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Please enter this into the record for land use decision and appeal, ZP 21-066.

The burden of proof is the duty of the applicant. In this case the applicant must prove that UEC is the "property owner of record", recorded with Morrow County. That is established in Boardman Development Code Section 4.1.770.D. This is a quasi Judicial hearing, that is it is to be a fact based decision, unlike its counterpart a legislative decision which involves politics and persuasion.

As a Philosophy major we are taught that "Facts don't lie people do" so when we lay out a proof for an argument we can only look at the facts that can be "proven". Prevents argument and assertions that cannot be proven. The question at hand, however not the only one that requires your consideration is , does UEC hold legal title to tax lots 3205 and 3302 of 4N 25E S10.

You will see that staff and applicant have ignored the Statutory Warranty Deed . The applicant provides all kinds of argument and assertions and suggests that evidence in the record somehow supports his claim So let's lay out this argument

Applicant/ Staff Argument Failures:

- 1.) UEC is not listed on the Warrantee Deed provided by the county records, provided to staff prior to decision and also would expect that staff would have vetted that during application approval. (Exhibit 2 Doherty)
- 2.) The court records indicate that granted is a perpetual non exclusive easement, no other conveyance of property. (Application Court Doc).
- 3.) There is nothing in the record to support that UEC is a contract owner. (Exhibit 3 Doherty)
- 4.) Three times the Application references the owner to be 1St John 2:17 LLC.
 - a) Listed on City Zoning Approval Form; Pg 1 Application) Legal Owner 1St John 2:17 LLC
 - b) " The purpose of this application is solely to seek a Zoning Permit for tax lot parcels 3205 and 3202, currently owned by 1St John 2:17 LLC."(Application pg 2 Zoning permit request)

c) "The Tallman Properties are within the city's SC Zone (Application pg 2)

5.) Applicant argues that the owner cannot interfere with the use of said easement, but what applicant fails to convey is that the City's own code is holding up the use and not the Tallman's wishes. Citizens actually have rights too. This is rhetoric in an attempt to circumvent fact. The code was written to protect property owners from some random person making applications on their land. Only makes sense right. Set this precedence and your neighbor will be building his mother in law's suite in your back yard.

6.) Why did staff approve decision, because they have to uphold a contract that states that " Grantor (city) agrees not to make any objections to the above applications or to oppose them in any way at any time" which includes governmental and administrative approvals, appeals and modifications and defending applications.) not because of any facts. I would hazard a guess this easement took place in executive session, city councilors approved it, signed it and staff was very aware of it. This presents a real problem, perhaps a jurisdiction problem, can you make an unbiased decision on the facts knowing you have this contract? Was the Staff decision biased and baseless devoid of the facts?? Why was the Statutory Warranty deed left out of the findings from staff when it was presented as evidence.???

Opponents Facts:

1. Statutory Warranty Deed # 2021-49037 recorded at the county, listing 1st John 2:17 LLC as owner of record. Exhibit 1 Doherty

This Land Use hearing has blossomed in to a property rights issue. That is why City fathers found it wise to include BCD 4.1.700 D (1) a and BDC 4.1.700 D(3) a, into the development code to prevent this very issue.

The City's Development Code:

("BDC") 4.1.700(D)

(1)(a) provides that land use applications, applications for a Zoning Permit may only be initiated by

(1) Order of the City Council;

(2) Resolution of the Planning Commission;

(3) the City Manager; or

(4) "A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner."

BDC 4.1.700(D)(3)(a)

“When an application is received by the City, the City Manager shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

“(1) The required form;

“(2) The required fee;

“(3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

Again, previous applications to this transmission line have been withdrawn for reconsideration by the city. No such conclusion can be made as to why. The City council has not made that determination. Apparently, some insubordination has occurred and resulted in a "staff decision" and not one made by our cities governmental body. So any assertion that this decision was withdrawn to modify legal descriptions is erroneous. The mere fact that this decision was made without a public meeting constitutes that it may be revoked by the courts.

Let's not forget about our district wide underground utility district. Conversations with land owners have confirmed that UEC is seeking easements and moving across the city with more 230 KV lines in an attempt to get power to the Boardman Airport proposed Data Centers. Every substation will be tied together for what they call resiliency and reliability, we all know UEC has bought land from the city to build a substation out near Loves. Will that line travel down Olsen, Oregon Trail, the BPA line, Wilson Lane in front of our schools, or Kunze or down the West Extension canal? **Is anybody listening?** They say land use decisions impact 7 generations, these Transmission lines will be here forever! Word is there are 32 data centers planned for Morrow County, they aren't planned in Heppner, Lone or, Lexington. Each with its very own substation, and 230 Kv transmission line. Here's a fact, Pendleton has one substation for the entire town one line in. There is no residential need here. They will be making application on your land next.

Deny the application, deny the staff decision and make a good decision that won't set bad precedence, one that's grounded in unbiased judgment and based on the facts..

Kelly Doherty