterion is pending.

(5) Complies with other conditions as deemed necessary provided in § 152.615.
UCDC 152.615 is addressed below.

152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions: The Umatilla County Planning Department find that the proposed facility would serve up to 15 clients. Water systems that regularly serve ten or more people per day are State Regulated Water Systems by the Oregon Health Authority (OHA). Therefore, a condition of approval is imposed requiring the applicant to comply with all OHA regulations for the proposed facility and provide verification of compliance to the Planning Department.

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, water pollution, glare or odor; The treatment facility would be an around the clock facility with staff and patients onsite 24 hours a day. However, hours for visitation and deliveries shall be limited to normal business hours (8 a.m. through 5 p.m.) to minimize disturbances to adjacent residences. Satisfaction of this criterion is pending.

(B) Establishing a special yard, other open space or lot area or dimension; The parcel is developed with open space and residential landscaping. The proposed facility would not require a special yard or additional open space.

(C) Limiting the height, size or location of a building or other structure; The parcel is developed with two dwellings and a shop. No additional buildings or structures are proposed. Therefore, limiting the height, size or location of a structure is not required.

(D) Designating the size, number, location and nature of vehicle access points; The property has two existing access points off W Walls Road, one serving each existing dwelling. No additional access is proposed or required for the proposed facility. Therefore, no additional restrictions are required.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way; No improvements within the street right of way are required.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area; The applicant will be required to comply with all applicable off street parking standards listed in Sections 152.560-152.562 of the UCDC which are addressed below. No additional parking restrictions are required.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs; There are no signs currently on the subject property. If the property were to be developed with signage the applicant would be required to comply with the sign regulation standards in the UCDC Sections 152.545-152.548. No additional restrictions are required.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding: The existing outdoor lighting is consistent with typical residential development. No additional restrictions or shielding is required.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance. No diking, screening or landscaping is required.

(J) Designating the size, height, location and materials for a fence; No fencing is required.

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources; The subject property is maintained with trees, shrubs and other residential vegetation. No changes to the existing natural resources are proposed. Therefore, no additional measures are required.

(L) Parking area requirements as listed in 152.560 through 152.562 of this chapter. Parking requirements are addressed below.

152.560 OFF-STREET PARKING REQUIREMENTS.

(A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length.

(B) Off-street parking requirements.

(3) Rest home, hospital, convalescent home: one space per bed.

The Umatilla County Planning Department find that the proposed convalescent home would have up to 15 clients thus would be required to have 15 parking spaces. The applicant has indicated that there is adequate space to meet the parking requirements. A condition of approval will be to show on the final site plan the required 15 parking spaces. Satisfaction of this criterion is pending.

DECISION: THE RAINEY CONDITIONAL USE PERMIT TO ESTABLISH A CONVALESCENT HOME COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, AND IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by issuance of a Zoning Permit.

1. Provide to the County Planning Department a copy of State licensing showing that the applicant is licensed as a residential care facility for alcohol and drug treatment in the State of Oregon.
2. Provide to the County Planning Department verification of compliance with all applicable Oregon Fire Code.

3. Submit a site plan showing the size, location and number of all parking space as required per Section 152.560 of the UCDC.
4. Comply with all applicable requirement of the Oregon Health Authority for State Regulated Water Systems and provide verification of compliance to County Planning.

Subsequent Condition: The following subsequent conditions must be fulfilled after final approval and shall continue to apply.

5. Obtain a County Zoning Permit from the Umatilla County Planning Department to finalize approval of the convalescent home.
6. Obtain all other applicable State permits for the facility.
7. Visitation and delivery hours shall be limited to normal business hours (8 a.m. to 5 a.m.).
8. Extend the existing fence along the eastern property line to the existing shop/barn.
9. Approval of the proposed facility is limited to the large dwelling located adjacent to W Walls Road and not the manufactured dwelling on the northeast corner of the parcel.
10. Approval of the convalescent home shall be subject to review one year from the date of the Final Decision, signified by signing of the Final Findings, for compliance with the standards of approval found in Sections 152.616 (UU), 152.615 and 152.560 of the Umatilla County Development Code and the conditions of approval listed above. After the initial review the approval shall be reviewed every 5 years. The review is subject to the applicable annual review fee. If during review the application is found to be out of compliance with the applicable standards or a condition of approval the decision may be referred back to the Planning Commission or approval may be voided subject to Section 152.613 (F).

UMATILLA COUNTY PLANNING COMMISSION

Dated 28th day of June, 2016


Randy Randall, *Planning Commission Chair*

Mailed 29th day of June, 2016

**DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, June 23, 2016
6:30 p.m., Stafford Hansell Government Center
Hermiston, Oregon**

COMMISSIONERS

PRESENT: Randy Randall, Chair, Gary Rhinhart, Vice Chair, Suni Danforth,
Don Marlatt, Don Wysocki, Tammie Williams, Tami Green,
Clive Kaiser
ABSENT: Cecil Thorne
STAFF: Brandon Seitz, Carol Johnson, Tierney Dutcher

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

CALL TO ORDER:

Chair Randall called the meeting to order at 6:30 p.m. and read the opening statement.

MINUTES:

Chair Randall asked the Planning Commission to review the minutes from February 25, 2016 and March 24, 2016. Commissioner Marlatt moved for adoption of both sets of minutes as written. The motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

NEW HEARING

LAND DIVISION REQUEST, #LD-5N-850-16, VADATA, INC APPLICANT, VADATA, INC. AND PORT OF UMATILLA OWNERS.

The applicant requests approval to replat approximately 55.28 acres in the Port of Umatilla Subdivision consisting of Lots 5, 6, 9 and adjusted Lot 8. The property is split between the City of Umatilla and County jurisdiction. The County will process the application subject to coordination with the City. The criteria of approval are found in Sections 152.695 through 152.698 of the Umatilla County Development Code, Section 3.146 of the Umatilla County Zoning Ordinance, and Sections 11-2-6 and 11-4-5 of the City of Umatilla Land Division Ordinance.

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Chair Randall called for declarations of ex-parte' contact, biases, conflicts of interest or abstentions from any member of the Planning Commission. There were none. He called for the Staff Report.

Staff Report: Brandon Seitz, Assistant Planner, presented the staff report. He stated that application #LD-5N-850-16 is a Type III Land Division or Replat application. The replat is of Lots 5, 6, 9 and adjusted Lot 8 in the Port of Umatilla subdivision, recorded in plat book 15 on page 31. The application was submitted to the Umatilla County Planning Department on May 23rd, 2016. It was deemed complete on May 23, 2016 and Public Notice was sent to affected land owners and agencies on June 3, 2016. All of the lots in the proposed replat are located in the city of Umatilla's Urban Growth Area (UGA). Lots 6, 8 and 9 are within the City Limits. There was an intergovernmental agreement signed by the City of Umatilla and Umatilla County granting the county the authority to process the application and make a determination subject to coordination with the City of Umatilla. Bill Searles, City of Umatilla City Planner is present at the hearing and will be able to answer any questions directed toward the city.

Lot 5 is the only lot that is located in the UGA and falls under the county's jurisdiction. The standards of approval for lot 5 are subject to the Type III (Replat) Standards found in Section 152.695 through 152.698 in the UCDC. Lot 5 is Zoned M-2 (Heavy Industrial) from the County's 1972 Zoning Ordinance and subject to the dimensional standards found in Section 3.146.

Lots 6, 8 and 9 are located in City Limits and are subject to Sections 11-2-6 and 11-4-5 of the City's Land Division Ordinance. The lots within City Limits are also zoned M-2 but subjects to the City's Zoning Ordinance found in Section 10-5B-1 through 10-5B-5.

The Replat would reconfigure the 4 existing lots into 3 new lots. Replat Lot 1 would consolidate lots 6, 8, 9 and the southern portion of lot 5 into one large industrial parcel. Lots 2 and 3 would be the remainder of lot 5. It's anticipated that upon completion of this application the city will annex the southern portion of lot 5 which is currently in the county's jurisdiction into the city.

Commissioner Kaiser asked for an explanation on how Wetlands have an impact on land preservation measures. Mr. Seitz acknowledged that when the subdivision and subsequent development was approved on the parcel there should have been a Wetlands Land Use Notice sent to the Department of State Lands (DSL) at that time and was not done. It was not recognized to be located in a Wetlands area until he came upon the information while researching the application. This application does not propose any development on the parcel. The application is to move existing lot lines in a preexisting subdivision. Mr. Seitz contacted Jevra Brown, Aquatic Resource Planner with DSL, and she advised that since there is no ground disturbing activities involved with the replat, a Wetlands Land Use Notice is not required at this time. The Applicant and the City of Umatilla are aware that any future development in the area will require a Wetlands Land Use Notice and there will be measures taken at that time to mitigate or preserve the existing Wetlands.

Commissioner Kaiser presented a series of images obtained from Google Earth dating back to 1996. He pointed out a water body that is present in the most recent image. He is concerned the three ponds present over time on the property have been built over, excavated and removed. He asked what will be done to preserve the remaining body of water. Mr. Seitz stated that we could look to add a condition, but that area is within City Limits and it would be up to the City to determine how they will preserve that portion of the Wetlands. For this application there is no ground disturbance so the Wetlands present at this time will remain in their current condition. Future proposals that come through the office will be subject to a Wetlands Land Use Notice.

Commissioner Danforth pointed out that the applicant submitted their application for the project indicating in three areas that there are no Wetlands. She questioned if it could be considered a complete and correct application. Mr. Seitz stated that his initial review to determine completeness is based on whether there is enough information to show that they meet all the standards. After deeming the application complete and doing research on the property it was discovered that Wetlands do exist on the property and it's shown in the National Wetlands Inventory. If this application was for a new subdivision, there would be many more steps taken to preserve or mitigate the impacts to the Wetlands. Unfortunately, the development has already occurred.

Commissioner Rhinhart asked if the City of Umatilla Planning Department has reviewed the changes to the lots. Mr. Seitz said they have reviewed the application but it will not go before their Planning Commission. If it is approved by the Umatilla County Planning Commission, then it will go through the City's standards and Recording fee.

Commissioner Kaiser asked more questions about the Wetlands on the property. He pointed out that the time progression photos of the property shows one of the ponds on the edge of the new complex next to the road has come back. He asked if there would be steps taken to put a boundary around it. Mr. Seitz said we could coordinate with the city to see what can be done to preserve the pond. He acknowledged that the pictures do show that it is trying to come back and will make a note that the Planning Commission would like to potentially add a subsequent condition, putting the property owners on notice that there will be a requirement around that for future development. It was determined the pond spans across lot 8 and lot 6. The maps provided by Commissioner Kaiser will become part of the record.

Commissioner Danforth asked if there are any utilities located in the easements vacated at lot 6. Mr. Seitz said there are no utilities there. The easement was originally created to serve the southern portion of lot 5. Lot 5 was created to serve as a railroad utility corridor, which is why it was originally designed as a long narrow lot, but that never took place. This replat would be taking the southern portion of lot 5 in and that easement would not serve any other parcel. It would be completely located within replat lot 1, therefore there would be no need for that easement. Commissioner Danforth said she wondered if there would be repercussions on changing that easement in the future, even

though it is not utilized now. Mr. Seitz said lot 5 is currently undeveloped and the portion where the easement is also (9:22:50)??at that location

Commissioner Danforth pointed out some spelling/grammatical errors in the findings document. The corrections were noted by staff and updates will be made. She mentioned that she has concerns about whether dimensional standards should be set, and if the easement on parcel two should be larger than 30' on parcel 3, serving parcel 2. Mr. Seitz noted that the property is in the City's UGA so it follows the City's Transportation Plan (TP). Most of the County's easements standards come from the County's road standards which are linked directly to the TP. For the County's standards, if we were to use them, we would call for a 30' easement because it's serving one parcel. If you look at the City's TP standards, they require 15'. After discussing with Bill Searles, it was determined the 30' easement satisfies both the county's and city's standards.

Commissioner Kaiser asked what is the buffer zone between a water body in a Wetland and where development can take place under normal circumstances. Mr. Seitz stated that the County's standard is 100'.

Applicant Testimony: Seth King, Land Use Attorney, Perkins Coie, LLP, 1120 NW Couch Street, 10th floor, Portland, OR 97209. Mr. King represents the applicant Vadata, Inc. The applicant's construction manager, Seth McGary, is also present to answer any questions. Mr. King clarified that lot 5 is currently owned by the Port of Umatilla. They have consented to the application and plans moving forward. The remainder of the property is owned by the applicant.

There are 3 primary purposes to the replat. The first was to reconfigure lots 5, 6, 9 and adjusted lot 8 into 3 units of land. The next two purposes have to do with extinguishing easements. He addressed Commissioner Danforth's concern with the 60' access and utility easement currently runs across lot 6. The purpose is to provide access to lot 5, but after the reconfiguration, lot 5 will become part of 6, 9, and 8 so it will have frontage on Beach Access Road and will not need a separate access easement at that location. Lastly, they wish to extinguish the blanket railroad corridor and access tract and utility easement. That will be deleted from parcels 1 and 2 but will remain on parcel 3.

The proposal has been reviewed by the City and County Staff and has been found to meet their respective approval criteria. The applicant concurs with the Staff recommendation and request approval subject to the findings and the staff report.

Regarding the Wetland issue, Mr. King wanted to reiterate that this proposal does not include any ground disturbing activity. DSL has received notification of the proposal and has determined that it does not require any further review. Future ground disturbing development will be subject to a Wetlands Land Use Notice and review in accordance with City codes. For this proposal, the Wetland issue is off the table and from the applicant's perspective, there would be no need for an additional condition because the Wetlands issue has been brought to the attention of DSL, the City, the applicant and they are all aware at this time. He pointed out that the applicant was not aware of the Wetland

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issues when the original structures were built on the property. The applicant is now moving forward with a Wetland Assessment & Delineation which will be reviewed as part of any future development.

Commissioner Danforth asked how the applicant is planning to forward with the Wetlands issue. Mr. King said the applicant is moving forward with a Wetland Assessment & Delineation of the site to determine which areas on the property are subject to regulation. In the areas where construction has already occurred, he is not sure. Commissioner Danforth commented that Commissioner Kaiser's research done with Google Maps shows that over time it is quite evident that there has been knowledge of the Wetlands and the disturbances to them. Mr. King said he is confident that will be addressed by DSL, as they are the agency with jurisdiction.

Commissioner Kaiser asked why there is a need for a replat if this is a Wetland issue. He asked if the site is deemed a Wetland, does that prohibit development of the site. Mrs. Johnson, Umatilla County Senior Planner said that is not necessarily true. There are mitigation measures that DSL will accept, but until there is a proposal it's difficult to make that estimate. Mr. King agreed. He said in some circumstances you are able to fill wetlands and mitigate for the impacts that would occur.

Applicant Testimony: Seth McGary, Vadata Inc., Construction Manager, 3200 Beach Access Road, Umatilla, OR 97209. Mr. McGary stated that the Wetland Assessment has been on the undeveloped part of the property. The assessment will be submitted to DSL in the next week. After review, DSL will provide a determination which will be used in making future plans. Commissioner Kaiser asked where the water comes from to make the pond on the southwest corner, next to the building. Mr. McGary said that's their storm drain pond and that is included in the Wetland Assessment. Commissioner Rhinhart asked what the plans for future use of the property are. Mr. McGary said that is sensitive information and he is not at liberty to discuss the details. If they do expand the use of the property it will be consistent with what is already on the property.

Opponent Testimony: No opponents.

Public Agencies: Bill Searles, City Planner, City of Umatilla, PO Box 130, Umatilla, OR 97882. Mr. Searles stated that the City of Umatilla supports the application. He has reviewed the report and determined that it meets the standards set by the City. The reason for the Intergovernmental Agreement (IGA) is for the Umatilla County Planning Commission to make the decision on the replat, and if approved, will proceed through the City's process administratively. If there was no IGA, the applicant would have had to go through the Umatilla County process and then go through the process again to reconfigure the parcels with the City of Umatilla because part of the property is in the City and the other part is in the UGA, which is under the County's jurisdiction for land use requests. The IGA allows less redundancy and streamlines the process, without necessarily compromising any of the standards that they would otherwise have in going through the process twice.

Regarding the issue of the Wetlands on the property, Mr. Searles acknowledged that the City's administrative review procedures were lacking. The requirement that the City was to provide Wetlands Notice to the DSL was overlooked early on in the development of the property. The Administrative Review Standards with the city have been revised to ensure these types of issues are not overlooked in the future. At this time, the City is acutely aware of the issues of the Wetlands on the property, and the applicant has been informed. The applicant is working with the DSL in advance so they can sort out the issues and information regarding the Wetlands, prior to seeking approval for a site plan. Part of the process the applicant will go through in working with DSL will be to do a more refined delineation of those Wetlands. The City's agrees with the findings in the County Staff Report. All standards set by the City will be met after the replat has been recorded.

Commissioner Rhinhart asked if the City would be liable for any development that may have damaged the Wetlands. Mr. Searles said no. DSL may require the applicant to mitigate for the previously developed area as part of their mitigation plan moving forward. Commissioner Rhinhart noted that DLS is overly protective of existing Wetlands when a portion has been damaged. Commissioner Kaiser asked who brings the damaged Wetlands issue to the attention of the DSL. Mr. Searles stated that the DSL would contact the applicant directly after they receive notice of a pending development application from the City. Mr. Seitz stated that the DSL will go through a process of reviewing the National Wetlands Inventory map, which makes it clear that the delineation goes over the previous development.

Commissioner Rhinhart moved to approve Land Division #LD-59-850-16 with additional conditions set forth by planning staff. Commissioner Green seconded the motion. Motion passed 6:0.

NEW HEARING

CONDITIONAL USE PERMIT REQUEST, #C-1264-16, RODNEY J. RAINEY APPLICANT, MICHAEL ATKINSON, OWNER.

The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

Chair Randall called for declarations of ex-parte' contact, biases, conflicts of interest or abstentions from any member of the Planning Commission. Commissioner Marlatt said he and two other Planning Commissioners drove by the property to get a closer look on the way to the hearing. Chair Randall stated that reviewing the property is good information and he had no objections to that. He called for the Staff Report.

Staff Report: Brandon Seitz, Assistant Planner, presented the staff report. He stated that Rainey application for Conditional Use Permit (CUP) #C-1264-16 was submitted to the County Planning Department on May 16th, 2016. The application was deemed

complete on May 16th, 2016 and public notice was sent to affected land owners and public agencies on June 3rd, 2016.

The applicant is requesting approval of a CUP for a residential adult care facility for alcohol and drug treatment. The application is being processed as a convalescent home. The dwelling that the proposed treatment facility will be located in was previously used as a nursing home, established around 1966. Staff was unable to verify when that facility stopped operation. In 2008 a residential home (Adult Foster Care) was permitted for up to 5 patients in the second dwelling on the property. As of March 2015 planning approval for the facility has expired. The application being reviewed today is different from the old one and they will be using the first dwelling on the property.

Gina Miller, Umatilla County Code Enforcement Officer issued a warning letter on March 15, 2016 to the current owner of the property, Mr. Atkinson. There were questions regarding the number of people living onsite and if it was being operated as a boarding house without land use approval. A citation was never issued for that warning. The applicant has obtained a previous permit for the same use on a different piece of property a few months ago. Mr. Seitz wanted to reiterate that that Code Enforcement issue is separate from this new application. Pending approval of this application, the applicant is planning to purchase the property from Mr. Atkinson and he will not be involved with this proposal.

The Oregon revised statues (ORS) recognize 2 types of residential care facilities; a Residential Home and a Residential Facility. The Residential Home is allowed in any Residential Zone where single family dwellings are allowed. Residential homes permit 1-5 patients who are not required to be related and the application is processed as a Zoning Permit. The Residential Facility is permitted through a CUP and allows for 6-15 patients and is categorized as a convalescent home, nursing home and home for the aged. Mr. Seitz interpreted the code to treat this as a Residential Facility based on the size requested by the applicant. It is up to the Planning Commission's discretion to determine whether they feel the property falls under the definition of Residential Facility.

The applicant has been in contact with the Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) for their drinking water permit. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

Commissioner Marlatt asked to clarify the use of the 2 structures on the property. Mr. Seitz stated that the larger dwelling located in the front was initially a nursing facility. The permit did not specify how large the facility was. After that facility was no longer being used, there was a residential home permitted in the second dwelling, a smaller manufactured home located in the rear of the property. Commissioner Marlatt asked if the applicant intends to use both of the facilities located on the property. Mr. Seitz said the applicant will only use the front, larger house for the facility.

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Commissioner Kaiser asked about the property acreage requirements. He pointed out that it is located in a zone that requires a 4 acre minimum parcel size and the total acreage is 4.75 but it has two addresses. He asked if this means they are allowed to have two separate facilities. Mr. Sietz said there were 2 dwellings on the property when the zoning code came into effect; therefore the second structure is allowed to stay on the parcel as a non-conforming use. If one of the structures is removed at this point, we would not permit another structure to be built in its place. The minimum acreage does not necessarily dictate how many dwellings are allowed on a property.

Applicant Testimony: Rod Rainey, Applicant, 32408 Diagonal Rd., Hermiston, OR. Mr. Rainey stated that the blue double-wide manufactured home in the back of the property is an older model, approximately 1989. He said that larger front dwelling is stick built and it is the only one they will use to house the 15 patients. They will not use the back structure. The property is served by 3 septic systems and 1 well.

Commissioner Rhinhart asked if the facility will support the same people as the facility permitted before, at the other location. Mr. Rainey said yes. It will be operated as one treatment facility with two locations less than 2 miles apart. Some patients will graduate to the previously established facility. The new facility will be for intake and initial treatment of patients.

The Planning Commission had previously approved a CUP for Mr. Rainey's other facility. Commissioner Danforth asked Mr. Rainey to explain more about the operations at his other facility since we have new members of the Planning Commission since that hearing. Mr. Rainey stated that they opened in January of 2014. They started with 1-2 clients and within 6 months they reached full capacity at 15. They started as a coed facility, but now they operate as an all-male facility. Most of their clients come from the western part of Oregon and they don't have many visitors. Clients are prohibited from having vehicles and lights are out at 10pm. They have treated over 250 clients at the other facility. They have received letters of recommendation from state agencies and have about 70 clients on a waiting list at this time. They see a need for another facility at this time. Commissioner Danforth asked how long does the average client stay. Mr. Rainey stated that 60 days is the average.

Commissioner Marlatt asked how many people are on staff during the day. Mr. Rainey replied that there are typically 4 and there are no issues with parking for the workers at the new location. Commissioner Wysocki asked what the procedure would be if a client disappeared from the property. M. Rainey said they would find out more details from others, search the area, and contact the local sheriff's office to let them know. They are adults and are allowed to leave if they want, but that has not happened before. They have never even had a fight. Commissioner Green asked what the age range of the clients is. Mr. Rainey said 18 and older. Their oldest patient was 84 years old.

Applicant Testimony: Melissa Homan, 3245 Diagonal Rd. Hermiston, OR. Ms. Homan stated that she is the director of the facility on Diagonal Road for the last 2 years. She expressed that the clients that come to stay with them are clean and sober people. They

do not allow sex offenders. The clients want to be there, otherwise they wouldn't be there. She understands the neighbors' concerns but these are not bad people, they are just people who want to get better. They have never had a client disappear. They are comfortable where they are at and if they want to leave, they give them a ride. Families do not come visit often. She wants everyone to understand they are not junkies and drunks when they come to the facility, they are just people. They have been respectful to staff and each other. Commissioner Marlatt asked if they are allowed to leave on their own ever. She said no. They never leave without supervision. Commissioner Green asked if the clients are coming from prison to the facility. Ms. Homan said no, they typically come from detox, voluntarily. They have not necessarily committed a crime.

Opponent Testimony: Don Stauffer, 32801 West Walls Rd. Hermiston, OR. Mr. Stauffer prepared a packet on notes he distributed to the planning commissioners. He stated that he is the next door neighbor to the east of the property in question. He stated that he is not happy that 15 male drug addicts will be moving in next door. He has concerns about violence and theft and noted that many of the clients are already criminals. He argued that a drug and alcohol treatment facility is not permitted in Rural Residential zones, and this property is zoned RR-4. According to the Umatilla County Development Code (UCDC) 152.155, the Rural Residential zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Mr. Stauffer said a 15 bed drug treatment facility would do the opposite of maintaining a rural residential atmosphere.

Mr. Stauffer believes the fact that the UCDC does not directly address the operation of a residential care facility for drug and alcohol treatment means it is not an allowed use in the RR-4 zone. He pointed out that rest homes, homes for the aged, nursing homes and convalescent homes are allowed as conditional uses in the zone. He believes the drug and alcohol treatment facility does not qualify as a convalescent home and does not agree with Planning Staffs decision to process the application as such. Mr. Stauffer does not think drug and alcohol rehabilitation patients are recovering from sickness or debility, partially restored to health or strength. Convalescing is healing or growing stronger after injury, illness or surgery, most often staying off your feet. He does not believe recovering drug addicts are suffering from an illness or need to recover by resting. They are physically fit grown men.

Mr. Stauffer said that a convalescent home has to meet the requirements of UCDC 152.616 UU, which states that the activity must be compatible with adjacent land uses. According to Mr. Stauffer, the existing adjacent land use is raising children in a safe and healthy home. Mr. Rainey's website claims there will be various classes and outdoor activities for the clients. He is concerned that some clients may be hardcore drug users and are ordered by the courts to be there. They could get drugs delivered from an outside source or steal from neighbors to buy drugs. He believes this is not a compatible use to put 15 adult male addicts next to a home with several children.

Mr. Stauffer said the property is not fenced and he is upset that planning staff has not required fencing as part of the process. Currently, there are 2 partial fences and some old

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barbed wire fencing. He is concerned that they have no enclosures keeping them on the property, so they can leave whenever they want. The findings state that Mr. Rainey has indicated reasonable measures will be taken to ensure impacts to surrounding properties are minimized. In making this statement, Mr. Stauffer said Mr. Rainey acknowledges that there will be an impact on surrounding property.

Mr. Stauffer is concerned about how the value of his home could be impacted by a drug and alcohol treatment facility operating next door. He referred to an article published by the National Association of Realtors in The Realtor Magazine titled, "Treatment Centers Can Impact Home Prices" (Friday, October 17, 2014). He explained that the article states that drug treatment centers reduce home values up to 17%. He believes the value of his home will decrease if the rehab facility is allowed. He believes the zoning codes are in place to preserve the character of the community, and that is not happening here.

Mr. Stauffer believes the Planning staff is making decisions based on random choice rather than reason. The fact that the drug and alcohol treatment facility is not listed as a conditional use in the RR-4 zone means it is not permitted there. Calling it a convalescent home and processing the application in that way is wrong. The planning findings states that the proposed facility would have the same maximum number of patients as a previous care facility (nursing home) the only difference would be the type of care received. Mr. Stauffer does not believe treating drug addicts is the same as treating senior citizens or people in poor health. He asked the planning commission to put the children first and protect them by rejecting this application.

Commissioner Rhinhart asked how long the nursing home has been on the property. Mr. Stauffer stated that it was there when he moved there. It has been operating on and off for years and sold several times. It is a large house with a lot of rooms on 4 acres with a mother-in-law suite out back. Commissioner Wysocki asked about the way he refers to the patients as hardcore drug users, and asked what the basis for that is. Mr. Stauffer stated that hardcore means they are not recreational users, this is his opinion based on experiences he has had. Commissioner Wysocki asked him where he would place a facility like this if he had the choice. Mr. Stauffer said he would refer to the zoning maps and put it in a place where commercial businesses are allowed. This is a commercial business and Mr. Rainey is there to make money. Chair Randall stated that the UCDC does not specifically address drug and alcohol treatment facilities because they do not account for every business allowed in every zone because businesses are constantly changing and evolving. He gave the examples of a spring water well facility or a cell phone store, which are both permitted facilities in certain zones but not specifically listed in the language of the code. Mr. Stauffer argued that a cell phone store would belong in a Commercial Zone. He said this treatment facility is a business and belongs in a Commercial Zone. Commissioner Danforth said it was already operating as a business. Mr. Stauffer stated that a nursing home is allowed in a RR-4 Zone, and a drug and alcohol treatment facility is not.

Chair Randall stated that the facility will be used for treatment of an illness, which aligns with the definition of a convalescent home. He believes alcoholism is an illness. Mr.

Planning Commission DRAFT Minutes

Stauffer said he believes the clients will be drug addicts and not alcoholics. Chair Randall stated that he should not make assumptions about the business without knowing for sure. Commissioner Rhinhart asked Chair Randall for his opinion on the matter of the property value decreasing due to the fact that the treatment center will be operating next door to Mr. Stauffer's home. Chair Randall has expertise in Real Estate. Chair Randall stated that Mr. Stauffer purchased the property after the property next door was operating as a nursing home. He pointed out that Mr. Stauffer was likely able to purchase the property at a lower value, due to that fact. Therefore, he does not see a direct impact. Mr. Stauffer said he is assuming he got a good price, but the article supports that property values are impacted by a drug treatment facility, not a nursing home. They are not the same thing.

Opponent Testimony: Mary Vaughn, 32847 W. Walls Rd. Hermiston, OR. Ms. Vaughn stated that she lives two doors down from the property with the nursing home. Her grandchildren often visit. For the last several months Mr. Atkinson has allowed for between 15-20 men to live on the property. She doesn't know these people and her granddaughter is not allowed to ride her bike away from the house now. The activity going on at the property at this time is out of control and that is a major concern. She acknowledged that people need help with addictions and has experienced family members who struggled with alcohol abuse for many years. She stated that she would like to see the property go back to a single-family residence. She feels like the property is somewhat isolated and rural which is not conducive to the idea of integrating people back into society. She feels there are other locations closer to town which would serve the facility better and allow them to participate in society. Commissioner Rhinhart said the purpose of it being outside of town is to keep people out of the city and contained to the property. Mrs. Vaughn said she has not been comfortable with what has been happening on the property and who is there. Chair Randall agreed. He said permitting the treatment facility would make for a more controlled environment. Mrs. Vaughn asked the Planning Commissioners if they would be ok with a drug treatment facility operating next door to their home. Commissioner Williams said she believes addicts are not the same people when using as they are when they are clean. She would feel comfortable with a facility like this next door to her because the residents are clean and not using drugs so their mind is straight. Mrs. Vaughn stated that 60 days is a very short period to be considered clean from drugs and it doesn't mean there won't be issues.

Opponent Testimony: James and Janice Beardsley, 32739 W. Walls Rd. Hermiston, OR, also representing her father Jeff Poole. Mrs. Beardsley stated that she and her husband James have experience working in drug rehabilitation facilities. As a nurse and recovering addict since 2001, she has extensive knowledge and experience regarding addiction and treatment facilities. She is concerned because in her work counseling drug rehabilitation patients she has seen dangerous behaviors. Her children's bus stop is by the road and she is not comfortable with it being 25 feet from the treatment facility's driveway. She believes addiction pulls a person back in and many addicts try to please people during treatment but in reality, they can't wait until they can use drugs again. The location is several miles outside of town and she does not see it as a good location for integrating patients back into a community. She is concerned about property value decreasing substantially if the application is approved.

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Mr. Beardsley stated that he is concerned about staffing. He wants to know how many people will be on site and checking on the patients regularly. It only takes 5-10 minutes for something to happen. Chair Randall said the patients will not be reintegrating into our community. They are not from this area and they go home after treatment is over. Commissioner Williams asked if the facility Ms. Beardsley works at is for court ordered, or voluntary patients. Mrs. Beardsley said both, and both try to leave. If they are ordered by the courts they report them for leaving. They make documentation in the charts those who were voluntary, there is nothing else they can do. She feels opening the second facility will spread the staff thinner and make them less able to manage the patients responsibly.

Public Agencies: No comments.

Applicant Rebuttal: Rod Rainey, Applicant, 32408 Diagonal Rd., Hermiston, OR. Mr. Rainey stated that he feels they meet the definition of a convalescent home. He stated that drug and alcohol addiction is nationally recognized as a disease and they are treating that. People come there to recover from their illness. He is disturbed by the term “hardcore” being used to describe his patients. He said they are normal people who struggle with addiction and want to get better, not hardcore criminals. They are safe to be around and behave in a respectful way. If they choose to leave the facility, they choose to end their treatment. They do not do regular head checks because they are voluntarily there. Commissioner Rhinhart asked him to explain the screen process they use when they take in new clients. Mr. Rainey said it’s a rigorous background check. They don’t allow violent criminals or sex offenders. Commissioner Williams asked if they accept private pay and patients covered by insurance. Mr. Rainey said they accept both.

Commissioner Rhinhart asked if they prescribe drugs in the process of treatment. Mr. Rainey said they do not. If they come with a medically required prescription, the prescription is secured and administered by the staff as needed. They do not allow the use of methadone or other prescribed narcotics in their facility. Commissioner Kaiser asked if they perform urine analysis or blood tests to randomly screen for drugs in the patients. Mr. Rainey said yes. They alternate between saliva and urine tests so the patient is not sure what to expect. A positive test is a terminable offense. Commissioner Kaiser asked if they have Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings at the facility. Mr. Rainey said no, but they take them to meetings.

Commissioner Kaiser asked if he would consider a fence. He said it would help ease the neighbors fears and protect the patients from being tempted by outside influences. Mr. Rainey said they don’t have fences to keep anyone out or anyone in. They don’t keep the doors locked during the day. It’s not a jail, people are free to go if they wish. Commissioner Danforth asked if they would consider a fence as a condition of the application being approved. Mr. Rainey replied that they already have a fence and there is no reason to lock anyone in.

Chair Randall closed the hearing for deliberation.

Planning Commission DRAFT Minutes

Commissioner Danforth said she views addiction as an illness and finds that the treatment facility meets the definition of a convalescent home. The people who are there are there voluntarily. She liked the idea that this is the first house they come to then move to the other facility closer to town as they earn privileges and advance in their treatment. She recognizes the neighbors' concerns but the history has been that the property had a nursing home previously and it will be operating in the same way. She would like to add fencing the property into the conditions of approval. Commissioner Marlatt pointed out that the fence would be useless, as the clients are free to leave if they want. A fence would not secure the facility any more than it already is. He believes these people are convalescing from an illness and trying to get better which meets the requirements of a convalescent home. Commissioner Williams said she would like to add a condition that a fence be put up. Although it will not keep clients from leaving the property, it does create a division between the properties and a boundary that separates what is the neighbors and what is theirs. It would help the neighbors adjust to the change and add an additional sense of security.

Commissioner Rhinhart requested an annual review of the facility to be sure they are operating in a neighborly way. Chair Randall asked for more details about the fence condition. Commissioner Rhinhart stated that they should finish the fencing on the open side to match the other side that is currently fenced. Commissioner Kaiser requested a condition of approval be written to distinguish the use of the two dwellings on the property. The front dwelling will be used for the facility and the back dwelling will be a separate use. Mr. Seitz said he will add language specifying the use of only the front building. He will also add an annual review after 1-year then move to a 5-year review after that. The fence will be at least a 6-foot fence along the west side of the property leading to the shop.

Commissioner Danforth moved to approve the Conditional Use Permit #C-1264-16 with the added conditions. Commissioner Kaiser seconded the motion. The motion was approved 6:0.

OTHER BUSINESS:

None

ADJOURNMENT:

Chair Randall adjourned the meeting at 9:35 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

(Minutes adopted by the Planning Commission on _____)

2015 ORS § 197.660¹

Definitions

As used in ORS 197.660 (Definitions) to 197.670 (Zoning requirements and prohibitions for residential homes and residential facilities), 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993), 215.263 (Land divisions in exclusive farm use zones), 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties), 215.284 (Dwelling not in conjunction with farm use) and 443.422 (Siting of licensed residential facilities):

- (1)** Residential facility means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400 (Definitions for ORS 443.400 to 443.455), that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
- (2)** Residential home means a residential treatment or training home, as defined in ORS 443.400 (Definitions for ORS 443.400 to 443.455), a residential facility registered under ORS 443.480 (Definitions for ORS 443.480 to 443.500) to 443.500 (Investigation of registered facilities) or an adult foster home licensed under ORS 443.705 (Definitions for ORS 443.705 to 443.825) to 443.825 (Disposition of penalties recovered) that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.
- (3)** Zoning requirement means any standard, criteria, condition, review procedure, permit requirement or other requirement adopted by a city or county under the authority of ORS chapter 215 or 227 that applies to the approval or siting of a residential facility or residential home. A zoning requirement does not include a state or local health, safety, building, occupancy or fire code requirement. [1989 c.564 §2; 1991 c.801 §6; 2001 c.900 §47; 2005 c.22 §145; 2009 c.595 §174]

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2015 ORS § 443.400¹

Definitions for ORS 443.400 to 443.455

As used in ORS 443.400 (Definitions for ORS 443.400 to 443.455) to 443.455 (Civil penalties) and 443.991 (Penalties), unless the context requires otherwise:

- (1)** Director means the director of the licensing agency for the residential facility.
- (2)** Licensing agency means:
 - (a)** The Department of Human Services, if the residential facility that is licensed, or that the Director of Human Services determines should be licensed, is a residential care facility, residential training facility or residential training home; or
 - (b)** The Oregon Health Authority, if the residential facility that is licensed, or that the Director of the Oregon Health Authority determines should be licensed, is a residential treatment facility or residential treatment home.
- (3)** Resident means any individual residing in a facility who receives residential care, treatment or training. For purposes of ORS 443.400 (Definitions for ORS 443.400 to 443.455) to 443.455 (Civil penalties), an individual is not considered to be a resident if the individual is related by blood or marriage within the fourth degree as determined by civil law to the person licensed to operate or maintain the facility.
- (4)** Residential care means services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.
- (5)** Residential care facility means a facility that provides, for six or more socially dependent individuals or individuals with physical disabilities, residential care in one or more buildings on contiguous properties.
- (6)** Residential facility means a residential care facility, residential training facility, residential treatment facility, residential training home or residential treatment home.
- (7)** Residential training facility means a facility that provides, for six or more individuals with mental retardation or other developmental disabilities, residential care and training in one or more buildings on contiguous properties.

- (8) Residential training home means a facility that provides, for five or fewer individuals with mental retardation or other developmental disabilities, residential care and training in one or more buildings on contiguous properties, when so certified and funded by the Department of Human Services.
- (9) Residential treatment facility means a facility that provides, for six or more individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.
- (10) Residential treatment home means a facility that provides for five or fewer individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.
- (11) Training means the systematic, planned maintenance, development or enhancement of self-care skills, social skills or independent living skills, or the planned sequence of systematic interactions, activities or structured learning situations designed to meet each residents specified needs in the areas of physical, social, emotional and intellectual growth.
- (12) Treatment means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem. [1977 c.717 §1; 1987 c.548 §1; 1989 c.224 §95; 1989 c.488 §1; 1991 c.801 §1; 2001 c.900 §183; 2005 c.22 §306; 2007 c.70 §245; 2009 c.595 §777]

...

§§ 443.400 (Definitions for ORS 443.400 to 443.455) to 443.455 (Civil penalties)

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

NOTICE OF PUBLIC HEARING UMATILLA COUNTY BOARD OF COMMISSIONERS

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Board of Commissioners on **Wednesday, September 28, 2016 at 1:30 PM in Room 130 of the Umatilla County Courthouse, 216 SE 4th St., Pendleton, Oregon 97801**. The Public Hearing is an APPEAL of the Umatilla County Planning Commission decision approving CONDITIONAL USE PERMIT REQUEST, #C-1264-16, application submitted by RODNEY J. RAINEY, property owner MICHAEL ATKINSON. The property is located on the north side of West Walls Road (County Road No. 1258) on Tax Lot #3391, in Township 05N, Range 29E, Section 29. The site address for this property is 32773 W Walls Road, Hermiston, OR 97838.

The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

For further information concerning the above proposal, please contact Assistant Planner, Brandon Seitz at the Umatilla County Planning Department, 216 SE 4th Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6249; email brandon.seitz@umatillacounty.net.

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes appeal to the Land Use Board of Appeals based on that issue.

Copies of applications, documents and evidence pertaining to the hearing listed above, and all relevant criteria are available for inspection at no cost and will be duplicated at printing cost. A copy of the staff report will be available for inspection or duplication at least seven days before the hearing. Hearings shall be governed by Section 152.772 of the Umatilla County Land Development Code.

DATED THIS 8th day of September 2016
DEPARTMENT OF LAND USE PLANNING

Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252



Notice of Appeal

Process taken from UCDC 152.766

APPEALS

(A) An appeal from a ruling of the Planning Director. An appeal of an administrative review decision or a ministerial action on a land use request made by the Planning Director or authorized agent shall be made to the Planning Commission. Such appeals must be made within 15 days of the date of the ruling or decision.

(B) An action or ruling of the Planning Commission pursuant to this chapter may be appealed to the County Board of Commissioners within 15 days after the Planning Commission has signed its findings of facts and conclusions of law.

(1) If the appeal is filed it shall be in writing stating the reasons for appeal pursuant to the criteria for review.

(2) The County Board of Commissioners shall receive the written findings of the decision and the minutes from the Planning Commission hearing and shall hold a public hearing on the appeal.

(3) The Board may amend, rescind, affirm or remand the action of the Planning Commission.

(C) All appeals shall be made in writing, accompanied by the appropriate fee, and shall state the reasons for the appeal and the alleged errors made on the part of the Planning Director or authorized agent or the Planning Commission. If the decision being appealed utilized criteria for review established elsewhere in this chapter, the reasons for the appeal shall be stated pursuant to these criteria.

(D) All appeals shall be on a de novo basis. The body hearing the appeal shall be able to receive any additional testimony presented by the applicant or proponent.

(E) Appeals of a Board of Commissioners decision shall be made to the Land Use Board of Appeals within 21 days of the date of the decision. Such appeals shall not be based on issues that are not raised at the local hearings with "sufficient specificity" as to afford the decision-makers and parties involved an opportunity to respond to the issue.

FILING FEE

Filing of an Appeal - \$800.00

(Effective July 1, 2007 via Ord. #2007-06)

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009

File Location: H:\shared\Forms_Master\Appeal_Notice.doc

RECEIVED

JUL 1 2007

PLANNING DEPARTMENT

Section 1: Request and Description of Application

This information deals with the Land Use Request Application that an Appeal is being filed against.

THE REQUEST IS FOR... (Check the one that applies)

- an Appeal to the Planning Commission from a decision of the Planning Department
 an Appeal to the Board of Commissioners from a decision of the Planning Commission

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #C-1264-16 Map# 5N29C.
- Type of Land Use Request Application: Tax Lot #3391, Account#130085
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): June 28, 2016 29th
- Date you received notice of the decision or learned of the decision: _____

Section 2: Contact Information

Name of Appellant(s): MARY and Dale Vaughn
Address: 32847 W. Walls Road
City, State, Zip: Hermiston, OR 97838
Telephone Number & Email Address: 541-571-4220 dalevaughn6@yahoo.com

NOTE: MORE APPELLANT INFORMATION ATTACHED EXHIBIT "A"

Date of Submittal for the Appeal: July 14, 2016

Section 3: Basis of Appeal

Complete only when appealing a decision made by the Planning Department or Planning Commission.

The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

Attached is EXHIBIT "B"
EXHIBIT "C"
EXHIBIT "D"

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X *Mary Engelbrecht*
Signature of Appellant

7-14-2016

Date

Dale Vaughn and Mary Vaughn
Printed Name of Applicant

X *Donna Gage* (MSV)
Signature of Appellant

7-14-2016

Date

Darrel Gage and Donna Gage
Printed Name of Applicant

X *Donald R Stauffer*
Signature of Appellant

7-14-2016

Date

Linda Stauffer and Donald Stauffer
Printed Name of Applicant

X *Ivan Meads*
Signature of Appellant

7-14-2016

Date

Ivan Meads and Margaret Meads
Printed Name of Applicant

Office Use Only

Date this paperwork was received: 7/14/16

Accepted by: *Brandon Seitz*
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 16399

Exhibit "A"

Continued List of Appellants:

**Linda and Donald Stauffer
32801 W. Walls Road
Hermiston, OR 97838**

**Darrel and Donna Gage
33073 Diagonal Road
Hermiston, OR 97838
541-567-7822**

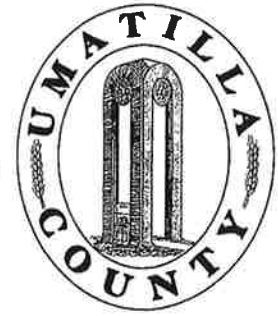
**Ivan and Margaret Meads
32855 W. Walls Road
Hermiston, OR 97838
541-564-0181**

Exhibit "B"

We the Appellants respectively disagree and challenge the findings and conclusions of the Planning Commission's hearing of June 23, 2016 (Conditional Use Permit Request # C-1264-16, Map #5N 29C, Tax Lot #3391, Account # 130085). Specifically the RR-4 Rural Residential Zone 152.157 (F) rest home, home for the aged, nursing home, or convalescent home as provided in S 152.616 (UU); . This part of the code does not include a drug treatment center.

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

June 28, 2016

SOLID WASTE
COMMITTEE

Rodney J. Rainey
32405 Diagonal Road
Hermiston, OR 97838

SMOKE
MANAGEMENT

GIS AND
MAPPING

Re: Approval Letter
Conditional Use Permit Request #C-1264-16
Map # 5N 29C, Tax Lot # 3391, Account # 130085

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Dear Rodney:

The Umatilla County Planning Commission, at their June 23, 2016 hearing, approved Conditional Use Permit #C-1264-16. On June 28, 2016, the Final Finding and Conclusions were signed, signifying the Final Decision for your Conditional Use Permit Request. The date the Finding were mailed, June 29, 2016, commenced a statutory 15-day appeal period that will be over July 14, 2016. Those who participated during the approval process, may appeal the Planning Commission's decision to the Board of Commissioners.

Appeals must be made in writing on the proper form available at the County Planning Department office and should include the reason for the appeal and the alleged errors that the appellant believes were made by the Planning Commission in addressing specific land use approval criteria. The fee for appealing a Planning Commission Decision is \$800. If there is no appeal, you may then satisfy the Conditions placed on the approval as follows:

CONDITIONAL USE PERMIT CONDITIONS:

Precedent Conditions: The following precedent condition must be fulfilled prior to final approval of this request, signified by issuance of a Zoning Permit.

1. Provide to the County Planning Department a copy of State licensing showing that the applicant is licensed as a residential care facility for alcohol and drug treatment in the State of Oregon.

Exhibit "C" (2)

Rainey Approval Letter
Conditional Use Permit #C-1264-16

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2. Provide to the County Planning Department verification of compliance with all applicable Oregon Fire Code.
3. Submit a site plan showing the size, location and number of all parking space as required per Section 152.560 of the UCDC.
4. Comply with all applicable requirement of the Oregon Health Authority for State Regulated Water Systems and provide verification of compliance to County Planning.

Subsequent Condition: The following subsequent conditions must be fulfilled after final approval and shall continue to apply.

5. Obtain a County Zoning Permit from the Umatilla County Planning Department to finalize approval of the convalescent home.
6. Obtain all other applicable State permits for the facility.
7. Visitation and delivery hours shall be limited to normal business hours (8 a.m. to 5 a.m.).
8. Extend the existing fence along the eastern property line to the existing shop.
9. Approval of the proposed facility is limited to the large dwelling located adjacent to W Walls Road and not the manufactured dwelling on the northeast corner of the parcel.
10. Approval of the convalescent home shall be subject to review one year from the date of the Final Decision, signified by signing of the Final Findings, for compliance with the standards of approval found in Sections 152.616 (UU), 152.615 and 152.560 of the Umatilla County Development Code and the conditions of approval listed above. After the initial review approval shall be reviewed every 5 years. The review is subject to the applicable annual review fee. If during review the application is found to be out of compliance with the applicable standards or a condition of approval the decision may be referred back to the Planning Commission for reconsideration or approval may be voided Subject to Section 152.613 (F).

The Planning Commission's approval will expire on the following date, two years from issuance of the Final Decision for your Conditional Use Permit Request. By that time, at the latest, you must have satisfied the conditions of approval listed above and obtained a County Zoning Permit.

Rainey Approval Letter
Conditional Use Permit #C-1264-16

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June 28, 2018

Note: If the above deadline is missed, you would have to reapply for the condition use request through our office, and be subject to all the review procedures and standards in effect at that time.

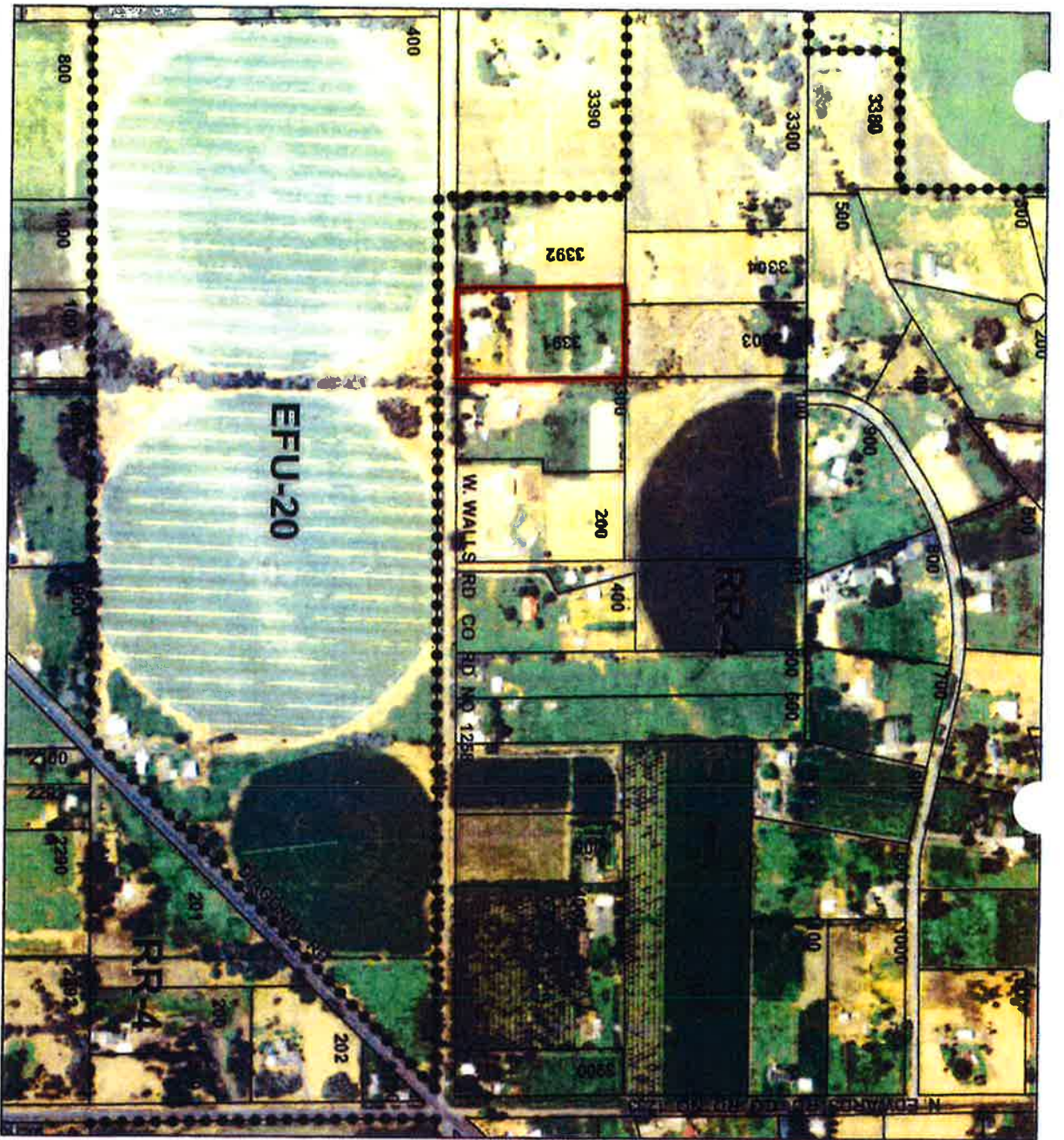
If you have questions please contact me at 541-278-6249 or if it is more convenient by e-mail at brandon.seitz@umatillacounty.net.

Cordially,

Brandon Seitz,
Assistant Planner

Enclosures: Signed Final Findings
County Zoning Permit

CC: County Assessors
Melissa Homan
Don Stauffer
Mary Vaughn
James & Janis Beardsley



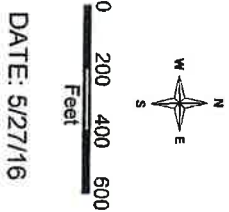
CONDITIONAL USE REQUEST #C-1264-16
 ROD RAINEY / POWER HOUSE RDTC, APPLICANT
 MICHAEL ATKINSON, OWNER

SUBJECT PROPERTY

2014 AERIAL PHOTO

PROPERTY OWNERS WITHIN 250'
 NOTICE OF SUBJECT PARCEL

| MAP & TAX | OWNER |
|----------------|------------------------------------|
| 5N2929DDC00100 | MEADS IVAN |
| 5N2929DDC00300 | STAUFFER DONALD R & LINDA J |
| 5N29320000400 | GAGE DARREL & DONNA (TRS) |
| 5N29C00003300 | LORANG JEANNETTE |
| 5N29C00003303 | BALLARD MARY M & BURRELL JESSICA D |
| 5N29C00003304 | MARTINEZ SABAS & MUNOZ SUSAN |
| 5N29C00003391 | ATKINSON MICHAEL R |
| 5N29C00003392 | POOL JEFFREY L & AMELIA D |



DATE: 5/27/16

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Aitold, Umatilla County Planning Dept. y:\workspace\planning\vicinity maps\AC-1264_16.gws