

## COLUMBIA COUNTY PLANNING COMMISSION MEETING

August 17, 2015

Meeting Minutes

Members Present: Paula Lichatowich, Bill DeJager, Claudia Frace, Rod Lloyd and Alta Lynch

Staff Present: Glen Higgins, Erika Owen-McCann, Deborah Jacob, Ginger Davidson and Kay Clay

Others: Adam Ofstad, Michelle Villanueva, Ann Mathers, Jeanette Barker, Tom & Tracy Barker, Marty Liesegang, Rob Mathers, Dick Lager, John Christensen, Denise Jones, Tom & Jeanne Becker, Joshua & Johana Sprecher, David Freytag, Bill Pontius, Don & Bonnie Laica, Steve Alexander, Don McGilvra, Max Lieberman, Allen & Judy Fay, Don Wallace, Andrew Neimi, Marc Windham, Les Watters, Tom McGilvra, Dennis Gearhart, Mike & Jan Kelly, Michael Herdrich, Von smith, Robert Nicholas, Chen Baochang, Joe Luttrell, Will Stewart and Leslie Upton

The Planning Commission meeting was called to order by Bill DeJager at 6:30 pm

Deborah Jacob read the pre-hearing statement.

No Ex-Parte was declared.

### **DR 15-08 & AR 16-01**

Deborah Jacob presented the staff report.

### **BACKGROUND:**

The applicant, Lower Columbia Engineering and property owner, Adam Ofstad, propose to construct a 14,000 square foot structure for the maintenance and repair of large trucks, farm equipment and other diesel vehicles that are typically used to support the county's surrounding farming and logging communities as well as industrial businesses. This proposed facility will *"offer a service that currently requires these businesses to travel to Portland or Hillsboro to have their diesel vehicles and equipment analyzed, serviced and repaired."* The subject property is 0.88 acres and zoned for Rural Industrial Planned Development (RIPD). This site also utilizes a private well and septic system, is addressed at 50038 Columbia River Highway in Scappoose, and is bordered by the Means Nursery Retail and Agricultural Operations to the south and east, respectively.

The northern portion of the site contains a single family residence that was constructed in 1958 according to the County Assessors records. Since this property was zoned RIPD in 1984, the existing home is considered to be a lawfully established non-conforming use in the RIPD Zone. The site plan for DR 15-08 shows the property owner will demolish this residence before constructing the new 14,000 sq ft facility. This will be consistent with the provision in Section 1506.3 of the Zoning Ordinance which (1) allows non-conforming uses to be changed to conforming uses. After this non-conforming residence is removed, this same provisions also prohibit the non-conforming use's reinstatement. Part of this authorized demolition will also require the property owner to similarly submit documentation to LDS that the site's existing well has also been decommissioned to ensure the proposed facility's septic system is at least 100 feet away from any water source in compliance with the minimum provisions in the OAR 340-071-0220, Table 1. The County Sanitarian will need to review and approve the Major Alteration of the site's existing septic system that will serve the new 14,000 sq ft facility.

Although Land Development Services (LDS) does not appear to have any records of any building permits for the existing residence, this .88 acre site was zoned for RIPD uses in 1984 because there was a local agricultural produce and commodity business establishment on site. Nevertheless, the existing residence has been the predominant use of the RIPD property for at least the past two decades.

Emergency services are provided by the Scappoose Rural Fire District and the County Sheriff. The subject site contains no identified wetlands, steep slopes, Big Game Habitat, according to National Wetlands Inventory Map of Sauvie Island, OR, or the Scappoose-Spitzenberg CPAC Area Beak Maps. The FEMA FIRM # 41009CO505 D shows the property is located within Zone X, which is an area that is protected from flooding by a provisionally accredited levee, the Scappoose Dike. As shown on the map on Page 3, the subject RIPD site is surrounded to the west by Primary Agriculture (PA-80) zoned properties, to the south by Means Nursery Retail Shop in Multnomah County, to the north by an Existing Commercial (EC) zoned property and to the west by RR-5 zoned properties across Columbia River Highway.

This application is straight forward and staff recommends approval with conditions.

**Claudia Frace** question if they would be using the same access Means Nursery use and Deborah pointed out that there two legal accesses to the property.

**Open to public:**

**In Favor**

**Steve Alexander**, Lower Columbia Engineering, This is a small site and has an existing shop and shed on the property along with a small house. This site can evolve with technology and provide a service needed in this county. There is not a facility like this in the area. Eventually there could be up to 15 employees.

**Adam Ofstad**, owner. This would be a great destination for repairs on equipment and vehicles that would normally have to go out of the area for and the potential for employment for the county.

**Bill DeJager** questioned the second access. Adam stated that the second access would be for exiting only. The other access does have a 20' easement with Means Nursery.

**Alta Lynch** questioned if there is truck-trailer access. Adam said that the existing entrance and exit would allow that.

**Opposition: none**

**Alta Lynch** made motion to approve DR 15-08 & AR 16-01, **Paula Lichatowich** seconded. All in favor motion passed.

**PLA 15-33 through PLA 15-53 (21 Property Line Adjustments)**

Glen Higgins presented the staff report.

**Background:**

The applicant and property owner, Weyerhaeuser NR, has submitted applications to reconfigure the property lines of 21 separate properties recognized as legal lots of record. The applicant’s proposal generally seeks to reduce the size of the properties, clustering said properties near, but not abutting, Robinette Road while increasing the size of two properties. Properties reduced in size by this application range from approximately two to seven acres, and properties increased in size are approximately 64.8 and 439.6 acres. The proposed property line adjustments are as follows:

**Table 1**

PLA	Tax Map #	Reduced/Enlarged From	Reduced/Enlarged To
PLA 15-33	5131-000-00401	26.4	4.71
	5131-000-01200	39.6	61.3
PLA 15-34	5131-000-01200	61.3	5.51
	5131-000-00200 (Portion)	59.7	115.6
PLA 15-35	5131-000-00200 (Portion)	35.8	10.02

	5131-000-00200 (Portion)	115.6	141.4
PLA 15-36	5130-000-002900	20.0	5.94
	5131-000-00200 (Portion)	141.4	155.4
PLA 15-37	5130-000-03400	10.0	5.94
	5131-000-00200 (Portion)	155.4	159.4
PLA 15-38	5131-000-03300	40.4	5.99
	5131-000-00200 (Portion)	159.4	193.8
PLA 15-39	5129-000-00600 (Portion)	39.0	5.0
	5131-000-00200 (Portion)	193.8	227.9
PLA 15-40	5129-000-00700 (Portion)	29.5	5.01
	5131-000-00200 (Portion)	227.9	252.4
PLA 15-41	5129-000-00700 (Portion)	52.3	6.35
	5131-000-00200 (Portion)	252.4	289.4
PLA 15-42	5132-000-00500	47.1	6.40
	5131-000-00200 (Portion)	289.4	339.1
PLA 15-43	5129-00-00900/5132- 00-00600	31.9	6.56
	5131-000-00200 (Portion)	339.1	364.4
PLA 15-44	5129-00-00800/5132- 00-00800 (Portion)	23.6	5.60
	5131-00-00200 (Portion)	364.4	382.4
PLA 15-45	5132-000-00800 (Portion)	5.6	3.8

	5131-000-00200 (Portion)	382.4	384.2
PLA 15-46	5129-000-00700 (Portion)	2.18	19.7
	5131-000-00200 (Portion)	384.2	401.8
PLA 15-47	5129-000-00700 (Portion)	16.9	4.23
	5131-000-00200 (Portion)	401.8	415.8
PLA 15-48	5131-000-00200 (Portion)	415.8	414.1
	5129-000-00500 (Portion)	5.0	5.78
PLA 15-49	5130-000-00300 (Portion)	9.9	7.08
	5131-000-00200 (Portion)	414.1	416.9
PLA 15-50	5129-000-00400 (Portion)	38.9	9.34
	5131-000-00200 (Portion)	416.9	446.4
PLA 15-51	5130-000-00200 (Portion)	19.8	6.51
	5131-000-00200 (Portion)	446.4	459.7
PLA 15-52	5129-000-00400 (Portion)	39.6	4.90
	5131-000-00200 (Portion)	459.7	494.4
PLA 15-53	5131-000-00200 (Portion)	494.4	439.6
	5130-000-00100	10.0	64.8

All properties being reconfigured have been determined by Columbia County to be legal lots-of-record. Lots-of-record are properties created before January 10, 1975 that were either (1) created by a legal plat (i.e., subdivision) or (2) conveyed separately from all other property by deed for the purpose of the buyer's enjoyment and development. Columbia County adopted its first Partitioning Ordinance by adding partitions to the existing Subdivision Ordinance on January 10,

1975 which requires all divisions of land to be approved by Columbia County through application for a subdivision or partition. The creation of these older parcels, prior to January 1975, were accomplished by the owner conveying the legally described unit of land, through deed or other instrument, to another owner. These conveyances were recorded in the County clerks office and still remain as valid legal lots of record. ORS 92.017 states that “a lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.” Weyerhaeuser submitted applications to Columbia County for lot of record determinations on a number of properties in advance of this application. The number of lots-of-record associated with each tax map # included in the proposed PLAs are identified in Table 2. Detailed information about each determination can be found in corresponding lot-of-record staff reports available from the Land Development Services Department upon request.

Glen reviewed Section 512:

512 Property Line Adjustments. All property line adjustments require review and approval by the Planning Director subject to compliance with the following criteria:

- .1 Adjustments may be made between one parcel larger than the minimum lot size and one parcel smaller than the minimum lot size as long as the exchange results in the same number of parcels larger than the minimum lot size;

**Finding 2:** The applicant is proposing property line adjustments for 21 individual properties. As discussed in Finding 1, PLA 15-34 increased the size of one of the lots located within tax map # 5131-000-00200 from 59.7 acres to 115.6 acres in size. All PLAs proposed, following PLA 15-34, increase the size of the 115 acre property. The 20 other properties are smaller than the 80-acre minimum required by the PF-80 Zone. If the proposed PLAs are approved, 21 properties will remain less than 80 acres in size and one will increase in size to more than the 80-acre minimum (439.6 acres). Staff finds that the criterion is met.

- .2 The lot boundaries resulting from the adjustment will maintain compliance with building setbacks including primary and secondary firebreaks, access standards and environmental health regulations;

**Finding 3:** Properties included as part of these property line adjustments are all undeveloped at this time. Any new development will be subject to the development standards of the PF-80 Zone. Future development of the properties must comply with requirements related to setbacks, fire siting standards, access and environmental regulations. Residential development is not permitted outright in the PF-80 Zone. Therefore, any residential development proposed for these properties shall be subject to an administrative review process for Rural Development Forest Permits. Staff finds that the criterion is met subject to conditions.

- .3 The adjustment will create no additional parcel(s);

**Finding 4:** No new parcels will be created as part of these property line adjustments. This application seeks solely to rearrange the lines of existing legal lots-of-record. Staff finds that the criterion is met.

- .4 Parcels greater than 10 acres do not require a survey; and

**Finding 5:** Although properties greater than 10 acres in size do not require a full property boundary survey with monuments, all new lines must be surveyed. Legal descriptions must be provided for each unit of land being reconfigured. Staff finds that the criterion is met subject to conditions.

- .5 Property line adjustments in the PF-80 zone may not be used to:
  - A. Decrease the size of the lot or parcel that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - B. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

**Finding 6:** All properties included as part of these property line adjustment applications are vacant without land use approvals for the construction of dwellings. As such, CCZO Section 512.5 (A) and (B) are not applicable to this review. Staff finds that the criterion does not apply.

Road Standards were brought up and Glen explained as follows:

Private roads may serve up to six lots upon approval by the Land Development Services office of the county, may be located within an Urban Growth Boundary upon concurrence with the city, and must access directly to a public road. Private roads shall comply with Fire Department Fire Apparatus Access Road standards and the following:

- 5) The County may require that the private road being created for a partition or other development be dedicated for the public road and utility purposes and improved to the applicable standards, if it is determined by the Public Works Director or the Columbia County Land Development Services Department that the access and transportation needs of the public would be better served by such a change.

The determination made by the County will include the following:

- a.) Proximity of other roads being used for the same purpose;

- b.) Topography of the parcel and contiguous parcels;
  - c.) Potential development and potential buildout densities as determined by the existing zoning;
  - d.) Safety factors such as visibility, frequency or road access points.
- 8) The County shall require that a maintenance agreement be recorded in the office of the County Clerk of Columbia County with the map or plat creating the private road, and the agreement shall include the following terms:
- a.) That the agreement for maintenance shall be enforceable by a majority of homeowners served by the road.
  - b.) That the owners of land served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula that is contained in the maintenance agreement.
  - c.) Amendments shall be allowed by written and recorded agreement and consent of 75% of property owners adjacent to the road.
- 9) The County shall require that an easement over the private road for access, including the right of maintenance, be conveyed to the properties served by the road.

**Finding 12:** Weyerhaeuser has constructed a new, private road to serve the lots once reconfigured through the proposed property line adjustments. As defined in Section IV of the County Road Standards, a private road is a road that serves up to six lots or parcels, is located on private property, and is dedicated by easement(s) to the subject properties. It is maintained with private funds and a maintenance agreement is required. Private roads can serve more than six pre-existing lots or parcels, but may not serve newly created lots if already serving six properties. As no new parcels are being created through these applications for property line adjustments, the Public Works Director, administrator of the Columbia County Road Department, has interpreted the Road Standards to allow the use of a private road to serve the existing reconfigured parcels. The Public Works Director has stated, however, that the private road shall be constructed to public road standards. His comments are as follows: “This private road will exceed the maximum Average Daily Trip travel of 100 trips per day for a private road (the expected potential daily trips will be in the neighborhood of 200) and therefore the road construction will be required to meet public road construction standards, and the easement width must be 50 feet...” Prior to the reconfigured property lines to be recorded, the applicant must submit documentation to Land Development Services Planning Division demonstrating that the private road has been constructed to public road standards and that the newly reconfigured lot has legal access to said roadway. In accordance with Part 8 of Section IV of the Columbia County Road Standards, a maintenance agreement shall be recorded in the office of the County Clerk of Columbia County with the map or plat creating the private road. The agreement shall include items a - c of Part 8 as identified above. Staff finds that the criterion is met subject to conditions.

This was brought up from another property owner who was concerned about the infrastructure of the main roads as well as future roads.



Weyerhaeuser is in the process of getting an agreement with McNulty water to provide water to any new homes. Alta Lynch inquired about the water issues. It would be better if no new wells were drilled.

Water and Natural Resources - Comments from the Oregon Water Resources Department identify uses of groundwater that are exempt from permitting. Exempt uses include household wells and stock watering, non-commercial irrigation of not more than one-half acre in area, single or group domestic purposes for no more than 15,000 gallons per day, single industrial or commercial purposes not exceeding 5,000 gallons per day, and down-hole heat exchange uses. Commercial irrigation is not exempt from permitting. Based on this information, the watermaster had no objection to the applications as submitted. Additionally, Jeffrey Pierceall with the Oregon Water Resources Department, in a conversation with Planning Staff on July 27, 2015, did not indicate a significant historic ground water concern for the aquifer(s) in this area. Pierceall did state, however, that without a survey of all existing well locations and depths in the area, exact information is not available on the geologic and hydrologic conditions of the aquifer(s).

In meetings with the McNulty Water PUD, the PUD expressed concerns related to the impacts of new domestic wells on the water level and quality of their storage reservoir. As stated in their letter from William Stewart, the PUD has a Aquifer Storage and Recovery permit from the state, to inject and withdraw water into and out of an underground storage vault/aquifer. To avoid draw-down and contamination of the reservoir, the McNulty PUD is working with Weyerhaeuser to come to a mutual agreement for water service in the area. In the letter, dated June 19, 2015, from William Stewart (for the PUD) to the Planning Department states: McNulty PUD is in general support of this application. The subject properties are adjacent to McNulty PUD's current water service territory. If these properties later undergo development, the properties would benefit from provision of water from McNulty PUD and McNulty would benefit through increasing its service base. McNulty PUD and Weyerhaeuser have discussed provision of water service to the subject properties, and are in negotiations to execute a related agreement. McNulty PUD presently has an Aquifer Storage and Recovery permit to protect future water provision to the community, and is hopeful that an agreement between McNulty and Weyerhaeuser will facilitate protection of McNulty's groundwater rights and preclude hydraulic interference in the future..."

The property line adjustments do not allow for the creation of new/additional units of land. The PLAs will, however, significantly increase the potential density and number of dwelling units in the immediate area. As presently configured, most of the subject parcels to be reconfigured would not qualify for a dwelling. By moving these parcels to an area where they would pass the "template test", they become approvable for development. Staff cannot make a determination of water impacts to the aquifer(s) from the proposed geographic redistribution of the lots without an intensive survey of the geologic and hydrologic conditions of the area. If development is proposed on the subject properties, prior to building permit issuance, the County Planning Department will only require that the landowner submit proof of access to an adequate potable water supply. The Planning Commission has the authority to attach reasonable conditions to the approval of these property line adjustments.

Finally, the Soil and Water Conservation District had no objection to the applications as submitted. If the proposed properties are developed in the future, all development regulations of the Columbia County Zoning Ordinance related to big game habitat, endangered and/or protected

species, flood zones, waterbodies, wetlands, and riparian corridors will be reviewed in relation to proposed development. Residential development, for example, is not permitted outright. All residential development in the PF-80 Zone is subject to administrative review with notice to neighboring property owners.

**Open for discussion:**

**Bill Kloos and DLCD** have submitted comments.

**Paula Lichatowich** questioned how this was different from Landon Applications regarding a geo-study, if the lots are buildable, and if this should be in the subdivision ordinance.

**Glen Higgins** responded that, that is why staff is unable to approve it. Previously the LRD's have been approved on this lots.

**Alta Lynch** wanted to know if they approved this if each PLA would get recorded.

**Opened to Public Comment:**

In Favor:

**Tim Scherer, WREDCO**

Large tract development is a different scenario. You will still have larger parcels of property for residential home sites. This type of developing prevents urban development. By doing the PLA's there will still be 31 lots. These lots will be in a condensed area. There are legal processes that WREDCO has to go through and everyone needs to understand the laws. Tim referenced the letter received from Katherine Daniels from the State of Oregon. (this addresses serial PLA's done separately) (Refer to the record for detail) . Tim also referenced the information from Bill Kloos and you can refer to the record to see that. Tim referred to the comment made from neighbors that they do not want the development, PLA's are not development, development is not part of this application. Any roads that are there now do meet the ODF road requirements, public roads standards will be followed in the future if needed. Water concerns are being addressed with McNulty water and WREDCO is in the process of getting an agreement with McNulty Water. There will have to be a geo approval if there is a well. There is talk of 21 separate applications but that is what we are doing here. There will be some land taken out of forest production but each property owner will have their piece of the forest. A forest management plan is recommended. In the staff report where we state that the "buyer beware" WREDCO would like to take out the beware.

**Claudia Frace** asked if the parent company was developing other properties as well.

Tim responded that there may be development elsewhere but it is not included in this group. These PLA's will just setup potential development.

**Dick Lange**, McNulty Water. Supports this application and an agreement will be made McNulty protects the water rights and if any wells are drilled they will have to be surveyed first.

**Paula Lichatowich** wants to know how this will be enforced?

5 minute break

8:20 resumed.

**Opposition:**

**Ann Mathers**, objects because this project is just being pushed through without consideration of road issues. No shoulders, the bike lane is only 6", there is a drop off and that appears to be a liability for the county, who will be funding any improvements?

**Alta Lynch** wanted to point out that we are looking at the issues that is what the meeting is for.

**Jeannett Barker** opposed to this application, why development in a forest zone, can't we keep the forest land forest and it just seems wrong to have a subdivision there.

**Robert Mathers**, he does have concerns regarding the water and the comp plan does refer to it on page 203. Ground water and septic is both addressed in the comp plan. Is anyone addressing the salmon habitat and the concerns regarding Perry and Milton Creeks. He would like the record to stay open for 30 days for comments.

**Denise Jones**, submitted a letter and is concerned about road issues. This is not a subdivision but observation is that lots of flagging is going on.

**Jeanne Becker**, there are wildlife issues that are not being looked at and it appears that the laws offer protection to WREDCO.

**Joshua Sprecher**, What will happen to the existing wells if WREDCO does develop? What impact will this development have on Robinett and Hankey roads? There are so many safety issues on the roads now.

**Max Lieberman**, 88 years old, has concerns because he doesn't have enough water for his small orchard. He has talked to McNulty and they say they are not ready for him but they will be ready for WREDCO?? Not to mention that it is going to cost about \$80,000. For a hookup. Max feels that a hydrologist needs to be brought in to review this project. Does McNulty have enough water to serve this project? What is the size of the aquifer.

There has not been a study done on the underground water supply, what will the impact on water be. The August 16<sup>th</sup> edition of the Oregonian states that there is an extended drought and will be so where is the water going to come from? We want to add 20 more sites and no water issues resolved.

**Chen Baochang**, also has issues and concerns about the water or a water shutdown. We need to have a study done on the water concerns and the water pressure, there will be environmental issues, how are they being addressed and how will we protect the eco system. What will happen with the dispute over the road on Lot 1?

Glen Higgins was not aware of a dispute involving lot 1.

**Leslie Upton**, supports the same issues brought up by other opponents and has concerns about the wildlife, infrastructure, road, water, school system and feels that the homeowners are being infringed on. She also thinks that LDS is working hand in hand with WREDCO.

**Rebuttal:**

**Tim Scherer - WREDCO**, what Tim is hearing that there are a lot of questions regarding development not the PLA's. WREDCO is following the laws and has had lots of processes to go through at the County. Roads and water are the primary issues and they are working on a plan for the water, road cost will be shared by the users, they are not creating a subdivision. WREDCO will be glad to talk to anyone one on one regarding any issues that they may have. WREDCO will follow the law. As far as the disputed road issue on lot 1 that is between Chen and WREDCO. Chen shows a deed regarding adverse possession on lot 1. Lot 3 is the only lot that has access to Hankey Rd.

**Don Wallace** wanted to point out that this is not a plot.

Closed to the public.

**Paula Lichatowich** made motion to deny this application. No second. Motion failed.

**Glen Higgins** wanted to reference a LUBA case concerning serial PLA's, needing to be individual applications.

**Alta Lynch** asked if WREDCO was applying for a subdivision, are serial PLA's needing to conform to subdivision rules. Not sure there is enough information from LUBA to answer their questions.

**Claudia Frace** wanted to know if LUBA would approve this application.

**Glen Higgins** explained what LUBA's job was and its his understanding that DLCD says it should be a subdivision per what LUBA said. Glen said if we knew this information prior to this hearing we would have done these individually.

**Alta Lynch** made a motion based on the new information received. Motion is to deny this application based on the new information. **Paula Lichatowich** seconded. Application denied.

Meeting adjourned. 9:50pm