MARION COUNTY BOARD OF COMMISSIONERS

Wednesday, September 5, 2018
Board Session 9:00 a.m.

Senator Hearing Room
555 Court Street NE, Salem

PUBLIC COMMENT

CONSENT

BUSINESS SERVICES
Approve a recommendation to adjust upward pay grades for classification #509, Nurse Practitioner; #557, Behavioral Health Nurse 1; #558, Behavioral Health Nurse 2 (Nursing Services Coordinator); and update specification of class code #557, Behavioral Health Nurse 1.

PUBLIC WORKS
Receive hearings officer's decision denying Partition Case (P) 18-011/O'Brien, Clerks file #5759.

ACTION

PUBLIC WORKS
1. Receive and consider appeal of hearings officer's decision denying Variance Case # 18-002/Shaber, Clerk's file #5758. – Joe Fennimore

PUBLIC HEARINGS
9:30 A.M.

PUBLIC WORKS
A. Public hearing to consider City of Donald UGB Amendment. – Brandon Reich

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BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, September 5, 2018
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97305

PRESENT: Commissioner Kevin Cameron and Commissioner Sam Brentano. Also present were Jane Vetto as county counsel, John Lattimer as chief administrative officer, and Kristy Witherell as recorder.

ABSENT: Commissioner Janet Carlson

Commissioner Cameron called the meeting to order at 9:00 a.m.

PUBLIC COMMENT

None.

CONSENT

(Video Time 0:00:42)

BUSINESS SERVICES
Approve a recommendation to adjust upward pay grades for classification #509, Nurse Practitioner; #557, Behavioral Health Nurse 1; #558, Behavioral Health Nurse 2 (Nursing Services Coordinator); and update specification of class code #557, Behavioral Health Nurse 1.

PUBLIC WORKS

Receive hearings officer's decision denying Partition Case (P) 18-011/O'Brien, Clerks file #5759.

MOTION: Commissioner Brentano moved for approval of the consent agenda. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

ACTION

(Video Time 0:01:38)

PUBLIC WORKS

1. Receive and consider appeal of hearings officer's decision denying Variance Case # 18-002/Shaber, Clerk's file #5758. – Joe Fennimore

Summary of presentation:

- In Administrative Review (AR) Case 17-22, applicant applied to replace a dwelling destroyed by fire in 1967;
- The application was denied by the planning director because the replacement standards were not met;
- Decision was not appealed to the hearings officer;
- Applicants request a variance to the replacement dwelling criteria in this application;
- On April 23, 2018, the application was denied by the planning director;
- The applicants appealed the decision to the hearings officer in May and a public hearing was conducted on May 30, 2018;
- The record was left open until June 6, 2018;
- A decision denying the variance application was issued on August 8, 2018;
- The decision was appealed to the board on August 23, 2018;
- The hearings officer found that under MCC 17.122.010 specific standards could be modified if it resulted in practical difficulties or hardships;
- Variances to allow uses, or new uses otherwise not allowed are prohibited;
- Variance to criteria and definition are also prohibited;
- Replacement dwelling application is a proper vehicle for review, not variance;
- The hearings officer concluded that the applicants are requesting to vary a criteria, which is prohibited, and denied the application;
- In the appeal the appellants state:
    - Decision is factually incorrect because the preponderance of evidence is not discussed;
    - New case law needs to be introduced;
    - Would like opportunity to further investigate new replacement dwelling criteria; and
    - Agreed to extend 150 day timeline if appeal accepted.
- Options for board to consider:
    - Accept appeal;
    - Remand matter back to hearings officer;
    - Accept appeal and schedule a public hearing for September 19, 2018 or later; or
    - Deny the appeal and uphold the hearings officer's decision denying the request.
- Staff recommends the board deny the appeal and uphold the hearings officer's decision.

Board discussion:

- House originally burned down in 1967;
- Removed from the tax rolls over 20 years ago;
- Clarified that the replacement standards were not met;

- Same family owns the property; and
- The applicant can apply for an administrative review for a replacement dwelling.

MOTION: Commissioner Brentano moved for approval of hearings officer's decision denying Variance Case # 18-002/Shaber, Clerk's file #5758. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

The commissioners adjourned at 9:10 a.m.
The commissioners reconvened at 9:30 a.m.

PUBLIC HEARINGS
9:30 A.M.

(Video time 0:09:51)

PUBLIC WORKS
A. Public hearing to consider City of Donald UGB Amendment. – Brandon Reich
Summary of presentation:

- On June 12, 2018 city council approved an amendment to the UGB to add:
  - 76.7 acres for residential land; and
  - 10.9 acres for public land.
- The city requested that the county concur with the amendment;
- County initiated process on August 1, 2018 and scheduled a hearing for September 5, 2018;
- The city's population is forecasted to grow to 2,085 by 2034;
- The city identified a need for additional single and multifamily dwelling units;
- The city considered how much residential land is needed and determined the existing UGB would need to expand to meet all future residential needs;
- The expanded acreage includes land needed for future rights-of-way, public facilities, and parks;
- Expansion area is in the southeast portion of the city;
- Existing storm-water detention area included;
- Proposed expansion area will be served by existing water and sewer services;
- Expansion to existing city sewer treatment facilities is being contemplated to serve existing and future uses;
- Transportation network able to support expansion;
- To determine land to bring into UGB, the city considered all lands in the study area;
- Worked with property owners to identify land likely to be developed;
- Within study area, land that had least amount of prime farmland would be considered first for addition;
- Appropriate designations for properties per comprehensive plan are residential and public;
- After properties are included in the UGB and given designations in the comprehensive plan, but prior to properties being annexed, county must apply urban zone consistent with city plan designation;

- Marion County Code states resource land should be placed in Urban Transition, 20 acre (UT-20) zone;
- Appropriate to zone land being added to boundary with a Residential Comprehensive Plan designation to preserve land for future urban development while allowing continuation of legally established uses;
- Land being added for existing storm water detention is appropriately zoned Public;
- Staff recommends the board:
    - Concur in City of Donald comprehensive plan UGB amendment and direct staff to prepare an ordinance approving the amendments to the Marion County Comprehensive Plan by adopting amendments to the City of Donald UGB; and
    - Concur in the redesignation of properties newly added to the UGB from a Marion County rural plan designation of Primary Agriculture to City of Donald Comprehensive Plan designations of Residential and Public and approve rezoning of properties from Marion County rural designation of Exclusive Farm Use to urban zoning designations of UT-20 and Public.

Board discussion:

- The board wants to clarify that the 10 acres is included in the UGB for a total of 87.6 acres.

Testimony:

Support:

Rick Olmsted:

- Mayor for the City of Donald;
- Employers have stated for many that there is an issue for housing for employees;
- Hopefully this process resolves the problem;
- Interesting process;
- Had citizens, elected officials, city staff, county, regional and state partners helping throughout the process; and
- Hopeful to have board approve the amendment.

Board discussion:

- The commissioners wanted to know if there was any opposition, if any public hearings were held, and what type of testimony was presented:
    - Mayor Olmsted responded there were two public hearings held;
    - At one hearing, Ben Williams of Friends of French Prairie commented how transparent the process had been for an expansion; and
    - Mr. Reich added the process was thorough;
- First time new study area applied for UGB expansion under new rules; and
- Process was successful.

MOTION: Commissioner Brentano moved to close the public hearing, concur in the City of Donald Comprehensive Plan Urban Growth Boundary amendment and direct staff to prepare an ordinance approving the amendments to the Marion County Comprehensive

Plan by adopting the amendments to the City of Donald Urban Growth Boundary amendment of 87.6 acres for residential and public land needs, and further concur in the redesignation of the properties newly added to the urban growth boundary from a Marion County Comprehensive Plan rural designation of Primary Agriculture to City of Donald Comprehensive Plan designations of Residential and Public and approve the rezoning of the properties from a Marion County rural zoning designation of EFU (Exclusive Farm Use) to Marion County urban zoning designations of UT-20 (Urban Transition – 20 Acre) and P (Public), respectively as shown on Attachment A. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Commissioner Cameron read the calendar.
Commissioner Cameron adjourned the meeting at 9:28 a.m.

Not Present At Meeting

CHAIR

COMMISSIONER

COMMISSIONER

Board Sessions can be viewed on-line at:
https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5