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## HARNEY COUNTY PLANNING COMMISSION STAFF REPORT

### Technical Update to the Harney County Comprehensive Plan

**Request:** Amend the Harney County Zoning Ordinance to incorporate changes which follow up the amendments to the Harney County Comprehensive Plan under project 2. Additionally, the proposed updates under this project (project 3) include important additions which keep the zoning ordinance current with the latest state legislative amendments, update the fee schedule of the Planning Department, implement improvements to the abatement and penalty section, and update the formatting of the document to be consistent with the Comprehensive Plan.

**Prepared by:** Brandon McMullen, Planning Director

**Prepared for:** Harney County Planning Commission

**Applicant:** Harney County Planning Department

**Consultant:** Harney County is working with Public Affairs Research Consultants (PARC) to aid in the processing and production of the proposed technical updates to the plan.

**Planning Commission Hearing Dates:** January 6, 2010

**Procedure Type:** Legislative (Technical Updating) – Post Acknowledgement Plan Amendment.

## I. BACKGROUND INFORMATION/PROJECT DESCRIPTION

**A. Document Streamlining:** In mid 2008, funded with a Technical Assistance Grant from DLCDC, Harney County began a technical updating program to incorporate changes which make the Harney County land use documents (*Comprehensive Plan, Zoning Ordinance, and Subdivision and Partitioning Ordinance*) easier to administer and more accessible to the general public. The program consists of three projects: Project one administered a 'clean up' of the Zoning Ordinance and Subdivision and Partitioning Ordinance's clerical inaccuracies. Project two centered on tightening process descriptions and evaluating particular shortcomings in the Comprehensive Plan and Zoning Ordinance. Specific instances to be addressed included but were not limited to:

- Evaluation and study of Chapter 8 "Implementation" of the Harney County Comprehensive Plan. The organizational structure of the chapter needs to be revisited, with special attention to subsection 5, "Criteria for Judging Zoning and Subdivision Matters."
- Clearer organization of Staff/Planning Commission delegation (e.g., what types of land-use decisions are administered by planning staff and which are administered through the Planning Commission.)
- The expansion of and/or explanation of the appeal process.

Work began on Project three in November of 2009. Project three is proposed to be the final project of the TA updating program. The aim of this final project is to finalize or wrap up the work that has been put together over the course of the program. Many of the proposed updates included in this project have been worked on throughout the program in work sessions during either project one or project two. These updates were found to be better implemented in a third project after the reformat of the Comprehensive Plan was finalized. These updates are listed below:

1. **Formatting Adjustments:** After adoption of the changes to the Comprehensive Plan under project two of the TA Grant Program in late 2009, staff began work to update the formatting styles and multilevel outline structure of the Zoning Ordinance to be consistent with the Comprehensive Plan. The key updates involved matching the uses listed in the Zoning Ordinance with the newly adopted Comprehensive Plan's streamlined decision types table.

With these changes, staff was mostly focused on font styles, however a small number of adjustments which were not observed in Project one were also updated. Unlike the changes to the Comprehensive Plan, these formatting changes will not reorganize any chapter content except to make room for newly proposed language as described in this staff report. (*These changes will be labeled with comments in the margins of the draft Zoning Ordinance attached as: Exhibit "A"*).

2. **HB 3099 Updates:** Staff is proposing to update the EFRU-1 & EFRU-2 zones to reflect the recent Oregon State Legislative changes enacted under HB 3099. Changes include the removal of uses such as solid waste disposal sites, Greyhound Kenneling and Schools being redefined and changed to a conditional use. A General list of the changes below:
  - Deletion of Greyhound breeding/kenneling
  - Deletion of Solid waste disposal sites
  - Schools is more clearly defined as public or private/ K-12, and serving the local residents. The use is moved from a Type 2 use to a Type 3 use (Conditional Use)
  - Golf Course has a been modified (Now cannot be placed on High value farm land)
  - 'Model Airplane Clubs' has been modified
  
3. **Supplementary Zoning Criteria:** During the work sessions and public hearings before the Planning Commission for Project two, it was established that the criteria listed under Chapter 8.3(5) of the Comprehensive Plan will be removed to be reviewed for implementation as criteria in the Zoning Ordinance. Staff and Consultant have prepared updated language from that chapter for tentative inclusion into Article 4.130.

The Planning Commission has worked on this particular language since the work sessions for Project two and just recently the work session on 12/2/2009 for Project three. Over the course of that duration, the Planning Commission considered many different options for implementing or not implementing this language. Staff provided draft language in consideration of these work sessions and proposed changes aimed at accomplishing two major objectives which the Planning Commission felt needed to be clarified: (1) *The criteria clearly establishes what uses it is meant to be applied to*, and (2) *the criteria should set apart private vs. public need in the text.*
  
4. **Abatement and Penalty:** During the work sessions and public hearings before the Planning Commission for Project two, staff presented proposed enforcement language for inclusion in Zoning Ordinance. That language has been updated to include specific fee costs, but has otherwise remained unaltered from the previous version. Staff and Consultant have prepared updated language from that chapter for tentative inclusion into Article 10.030.

Staff and County Council have admittedly grappled with a consistent course of action when dealing with compliance issues for existing land use permits or actions. Staff, Consultant, and County Counsel are proposing additions to the "Abatement and Penalty" section of the Zoning Ordinance which aim to specifically outline the steps the Planning Department staff/Harney County will administer when processing compliance issues for existing land use permits.
  
5. **Fee Schedule Update and Removal:** In October, Staff presented research to the County Court regarding a possible update to the fee schedule for changing the fee for processing a Farm Dwelling Application. The Court has directed staff to pursue any proposed changes that the Planning Commission wishes to

provide them. Staff's proposal for to the Planning Commission is for the fee schedule to be updated to increase the fee for processing a Farm Dwelling Application to \$125.00 up from \$0.00. (*Planning Staff's research and comments are available upon request and will be available for review during the 1/6/2009 hearing*) In addition to the fee for a farm dwelling application being updated, staff is proposing to have the fee schedule removed from the Zoning Ordinance to be a stand-alone document to be modified in the future by resolution (County Court decision). Staff believes the removal of the fee schedule from the Zoning Ordinance will alleviate the Planning Commission and County Court from having to follow the PAPA process to modify a County Department's fee schedule. While such a process is very necessary for legislative amendments to the Comprehensive Plan and its implementing ordinances, such a process is not viewed as needed for mere updates to a local department's fee schedule. The local hearings process is a more than adequate vehicle for public participation in this particular case.

6. **Outdoor Lighting Provisions:** In 2009 (project II) Harney County adopted amendments to the Harney County Comprehensive Plan which called for the development of an outdoor lighting policy "... to preserve and protect the night skies of Harney County." After many revisions presented to the Planning Commission in worksessions for project II and just recently in the 12/2/2009 work session, it became evident that a general guideline should be enough to accomplish the County's goal. This language is incorporated into Article 4.140 under "Outdoor Lighting Standards." More pointedly, the aim of staff's work has been reformed to provide more encouraging standards to mitigate against the undesirable night time lighting effects.

## II. PUBLIC INVOLVEMENT

The following public meeting was held to review materials and develop the proposals now recommended to the Harney County Planning Commission (*As found in the associated record, proper public notification was listed in the Burns Times Herald*):

2 January 2009: Planning Commission/Work Session

### **Participation/Attendance:**

The following individuals/groups participated or attended either the work as follows:

#### Work Session 12/2/2009:

- Brent Beverly, Harney Electric Cooperative

The Planning Department has not received written correspondence to date (12/30/2009)

