

BOC approves first reading of zoning code amendment

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them under conditional use permits in all zones. Data centers will remain outright allowed use but will, according to the new code, be subject to administrative site plan review.

Morrow County Principal Planner Daisy Goebel told the commissioners at the Oct. 2 public hearing that the code amendment was intended to add clarity to the planning process and make sure the county code is consistent with state law.

Most of the changes in the lengthy zoning ordinance seemed to reflect that, with changes made to promote consistency and make the permit approval process clearer and more objective.

Permitting was separated into three different categories that ranged from outright approval to administrative review to a conditional use process.

In some cases, subjective wording was removed to make decisions easier to make based on objective criteria.

Goebel admitted however, that the result was something of a middle ground that wouldn't make anyone perfectly happy.

"What is a middle ground but a mine field," she said.

That minefield became most obvious when staff addressed the proposed category change for data centers. Goebel told the BOC that the Morrow County Planning Commission had recommended data centers be changed from outright allowed use to conditional use permits (CUPs) across

the board. The recommendation came from a unanimous vote at the commission's August review of the ordinance.

"This would allow the data center use to be reviewed more holistically, because those conditional use criteria are more subjective," Goebel said of the change.

The county commissioners, however, questioned the rationale, perhaps even the motives, behind what seemed a last-minute change.

"I really want to dig down and discover how this all came about, to pull that particular business type out of that zoning," Morrow County Board of Commissioners Chair David Sykes said.

Morrow County Planning Director Tamra Mabbott said the idea had been brought up at an initial work session a year ago, but that staff did not fully explore the option at the time.

"We pursued the administrative review route and tried to make the standards in the site plan review in alignment with what we felt was appropriate to accommodate more intensive use," added Goebel.

The planning commission chose to revisit the idea at its August review of the ordinance.

Part of the issue for the planning director seemed to be the intended use.

"A data center, by every measure, is an urban use," said Mabbott. "And the places where we're proposing them, primarily, are in rural areas."

She said they have sig-

nificantly more impact than, for instance, a 5,000-square-foot manufacturing shop when it comes to water, sewer, electricity, roads and other infrastructure.

Planning department attorney Dan Kearns said the urban/rural distinction arose during the early years of the Oregon Land Use program, but it's difficult to fit today's uses into that original construct.

"It's far more subjective, and you kind of have to look at the basic nature of the use," he said. "You know (data centers) are not rural because they don't serve rural needs.

"They're inherently urban in their scale, their intensity and their lack of connection to rural resource uses."

Sykes countered that industrial zones such as at the Port of Morrow are not rural, and the change in the ordinance would also make data centers in industrial zones subject to conditional use permits.

Morrow County Commissioner Jeff Wenholz added that, while data centers would be omitted from outright allowed use on industrial lands, other plants that also needed planning goal exceptions would not be.

At the same time, Wenholz said that, by data centers, they seemed to mean "the one company we have right now," referring to Amazon Web Services. However, he noted that a smaller company could be a quarter the size of AWS with less impact but end up subject to the same standards.

"It seems like a discon-

nect to me," he said.

Kearns admitted he had the same conflict in his mind since the conversation did regard only data centers.

"I would recommend that, whatever zone it is, there can't really be a dispute that they're allowed or not," he said.

However, he said a conditional use permit is for an allowed use. The conditional use permit is needed to examine what conditions are appropriate to mitigate the impacts of that use, since those can often be difficult to foresee.

"They're a case-by-case evaluation of the use and what the impacts are so you can fashion conditions," he said.

"It wasn't whether they should be allowed or not," he added. "The zone, in my view, clearly allows them."

One great impact Kearns said he saw was on the local traffic and road usage, for instance, with intersection failures due to increased trips. He said that Oregon Dept. of Transportation (ODOT) has already projected the failure of one Morrow County intersection that will need to be reconfigured in order to function with "acceptable" delays.

"You just need a process to evaluate those impacts," he said.

He also said it is important to have a clear, open process set in place to prevent appeals years down the road.

Mabbott also said that the change to conditional use was also to clarify the code for the sake of developers, since there is usually

much more involved in large developments than simply signing off on a permit. The designation of conditional use, she said, prepared those developers for the process.

Stacie Ekstrom, lone representative on the Morrow County Planning Commission, told the BOC she is not "anti-data center," nor is the planning commission trying to harass anyone. Rather, she said her goal was to be clear and concise, since the county has recently come under fire for not being transparent in its decision making.

"As a commission, we're trying to protect the public, the county, the developer on all of this," she said. "It's just making sure that everything is transparent."

She said they didn't focus on other industries because data centers were already separate in the county's planning code. She said they also wanted to look to the future, since the traffic impacts of the data centers had been brought to the planning commission's attention.

Boardman planning commissioner Mary Killion said the commission saw the need for more input on location and impact as more and more data centers went up in the county.

"At the end of the day, people are going to come and talk to us about the decisions we make and how it impacts them," said Killion. "We just want to make sure the impacts are something we can all live with for a very long time."

She also pointed out

that the county doesn't have enough history with data centers to know what the long-term impacts might be.

"We're just winging it," she said.

Responding to Sykes's implication that the change was a last-minute decision, Killion said it was something they had been considering throughout the process. They knew what they had didn't satisfy them, she said, and they felt it was appropriate to make it clearer and more concise.

She also asked that the BOC respect the planning commission's decision.

"We represent the county. We represent the citizens. We get nothing out of this," she said. "It isn't for me that I make that decision."

In the end, the separation of data centers from other industrial permits still seemed to be a sticking point for the board of commissioners. After more than two hours, they determined that an administrative review should be necessary for data centers, but a conditional use permit should not.

The BOC also approved changes to reflect wording requested by Amazon Web Services in a letter submitted to the county.

The three county commissioners voted unanimously to approve the first reading of the proposed zoning code with the noted changes. The changes will be brought back for a second reading of the ordinance at a future meeting.



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