

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Applicant: Oregon State University, Land)
Use Planning Manager David Dodson)
Owners: Alvin & Bonnie Boldt)

Case File: 09-C-PC-18
Findings, Conclusions, and
Final Order

Nature of the Application

The applicant is requesting conditional use approval of a private utility facility to construct a Utility Connection and Monitoring Facility (UCMF) on property zoned Rural Residential. The UCMF will be part of the Pacific Marine Energy Center South Energy Test Site project. The ocean test site, located approximately seven miles offshore, will allow for the testing of up to 20 wave energy converters. The power generated at the ocean test site will run to shore through buried subsea transmission cables. The shore side cable landing site will be Driftwood Beach State Recreation Site (Driftwood), and the power will be transmitted through buried cables from Driftwood to the UCMF. At the UCMF, the power will be monitored and conditioned before being fed into the Central Lincoln People's Utility District distribution system.

The UCMF is proposed to be located on proposed Parcel 1 of the accompanying partition case file #01-PAR-PC-18.

Relevant Facts

1. The subject property is located at 939 NW Wenger Lane and is further identified on Lincoln County Assessor's map 13-11-07B as tax lot 2500. Highway 101 borders the property to the west.
2. The subject property is zoned Rural Residential RR-2.
3. The comprehensive plan designation is Dispersed Residential DR.
4. The subject property is 20.05 acres. Proposed Parcel 1, where the UCMF is to be sited, of the accompanying partition is to be 4.42 acres in size.
5. The topography of Parcel 1 rises to the east from its western boundary along Highway 101. The property is comprised of a mixture of vegetation/ habitat types, including wetlands, fragmented patches of early seral forest, and open areas.

6. The subject property contains an existing yellow barn on proposed Parcel 1 and is slated for removal. A single-family residence and accessory structures are located on proposed Parcel 2 of the accompanying partition.
7. Subject property is served by the following utilities:
 - a. Sewer: On-site septic system for the existing single-family residence
 - b. Water: Seal Rock Water District
 - c. Electricity: Central Lincoln PUD
8. Proposed Parcel 1 contains two freshwater wetlands delineated in the November 30, 2017 Wetlands and Waterbodies Delineation Report prepared by HDR. No FEMA Special Flood Hazard Area exists on proposed Parcel 1.
9. Details of the applicant's proposal can be found in staff report and evidence submitted by the applicant, which is incorporated into the record herein.
10. Agency comments contained in staff report and related correspondence are by reference incorporated into the record herein.
11. A public hearing was held before the Lincoln County Planning Commission on Monday, May 14, 2018. All interested parties were given an opportunity to testify.
12. Lincoln County Planning Commission Chairperson Richard Johnson opened the hearing and described the hearing procedure for the hearing, including the order of testimony, a call for ex-parte contact or conflicts of interest, and a recital of the "Raise-it-or-waive-it" statement as required under ORS 197.763.
13. Chairperson Richard Johnson asked for any ex-parte contacts, and Commissioner Andra Bobbitt replied that she is employed by Oregon State University, and personnel in her research institute have worked on the testing, but her employment would not influence her decision. Commissioner Judith Pelletier stated that she is employed by Oregon State University, but her employment would not influence her decision.
14. Senior Planner Hui Rodomsky presented the staff report on behalf of Lincoln County.
15. Planning Commission Chair Johnson invited the applicant to testify at the conclusion of Rodomsky's staff report.
16. The Applicants, David Dodson, Justin Klure, and Dan Hellin signed in and introduced themselves. Dan Hellin provided background information on the entire wave energy project including the ocean test site with four berths 7 miles offshore, the sub-sea cables running to shore at Driftwood Beach State Recreation Site, and the underground cables running from Driftwood to the UCMF site. David Dodson distinguished the proposed 4.42-acre Parcel 1 under consideration from the larger parent parcel. He referred to the proposed site plan as containing three 1-story buildings, parking, and surrounded with an 8-foot-tall black vinyl chain link fence with green slats and perimeter evergreen

landscaping. Wenger Lane is currently a 12-foot wide gravel road, and the applicant is proposing to pave the first 700 feet of the road from Highway 101 with asphalt. The UCMF facility has been designed to avoid impacts to the wetlands.

17. Various questions were raised by the Commissioners and answered by the Applicants, including questions about existing shrubs, height of the foliage, physical characteristics, road access, Department of Environmental Quality recommendations and regulations, wetlands, and the zoning north of the site.
18. Chair Johnson invited testimony in support of the application, of which there were two.
19. Tim Couch, a neighboring property owner, stated that he wanted to come and say he and his partner are in full support of the project. His view out back will be less enchanting, but he feels that this scientific research deserves pursuit and that it is an opportunity to lead in wave energy research.
20. Phil Bertholl, a neighboring property owner, stated that he submitted 3 letters of opposition. He wanted to ensure there was written. He asked to rescind his letters of opposition and stated that he is now in support.
21. Chair Johnson asked what shifted his position, and Phil Bertholl replied that a former neighbor was a chainsaw artist, and if this application is approved, it guarantees that he has a silent neighbor.
22. Chair Johnson invited further testimony in support of the application and there was none. Chair Johnson invited testimony in opposition of the application, of which there was one.
23. Cindy George, a member of the public, stated that she listened to the presentation and is concerned. She elaborated on testing being performed by other countries, giving away the land to foreign entities and access to the ocean. Ms. George asked where the funding was coming from to pay for the project.
24. Director Onno Husing stated that the bulk of the money is coming from the United States Department of Energy. It is strictly a science-based research project with federal funds. There was collaboration with the fishing industry. The Goal 19 finding was that there was collaboration with the community leading up to the hearing.
25. Chair Johnson invited further testimony in opposition to the application, and there was none. Chair Johnson invited the applicants to provided testimony in rebuttal to opposition to the application.
26. Dan Hellin stated that the funding is largely from the US Department of Energy, the State of Oregon, and money that the applicant is raising. Additional funding could come from whoever wants to test a device. There are a number of United States companies, and some European companies are interested in testing.

27. Following the rebuttal testimony, Chairman Johnson asked if there was a request to keep the record open, and there was none. He then closed the hearing.
28. Commissioners discussed concerns about site lighting and recommended modifications to condition of approval #7 to direct all exterior lighting downward. They also discussed concerns raised in the written testimony from Oregon Department of Fish and Wildlife (ODFW) regarding storm water and motioned to add a new condition of approval #9 to address their concerns.
29. The Commissioners then deliberated the various conditions that should be applied to the approval. Amendments to condition of approval #7 to address exterior lighting and a new condition of approval #9 to address ODFW stormwater concerns were all supported by the Commission. Following deliberations, the Commissioners voted unanimously to approve the application.

Relevant Criteria

1. Lincoln County Code 1.1345(2)(j): Rural Residential Zone RR-2, Conditional Use Permitted
2. Lincoln County Code 1.1630(1): Standards and Procedures Governing Conditional Uses, General Standards
3. Lincoln County Code 1.1630(4): Standards for public utility facilities
4. Lincoln County Code 1.1415: Off-Street Parking and Off-Street Loading Requirements
5. Lincoln County Code 1.1615: Building Permit for an Approved Conditional Use

Findings

The Commission finds:

1. The proposed Parcel 1 is a 4.42-acre site that is zoned RR-2 rural residential, which is part of a 20.05-acre parent parcel.
2. The owners of the 20.05-acre parcel have submitted a partition application to partition Parcel 1 (4.42-acres) from the parent parcel, resulting in the remaining Parcel 2 being 15.63 acres in size.
3. The applicant has provided sufficient evidence and testimony to support the determination that the proposed Utility Connection and Monitoring Facility (UCMF) is compatible with the surrounding land uses.
4. The UCMF will consist of three single story buildings constructed of concrete masonry units with pitched, green metal roofs. The compound will be paved and surrounded by an 8-foot-

tall chain link fence with green slats on all sides. Evergreen landscaping will be installed along the south and west fence line to minimize visibility from the nearby residences. The first 700-feet of Wenger Lane will be paved in asphalt, and all utilities serving the facility will be installed below ground level.

5. The subject property is comprised of a mixture of vegetation/habitat types, including wetlands, fragmented patches of early seral forest, and open areas. Two freshwater wetlands have been identified on the site as part of a 2017 Wetlands and Waterbodies Delineation Report. No FEMA Special Flood Hazard Area exists on the subject property.
6. All facilities and structures associated with the UCMF will be permitted as required.

Conclusion:

The record and findings suggest the conclusion that:

1. Substantial evidence in the record demonstrates that the site is suitable for the proposed use.
2. Substantial evidence in the record demonstrates that the proposed use is compatible with existing and projected surrounding land uses.

Order:

It is ORDERED by the Lincoln County Planning Commission that Case File #09-C-PC-18 be APPROVED subject to the following conditions:

1. Approval is based upon the submitted plans. Any substantial change in the approved plans shall be submitted to the Planning Division or the Planning Commission as a new application for a conditional use.
2. The applicant shall obtain valid building permits, which shall be issued only on the basis of the plan as approved by the Planning Commission and from the Lincoln County Building Division prior to commencement of construction.
3. Case file #01-PAR-PC-18 must be finalized prior to the issuance of building permits.
4. No outside storage shall be permitted.
5. No workshops shall be permitted.
6. The applicant shall provide the number of off-street parking spaces shown in the submitted site plan.

7. Lighting for parking areas or on the exterior of buildings shall be directed downward and not create or reflect substantial glare in a residential zone or on any adjacent dwelling.
8. The applicant is advised to obtain all necessary approvals from affected state and federal agencies for the P MEC-SETS project.
9. The applicant shall obtain a NPDES 1200-C construction stormwater permit from the Department of Environmental Quality, if required. The applicant shall implement a method of post-construction stormwater water management that complies with DEQ requirements.

This ORDER was presented to and approved by the Lincoln County Planning Commission on June 11, 2018.



Richard Johnson, Chair
Lincoln County Planning Commission