

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on Tuesday, July 30, 2013, with the following present:

**MEMBERS:** Ken Wick  
Georgene Henson  
Ramona Phillips  
Sterling Shetler

**STAFF:** Harold Black, Planning Director  
Chrystal Allen, Permit Tech

**OTHERS PRESENT:**

Bob Reading  
Joseph Resident

John & Rebecca Lenahan  
Enterprise Residents

Elaine Albrich  
Stoel Rives of Portland OR

**KEN WICK, CHAIRMAN:** [Introduced members and staff and read agenda.]

**[Please note that draft and adopted findings, staff reports, written testimony, and the official Planning Commission meeting audio record are available for review and/or purchase in the Planning Department.]**

**Public Hearing Procedure**

Ladies and Gentlemen, I call the regular July 30, 2013 hearing session of the Wallowa County Planning Commission to order. My name is Ken Wick, and I am the Chairman of the Planning Commission for Wallowa County, Oregon. The members of the Planning Commission are appointed by the Wallowa County Board of Commissioners and we all serve as volunteers. Now I would like to introduce the current members of the Commission who are present tonight, and the staff of the Planning Commission, who have prepared the materials we will consider. (Does introductions of members and staff).

We conduct two types of hearings, legislative and quasi-judicial. Legislative hearings involve the making of rules, either new ones or revisions to existing rules. In these cases we recommend our conclusions to your elected lawmakers, the County Commissioners, who always take the final action on legislative issues. Oregon law requires that persons who attend a land-use hearing be advised of certain rights and duties before the quasi-judicial hearing begins. We must tell you about approval criteria, the raise-it-or-waive-it rule, and the right to have the record left open. First approval criteria: the law requires the County to list the applicable County and State zoning criteria. A County Planner will do so in a few minutes. The law requires us to identify those standards which an applicant must satisfy in order for the County to approve an application. Each of the standards must be supported by substantial evidence in the record. Make sure to direct your testimony, claims, or evidence toward the criteria stated by the Planner or any other criteria which you believe applies to the application. Second, the raise-it-or-waive-it-rule. The law says that any issue which might be raised in an appeal of the decision after this hearing must be raised before the record of this hearing is closed. If you do not raise the issue before the record is closed, you cannot raise the issue on appeal. You must identify

## Draft

the issue clearly enough so that the County and all parties have an opportunity to respond to the issue. Third, the right to have the record remain open. The law grants the participant the right upon proper request to have the record of the hearing remain open for at least seven days. The request must be made before the conclusion of this hearing. The participant is the applicant or anyone who has submitted written or oral testimony regarding the application. The request may be made at any time during the initial hearing, but must be made prior to the time the Planning Commission Chair announces that the hearing is closed. Once the hearing is closed, there is no longer a legal right to have the record remain open for additional evidence.

### Hayes APP#13-01

**Harold Black** explains that the Planning Commission must decide if they will hear this appeal on the record or De Novo and also must decide the procedure they would like to follow.

**Ramona Phillips** moves to hold the hearing on the record.

**Georgene Henson** seconds the motion. [Motion passes 4-0-0]

**Ramona Phillips** moves to adopt quasi-judicial procedures.

**Sterling Shetler** seconds the motion. [Motion passes 4-0-0]

**Harold Black** presents the Hayes appeal staff report dated July 1, 2013 and attachments.

**Elaine Albrich** interjects during the presentation of the staff report to ask the Planning Commission if they received a copy of the record. After discussion of who should respond, Director Black confirms that the Planning Commission did receive the record in their packet.

### Testimony

**John Lenahan** states his name and address for the record. Lenahan explains that he was traveling out of the area and picked up his packet last Thursday and therefor was only given three working days to prepare his testimony for this appeal hearing, which is not adequate in his opinion. Lenahan feels that the administrative decision letter he received dated May 30<sup>th</sup> regarding LP13-11 and a second letter received June 3<sup>rd</sup> did not mention an administrative decision or ruling by the Planning Director and did not mention his appeal rights or whether his comments had been received or reviewed. Lenahan states that, regarding LP#13-10, the ownership of this land is in question, and wonders why a surveyor submitted the applications, is unclear as to the sequence of changes as they relate to parcel numbers, parcel position, and ownerships and would like a clear explanation of the time line and sequence of previous land use actions and further states that this property is in a flood

## Draft

zone.

**John Lenahan** states that regarding LP#13-11, he also questions the ownership and would like a clear explanation of the time line and sequence of previous land use actions. Lenahan states that findings addressing high value farm land and clustering should have been addressed and would like a clear explanation regarding the DLCD M49 decision and questions if these partitions are within the scope of approval considering the ownership issue and previous land use actions. Lenahan feels that a chain of title document going back to 2006 would be appropriate and further urges the Planning office to provide an overlay that shows the sequence of tax lot and parcel transformations. Lenahan feels that proposed parcel 2 should be relocated as it projects itself approximately 120 feet into a wheat field, is located on steep ground, and that Cove ditch bisects the property from North to South and fears that the location of the currently proposed parcel would interfere with ditch access and water delivery. Lenahan questions the proposed 60 foot wide easement and future access for farming equipment and urges the Planning Commission to conduct a site visit. Lenahan feels that the applications are defective and incomplete and questions the document evolution process. Lenahan states that the application process did not follow County or State requirements and requests that the Planning Commission consider his previously submitted written testimony and to keep the record open to allow him time to respond to the Staff report and further offers to provide the Planning Commission draft language for any necessary easements. Lenahan urges the Planning Commission to remand the partitions and to require the Planning Department to restart the entire application process over.

**Elaine Albrich** states her name and address for the record and explains that she is the legal representative for the Lenahan Family. Albrich states that she finds it odd that the applicants were not present for this hearing, and that the applicant did not provide proposed findings. Albrich further states that the record is lacking and that there is no substantial evidence to support the County's approval of either partition. Albrich explains that the process needs to be accountable and supported with evidence in the record and the County needs to follow their own code when issuing decisions. Albrich explains that the decision letters did not express a decision, outline appeal rights, or address comments and concerns outlined in Mr Lenahan's letter nor were findings ever received, as are required per WCLDO 4.25.03. Albrich requests that the Planning Director's decision be reversed and that LP#13-10 & LP#13-11 be remanded and recommends proposed conditions of approval and further suggest that the Planning Commission conduct a site visit.

The **Planning Commission** discuss Lenahan and Albrich's testimony and agree that a site visit would be beneficial and further agree to remand the partitions.

**Georgene Henson** moves to remand partitions LP#13-10 & LP#13-11 to the Planning Department and requests that the partitions be prepared for review by the Planning Commission at a future hearing.

**Ramona Phillips** seconds the motion [**Motion passes 4-0-0**]

The Planning Commission and Staff discuss procedure and agree that it would be appropriate to review findings at the next meeting and to then review the land partitions at a later meeting.

Draft

Other Business

No other business presented or discussed.

Minutes

**Georgene Henson** moves to approve the minutes for the June 25, 2013 Planning Commission meeting as presented.

**Sterling Shetler** seconds the motion. **[Motion passes 4-0-0]**

There being no further business before the commission, the meeting was, on motion duly made and seconded, adjourned at 9:00 p.m.

\_\_\_\_\_  
Chrystal Allen  
Permit Technician

\_\_\_\_\_  
Date