

COLUMBIA COUNTY PLANNING COMMISSION MEETING

November 2, 2015

Meeting Minutes

Members Present: Claudia Frace, Alta Lynch, Paula Lichatowich and Jeff VanNatta

Staff Present: Glen Higgins, Deborah Jacob, Ginger Davidson and Kay Clay

Others: David Reynolds, Steve Hammergren, Shaun Semsch, David Wilson, Matthew Wilson, Norm Anderson, Doug Wilson, Steve Alexander, Cecelya Stolz and Chelsea Strautman

Jeff VanNatta called the meeting to order at 6:30pm.

Deborah Jacob read the pre hearing statement.

No-exparte were declared for case DR 16-02, Rightline Equipment

Deborah Jacob presented the staff report.

BACKGROUND:

The applicant, Rightline Equipment, submitted an application to build an approximate 52,250 square foot metal structure to be used for the expansion of their existing facilities consisting of the design and manufacturing of forklift truck attachments. Rightline has existing facilities on two adjoining Heavy Industrial (M-1) properties addressed at 29060 and 29120 Dike Road. These two properties consist of approximately 22 acres, are served by the City of Rainier's water and sewer, and are within the Rainier's Urban Growth Boundary. Rightline currently has 3 buildings on the ~3 acres addressed at 29120 Dike Road and the Planning Commission has approved 2 more buildings in 2014 and 2015 that are both being constructed. The 52,250 square foot building requested for DR 16-02 will be the 3rd building that has been needed in the past 2 years indicating Rightline's dynamic growth.

This subject property contains ~18 acres and the majority of the northern acreage is already covered in impervious surface (primarily gravel) and contains 5 existing buildings, two of which will be demolished in order to construct the new 52,250 sq ft structure; the applicant shall obtain Demolition Permits for these two structures as one condition of approval.

The new building will require 20 more parking spaces -one for every employee on the largest shift- indicating their largest shift will increase from 67 to 87. However, the applicant is proposing 62 new parking spaces in preparation for future buildings planned

elsewhere on this 18-acre property. This new 62-space parking area will be improved to the minimum requirements in Section 1400 of the Zoning Ordinance related to Off-Street Parking and Loading as one condition of occupancy.

The subject property contains two (2) "Wetland Impact" areas: one located in the central eastern portion of the site and other in the southern portion. The City of Rainier conducted this survey in 2003 to identify appropriate development strategies and mitigation measures necessary to help preserve and protect the identified wetlands in West Rainier.

The new structure and related development will essentially remove the site's existing smaller wetlands by expanding the site's graveled surface south of the new facility. Consequently, before the County can issue any building permits for this project, Land Development Services (LDS) will require written confirmation that the Oregon Division of State Lands has reviewed and approved all work for compliance with their regulatory requirements. Typically any work within identified wetlands requires obtaining DSL's approval of Wetlands Delineation, Wetlands Mitigation Plans, and Removal-Fill Permits all of which have yet to be submitted as of the date of this report, October 22, 2015.

The manufacturing of steel lift truck attachments is a permitted use in the M-1 zone. The 18 acre site is adjacent to other M-1 zoned properties to the west, south and north and by General Commercial (C-2) zoned properties to the east within the City of Rainier. The subject property does not abut any residential zones. There are no setbacks required for buildings in the M-1 zone that abut other M-1 properties, however the property does abut commercial districts, within the City of Rainier, to the east. The City of Rainier did not provide LDS with any comments or concerns stating that the new building needed to comply with the minimum side yard setbacks from the C-2 zoned property directly east referred to in Section 934.1(A).

Staff finds that this new structure does not require any front, side or rear property line setbacks at this location since, at this location, this structure abuts other M-1 zoned properties. There are no additional property line setbacks referred to in 934.1 (B & C). For these reasons, staff finds the new facility proposed for DR 16-02 complies with the criteria in 934.1.

The Parking Area on the Site Plan for DR 16-02 designates one new 62-space Parking Area located directly west of the new facility and on both sides of the 18-acre site's proposed driveway/access to Dike Road. The application also states that 2 ADA accessible parking spaces (one for each parking area on both sides of the site's driveway) will be provided near the north end of the new building to satisfy the minimum provisions in Section 1415.1. A condition of approval will require these two ADA accessible parking spaces to be designated and clearly marked prior to issuance of the final occupancy permit.

Due to its size, the 52,250 sq ft facility meets the criterion in Section 1551.(B).1 for a Type 2 Site Design Review to be reviewed and approved by the Planning Commission. The applicant and LDS Staff held a pre-application meeting on 7/30/15 where the submittal requirements and the standards of the M-1 Zone were determined and explained to the applicant. On September 10, 2015 the applicant submitted the necessary information and supporting documentation for the proposed Type 2 Site Design Permit including a Storm Water Report from Lower Columbia Engineering addressing the stormwater and erosion control implications of the new structure.

The submitted documents for DR 16-02 contained existing and proposed Site Plans, Architectural Drawings of the new structure, and the Wetlands Delineation conducted by Pacific Habitat Services. These site plans satisfy most of the requirements in Sections 1561(A - C) s and are included as attachments for this Report. The submittal, however, did not include a landscape plan as required in 1561(A)17. Staff finds the applicant satisfied the provisions in Sections 1551, 1552, 1553, 1555, 1556, but still needs to submit a landscape plan required in 1561. Staff recommends a condition of approval requiring the applicant to submit a landscape plan for review and approval by the County Planner (as covered for Finding 9) prior to the issuance of building permits.

Staff recommends a condition of approval requiring the applicant to submit a revised stormwater plan prior to issuance of building permits. This stormwater plan should include the location of catch basins and drainage pipes routing stormwater run-off from the proposed development to the storm facility. This Plan should also include features necessary to comply with DSL's approved Wetlands Mitigation Plan and/or Removal-Fill Permit on the subject property. Additionally, the final plan should conform to the preliminary site plan that reflects these revisions to the approved 2010 Engineered Stormwater & Erosion Control Plan and Analysis. Prior to building permit issuance, the County Building Official will also require the project to comply with the regulatory requirements for stormwater pollution and prevention plans (SWPPP) prior, during, and post construction. Staff finds that the criterion is met subject to conditions.

Open for public comment:

Steve Alexander, Lower Columbia Engineering, supported the application and the growth for the company is a good thing for the economy. Being able to consolidate the company on one property in one area is a smart move. This company is using all available land and a lot of their business goes from building to building.

Opposition: None

Jeff VanNatta supported that this is a good company and the previous company of this type had moved to Longview.

Paul Lichatowich wanted to compliment the staff on the staff report being very complete.

Atla Lynch made motion to approve DR 16-02 with conditions as stated and **Claudia Frace** seconded. All in favor motion passed.

V 16-02 & MP 16-01

Variance & Partition for David Wilson Trust

Ex-parte contacts - Paula Lichatowich and Alta Lynch drove by the property but spoke to no one.

Glen Higgins presented the staff report.

Summary & Background

The applicant, David Wilson Trust, submitted Minor Partition (MP 16-01) and related Minor Variance (V-16-02) applications which, if approved, will allow the trust to divide an approximate 14.29 acre Rural Residential (RR-5) zoned property into three parcels of 4.76 acres each. The subject property is vacant and is surrounded almost entirely by RR-5 properties. Only a small portion in the northwest section of the property abuts the Primary Forest (PF-80) zone. All three parcels have 50' of frontage on Blaha Road. In addition to the frontage on Blaha Road, the northern parcel has an access easement off of Lindsay Lane. The southern two parcels will be served by McNulty Water. The northern parcel is proposed to be served by a well. Emergency services to the area are provided by Columbia River Fire and Rescue. There are no known natural areas of concern on the property per the CPAC Beak Maps, National Wetlands Inventory Maps, and County Records.

The applicant requests a minor variance from the minimum lot size because of the location on the subject property of power lines owned by the Bonneville Power Administration (See picture on page 12) . The application for Administrative Review was deemed complete on August 17, 2015. On August 19th notices were mailed out to adjacent property owners within 750 feet and the Community Planning Advisory Committee (CPAC for St. Helens & Columbia City). On August 31, 2015, a Referral was received from a notified party and an Appeal/Referral to the Planning Commission was filed in the Clerks Office. On September 29th the applicant was notified of the Referral and the date of the subsequent public hearing.

What follows is a brief history of the area and subject property (Tax lot #4212-030-00600 used to be referred to as tax lot #4212-000-01900. This report will refer to the historical property as tax lot 1900):

1981: Wilson divided tax lot 1900 (58.2 acres) into 3 parcels:
Tax lot 1905 - 5.00 acres

Tax lot 1900 - 31.84 acres
Tax lot 1904 - 21.36 acres

1987: MP 27-87 - Wilson divided tax lot 1904 (21.36 acres) into 3 parcels:

Tax lot 1904 - 16.62 acres
Tax lot 1906 - 2.55 acres
Tax lot 1907 - 2.19 acres

The Board of County Commissioners approved Lindsay Lane with a 20' paved surface. At this time, Lindsay Lane was a non-exclusive easement.

1988: MP 30-88 - Wilson divided tax lot 1904 (16.62 acres) into 3 parcels:

Tax lot 1904 - 12.62 acres
Tax lot 1908 - 2.00 acres
Tax lot 1909 - 2.00 acres

1989: MP 43-89 - Wilson divided tax lot 1900 (31.84 acres) into 3 parcels:

Tax lot 1900 - 28.21 acres
Tax lot 1910 - 2.00 acres
Tax lot 1911 - 2.01 acres

1992: Due to TL 1904 being a non-contiguous parcel a lot line adjustment is made increasing TL 1900 to 30.04 acres and decreasing TL 1904 to 10.41.

In 1994 Lindsay Lane became a public right of way.

Property owners adjacent to Lindsay Lane dedicated a small portion of their property to the public. Portions dedicated per parcel ranged from 0.04 acres to 0.57 acres.

Wilson dedicated a total of 0.72 acres (0.15 from TL 1900 and 0.57 from TL 1904).

1995: MP 51-95 - Wilson divided tax lot 1904 (10.41 acres) into 3 parcels:

Tax lot 1904 - 6.41 acres
Tax lot 1913 - 2.00 acres
Tax lot 1914 - 2.00 acres

1997: MP 12-97 - Wilson divided tax lot 1904 (6.41 acres) into 3 parcels:

Tax lot 1904 - 2.00 acres
Tax lot 1915 - 2.00 acres

Tax lot 1916 - 2.41 acres

1997: MP 12-97 - Wilson divided tax lot 1904 (6.41 acres) into 3 parcels:

Tax lot 1904 - 2.00 acres

Tax lot 1915 - 2.00 acres

Tax lot 1916 - 2.41 acres

1998: *The Columbia County Zoning Ordinance RR-5 Section is amended no longer allowing 2 acre minimum lot sizes in the RR-5 zone. Prior to this zone change a parcel could have a minimum lot size of 2 acres if the property was able to access public or community water systems.*

2000: MP 00-15 - Wilson divided TL 1900 (29.89 acres) into 3 parcels:

TL 1900 - 19.89 acres

TL 1917 - 5 acres

TL 1918 - 5 acres

2011: MP 11-04 - Wilson divided tax lot 1900 (19.29 acres) into 2 parcels:

Tax lot 1900 - 14.29 acres

Tax lot #4212-30-00200 - 5 acres

The parcel size of TL 1900 was reduced from 19.89 to 19.29 acres in 2001. The County Assessor's Records has a notation of "acreage correction".

The proposed partition will create lots that will be sized as other lots in the vicinity.

The proposals requested for MP 16-01 and V 16-02 indicate that all three proposed parcels are intended for residential uses and development. Before the applicant can proceed with this Minor Partition, it is necessary for the Planning Commission to review and approve the requested Minor Variance to the minimum 5.0 acre parcel size according to the applicable provisions in Section 1504.3. Staff finds that the intended residential uses on the proposed parcels are permitted in the RR-5 zone. All three proposed parcels will be evaluated for consistency with the Minor Variance provisions in this report.

The subject requests, if approved, will partition a 14.29 acre property into three parcels of 4.76 acres each. The two proposed parcels below the power lines will be served by McNulty Water; the proposed parcel above the power line is proposed to be served by a well, but adequate potable water supply is not yet proven. All three parcels will need to be evaluated by the County Sanitarian to determine appropriate methods of sewage disposal for each future residence. Unless Land Development Services (LDS) receives

documentation stating otherwise, a condition of approval should require the face of the final plat to state which parcels do not have proven methods of sewage disposal and which parcels do not have proven adequate potable water supply per the requirements of Section 710(L) of the Subdivision and Partitioning Ordinance. Further, a condition of approval should state that prior to issuance of building permits, the property owner shall demonstrate that water is available and submit proof of approved lot evaluation(s). All three parcels are within the Columbia River Fire & Rescue District (CRFR). CRFR reviewed the application and has no objection to its approval as submitted. CRFR did comment that "Future driveways will need to conform to the Access Roads and Driveway Standards. With the above conditions, staff finds the proposed partition complies with the requirements for newly created parcels in the RR-5 zone.

As demonstrated on the submitted preliminary plat and as documented in the Public Right of Way Dedication for Partition Plat No 2011-9, Parcels 1,2 and 3 have 50 feet of usable frontage on Blaha Road. In addition, Parcel 1 has an easement to access Lindsay Lane through the neighboring parcel to the north. The County Transportation Planner has no objections to the proposed partition, but commented that:

"Per the County Road Standards page 20, 3, "Existing Public Road Rights-of-way. Developers of partitions with frontage on existing public roads or county road rights-of-way may be required to make improvements to roads within such rights-of-way beyond the limits of the frontage proportionate to the maximum build of the area. Such improvements shall be made in accordance with the "Development of Existing Public Road" standards (Section V)."

Therefore as a condition of this partition, Blaha Road leading to the property to be partitioned will need to be constructed 20 feet wide (paved) to County Road Standards. These improvements will be coordinated through a Public Road Construction Permit, issued by the County Road Department."

There are 2 classes of variances to the standards established in this ordinance. A Minor Variance is defined as a request for a variance of less than 25% from a dimensional requirement such as setbacks, height, lot or parcel coverage, lot or parcel width, or lot or parcel depth, or a request for a variance of less than 10% from a minimum lot or parcel size requirement. All other variances are defined as Major Variances. Use variances are not permitted under this ordinance except as permitted under Section 1505.1 "Temporary Permits: Use Not Allowed in District".

The granting of this proposed minor variance to the parcel size should not be injurious to nearby rural residential properties along Blaha Road and Lindsay Lane, nor should it be detrimental to the safety, health or welfare of the general public. As it stands, a majority of the properties along Blaha Road and Lindsay Lane are less than 5 acres. This proposed deviation from the minimum parcel size is less than 10%; each proposed lot will be approximately 4.76 acres preserving the rural nature of the RR-5 zoned neighborhood.

The Referral letter speaks of property owners on Blaha Road who will be affected by the proposed partition as being concerned about the “County Road Extension”. In particular they are concerned about the logistics of the road extension and how it would encroach on adjacent properties and changes that would be inflicted on surrounding vegetation and wildlife habitat. If variance V16-02 is approved it will result in one more home site for this 5 acre zoned neighborhood of approximately 40 home sites. The road extension mentioned in the Referral letter was part of Partition Plat No 2011-09, which took place in 2011 (See page 5 of this report for the changes that occurred on the property in 2011). When Wilson did MP 11-04 he dedicated 5000 square feet of his property to the public, so that lot 1900 would have adequate frontage on Blaha Road. This road extension did not affect neighboring properties.

What might be of more concern to property owners on Blaha Road is the widening of Blaha Road to a 20 foot paved surface. For V16-02 the widening of Blaha Road is of no consequence. Whether lot 1900 is divided into two lots or three lots the County will require Blaha Road to have a 20 foot paved finish leading to the Wilson parcel. The County is requiring that Blaha Road be widened to County Road Standards to improve public safety by making the road wide enough for emergency vehicles. In conclusion Staff finds that the granting of this minor variance will not be detrimental to the public safety, health or welfare or injurious to other property. V 16-02 complies with this criterion.

In the submitted documentation the applicant stated, “Bonneville transmission line easement divides at a point in the property where it makes the best use of the property to divide it into 3 lots.” As seen on the proposed Partition Plat Map provided by the applicant one of the lots lies north of the power line easement and the other two lots are south of the easement. While the Bonneville easement is a condition unique to this particular property, it is not a reason to justify the granting of three undersized parcels. The property could just as easily be divided in half creating two parcels above the minimum lot size. Based upon this reasoning Staff finds that V16-02 does not meet the conditions of criterion 1504(A)(2).

Further research of the property revealed, however, that there are some conditions worth reviewing in regards to historic development in the area that surrounds this particular piece of property. The summary section of this report described the development activity in this area from 1981 to present. Between 1981 and 1997 David Wilson created 12 lots - 11 of which were approximately 2 acres in size. In 1984 the subject area was zoned Rural Residential with a 5 acre minimum. Per the zoning code, this minimum acreage could be reduced to 2 acres if there was a public or community water system available. This acreage flexibility was in place until 1998 when the RR-5 minimum lot size became strictly 5 acres. At the time of this change to the zoning code, the properties surrounding Blaha Road and Lindsay Lane were nearly all divided at capacity and used for single family dwellings. Between 2000 and 2011 David Wilson created three more lots of five acres each. The subject proposal before the Planning Commission will divide the remainder of TL 1900 into three parcels of nearly five acres each. Although each parcel

will be 9% smaller than the minimum lot size they will be consistent with the neighborhood as a majority of the properties are less than five acres including three of the five properties owned by parties objecting to V16-02. In conclusion, Staff finds that the historic development in the area which as resulted in parcels on three sides of the subject parcel which are less than 5 acres is unique, and that the proposed lot sizes of 4.76 acres for each of the proposed parcels is in keeping with the existing rural density of the neighborhood, and therefore, meets the criteria of CCZO 1504.1(A)2.

This request for a minor variance from the 5.0 acre minimum size does not appear to adversely affect the realization of the Comprehensive Plan nor violate the intent of the RR-5 zone listed in Section 601 of the zoning ordinance. Staff finds that approving the proposed variance will compliment the existing character and levels of development of this rural residential unincorporated area, be consistent with the existing rural facilities and services in the area, and will not require any facility and/or service improvements at the expense of the public. Nevertheless, a condition of approval for the minor partition should state that all future site development will be reviewed by the County Planner for consistency with the applicable goals and policies of the Comprehensive Plan that are implemented through the County's Zoning Ordinance. For these reasons, Staff finds this criterion will be satisfied with conditions of future building permit issuance on the subject site.

The Planning Director recommends to the Planning Commission **APPROVAL** of **V 16-02** for a minor variance to the 5 acre minimum lot size to allow the partitioning of three parcels of 4.76 acres each.

Paula Lichatowich was concerned if there was an easement for Blaha Rd and Glen explained there is a 60' public right of way. **Jeff VanNatta** mentioned that they may have to remove trees.

Glen Higgins explained that the length to be paved would be about 600', 20' wide, up to the first of the three new lots, past the gate it would be paved with a turnaround.

Open to the Public:

In Favor:

Doug Wilson, representing the family trust. Gave history of the property since 1965. He pointed out that it has gone from no zoning to the present day zoning. The best use for the land is for residential development and these will be good rural sites.

Dave Reynolds, wanted to point out that the rectangle and square portions on the map have already been dedicated. Also wanted to remind everyone that this is a minor variance.

Opposition:

Norm Anderson, has been a resident since 1980 back when there were 5 acre parcel on Blaha Rd. There was one parcel of approximately 14 acres and the owner asked the surrounding property owners if they would mind if the zoning was changed from forest to RR5 so that they could build a house on the 14 acres. Norm Anderson and John Schwarz wanted to maintain the integrity of the 5 acre minimum. Norm spoke with the fire chief and fire hydrants are required and a hammer head. To address the issues regarding the variance all 5 criteria needs to be met. It is not detrimental to the applicant, it could lower values, create more traffic-more people, having the BPA lines is not a good reason as stated in the staff report, having 3 smaller lots is not unique, refer to 1504.1A2. Norm can see a 2 parcel division but not 3. The only hardship that could be is that the Wilson's would not be making as much money off of 2 lots. There are no road issues, if the roads are wider they would be safer. The issue before was that the developer did not pave the road the home owners did.

Claudia Frace asked why he would support 2 homes verses having three. **Norm** replied that RR5 means five acre minimum and would like to keep the integrity of the five acres.

Paula Lichatowich questioned if the previous developer that was suppose to build the road had a bond. **Norm** commented that no bond had been posted because the county backed out on the creation of the road.

Steve Hammergren, had concerns regarding the sewer availability, then was told by **Jeff VanNatta** that there is no sewer service that far out. He feels that the property could be accessed off of Lindsay lane. It appears that Blaha would be sacrificed rather than using Lindsay Lane. With all the disruption while road improvements were being made on Blaha this would develop many safety issues and there are children that play in the area.

Shaun Semsch, This whole process will be very disruptive, it will create more traffic and higher traffic speeds. Shaun feels that two lots would be better than three. Keeping the RR5 zone with 5 acre minimums would be best. The Planning Commission makes the laws why can't the live by them. He moved to this property to live in a rural setting and would like to keep it that way. This could effect the property values and some more trees may have to come down. There would be more safety issues for the children playing.

Chelsea Strautman, Lives on Blaha Rd, appreciated the history of the road, just wanted to make sure the Wilson's understand that this is not a personal issue, Chelsea just wants to make sure that the County staff and Planning Commission upholds the law and do the job they are suppose to do. She wants to see that the ordinance is upheld.

Chelsea wanted to point out the in case of Lovell vs Planning Commission of the City of Independence, that it is quoted "Variances should not be employed as a substitute for the normal legislative process of amending zoning regulations". In the Subdivision and Partitioning Ordinance it states that the Planning Commission may grant a variance when "the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations". This does not appear to be referenced in the staff

report. There are other case studies listed if we would like to have them they can be provided by Chelsea. The applicant must show that there is a hardship to be allowed to partition. The applicant references the BPA lines that run through the property but that is not a hardship and even in the staff report on page 12 of 20 staff finds that V16-02 does not meet the condition of criteria 1504(A)(2). The staff report appears to be very bias, it is obvious that the ordinance referencing a hardship was not reviewed. The application appears to be deficient.

Continuing to page 13 in the staff report finding 12 references an undo hardship, no hardship is valid and an appellant court would reverse this. Refer to Kelly vs Clackamas County 1999. The Court of Appeals would overturn this.

Chelsea just wanted to clarify that it was her husband that donated the land at the bottom of her driveway, this was done in March of 2010.

It was stated that Lindsay Ln would probably be used (not clear on tape)

Chelsea noted that it is referenced that the road extension was most concerning to the owners, as it is significant, the due process of law is as well. Chelsea request that the planning commission enforce the rules and regulations and hear her request for denial of the variance application.

Alta Lynch, asked what type of attorney she is, are you a Land Use Attorney. Chelsea responded that she is not a Land Use Attorney she is a Immigration Attorney.

Chelsea wanted to point out that the staff report was very bias and should not fall back on history. There are many issues that would be interesting to an appellant court.

Claudia Frace just wanted to clarify that the land at the bottom of the driveway was donated by the owner.

Rebuttal:

Doug Wilson: A 600' single lane road is in violation of the road department, it should have been widen previously. Previously the dedication of the road was given in exchange for dropping trees for a better view for the property owner at that time. The third parcel that is being requested will have access off of Lindsay Ln while the other two will have access off of Blaha. The road will be paved if there are 2 or 3 parcels approved but it is common sense that 2 will access from Blaha if there are 2 or 3 parcels. Doug would like to ask the Commissioners if there is a chance of denial of these applications that record be left open.

Dave Reynolds: Just wanted to clarify that the dedication for both pieces have been completed. Nothing new has to be done for the dedication of land. The north parcel will

have access off of Lindsay Rd, the other two will be the only ones adding to traffic on Blaha.

Closed Public Hearing

Paula Lichatowich made a motion to table these applications until the next meeting.

Alta Lynch seconded the motion.

Jeff VanNatta moved to leave the record open for oral & written testimony until the next scheduled Planning Commission meeting.

All in favor motion passed.

Other business:

Approval of 8/17/15 , 10/08/15 & 10/12/15 minutes

Meeting Adjourned 7:53 pm