

CROOK COUNTY PLANNING COMMISSION MEETING

June 9, 2021

Meeting minutes are not a complete representation of discussions at the meeting. An audio recording is available from Crook County Community Development at plan@co.crook.or.us or (541) 447-3211.

Crook County Planning Commission Chair Michael Warren II called the meeting to order at 6:00 p.m. The meeting was conducted by WebEx, a call-in service and at the Crook County meeting room. Commissioners attending the meeting in person were Chair Michael Warren, George Ponte, Laquita Stec, Gary Bedortha, and ProTem Commissioner Lawrence Weberg. Commissioners Susan Hermreck, Linda Manning, and Bob Lundquist were absent. The following County staff was present at the meeting: Community Development Director, Ann Beier, Assistant County Counsel, John Eisler, and Senior Planning Tech, Hannah Elliott. Planner, Katie McDonald participated via WebEx.

Parties in Attendance:

Ned Naumes
Gary Wojtech
Alan Cornelius, Brasada Ranch
Adam Conway, DOWL

Participating via phone WebEx:

None

Chair Warren announced that starting in July 2021; Planning Commission meetings will be starting at 4pm.

ITEMS NOT ON THE AGENDA

- NA

PUBLIC HEARING

Chair Warren called the Public Hearing to order.

Chair Warren read the opening statements and introduced the item for consideration. **Crook County Planning File Number 217-21-000395-PLNG;** Brasada Ranch Development, LLC (Owner/Applicant), Adam Conway, DOWL (Agent), The applicant requests tentative plan approval for a replat of Brasada Ranch, Phase 5. The replat will reflect a reconfiguration of existing overnight lodging parcels within the final plat boundary of Phase 5. The property is identified as portions of T16S, R14 E WM, section 26, tax lot 2801

The Planning Commission will be evaluating the request against the following applicable criteria: Crook County Code 18.116 (Destination Resort Overlay Zone) and in Crook County Code 17.16 (Tentative Plans).

Chair Warren asked if any of the Planning Commission members had a conflict of interest or had any ex-parte contact with the Applicant or any member of the public.

Commission Bedortha - no

Commissioner Stec – no

Commissioner Ponte - no
Commissioner Weberg - no
Chair Warren - no

The Chair then asked if any member of the public, including those participating by phone, wished to challenge any member of the Commission. No members of the public stated a challenge.
Chair Warren then asked to hear from staff.

Ann Beier, Community Development Director then provided a background of the proposal, which is a replat of a final plat that was done in 2017. The phase is a multi-use phase that includes athletic facilities, an adult only pool, and overnight units. The original proposal had 11 building sites for 44 units the proposed replat has 8 building sites for 32 units. This particular phase is a reduction in overnight units without modification of the rest of the development. Therefore the change is what is before you, a reduction in overnight units. A few key criteria we review is the overnight lodging ratio to permanent dwellings being met, is the open space still being met, and the applicant has demonstrated that they are all being met. There is also an element that is considered where the original conditions of approval, from 2004 are being met. That decision had a condition that the applicant provides trails, which we have received comment on. The condition you will tell us where the trails are, what they are surfaced with and they do not dead end. Brasada has supplied a map that shows where the trails are currently. Beier stated that some of the trails are in unplatted areas and would not show up in a phase. Phase 5 does have a paved trail that does connect to other resort areas. The overnight units will have crushed rock path to the units, idea being that people park and then walk to the units.
Beier also stated that the application needs to meet the tentative plan standards in the Subdivision section of the code and the maps provided meet those standards, showing easements and other information the County surveyor needs.

Commissioner Ponte asked if the original approval specify a quantity of trails.
Beier stated that it didn't specify quantify. The County code does not have any language in regards to trails.
Commissioner Ponte then asked if the trails count toward 'open space'.
Beier responded that they did.

She then read the original condition, provided by Assist County Counsel Eisler.; the applicant shall provide a detailed depiction of the final location, surfacing, and size of all trails within a phase, prior to preliminary plat approval for each phase of the resort development. Then the next condition states the applicant shall design all resort trails so that such trails do not dead end at the edge of the resort boundary but instead provide a continuous internal loop within the resort property.

Commissioner Weberg asked compliance with the original approval must in relation to trails.
Beier responded that is what she had been explaining and that when a phase comes in the applicant would state, yes there are trails in this phase or no there is not. A couple of the recent phases the applicant stated that there was no trails within the phase. It doesn't mean that there were not trails outside of the platted area.
Commissioner Weberg stated that it made it confusing, especially in relation to compliance.
Beier agreed that the lack of specificity and standards did provide a challenge in assessing compliance.

Commissioner Weberg clarified the Commissions role in regards to the application before them.

Beier responded that they could review the current phase to be in compliance with trails, but wouldn't be able to do a look back through prior decisions.

Chair Warren then clarified the hearing as the replat of an approved phase.

Beier referred to a letter submitted by Brasada that spoke to trails. In looking at the phase before them tonight, it meets the original condition in a very general state.

Commissioner Bedortha then asked if there are no standards and a lack of specificity in regards to trails how it would meet criteria. He added that the position of the Commission needs to be based on criteria.

Beier then responded that this is the kind of condition that is hard to enforce because it lacks specificity that we might include today.

Beier added that this resort has morphed since the 2004 approval and it may be best left up to the resort and the residents as to address the needs for trails.

Assistant County Counsel Eisler, stated that it is a condition of approval that is a bit ambiguous and tough to administer, but should be accounted for at each phase.

No further questions from the Commissioners.

Chair Warren stated that any testimony should be limited to the criteria.

Chair Warren then asked if for agency comment.

Beier stated that Fire Chief Russ Deboodt did review the staff report, but did not receive new comments.

Chair Warren then asked to hear from the applicant.

Adam Conway from DOWL spoke on behalf of Brasada Ranch to the replat before the commission. Conway stated that the replat is a modification of the previous approval, originally have 20 cabins, and then replatted to 19. This updated plat shows a reduction to 17 units. There are existing utilities constructed (water, sewer) and a few may need to be modified to accommodate the new lot lay out. He has spoken with Russ Deboodt as well in response to fire response and the sizing of the line and will accommodate this new plan. They are showing a loop roadway that will meet fire code and support the load for a fire truck. This phase is in the core area of the development and they are not anticipating construction in the summer as this area is heavily frequented by the resort guests.

He then stated that this area is served by existing trails and leads to other areas. Conway then asked for questions from the Commissioners.

Commissioner Ponte asked about Exhibit 3 and if Conway could point out where this phase is on the trail map that was provided to the Commissioners.

Conway then pointed out where Phase 5 is on the map, with other landmarks.

Alan Cornelius, with Brasada Ranch then spoke regarding Phase 5 specifically and how the trails in and around this phase are in place. He provided general information on the resort clientele and stated there are 11 miles of existing trails.

Beier asked about the colors of the map for clarification.

Chair Warren stated it was helpful to have Conway identify on the map where Phase 5 was.

Beier then asked about the different surface types.

Conway stated that there is a pamphlet that identifies different surfaces.

Cornelius clarified the information that is provided to guests and home owners in regards to the trail system.

He added that he is currently working on a more comprehensive trail system.

Commissioner Steq asked for clarification from Cornelius to point out Phase 5 on a different map.

Cornelius pointed out the area.

No further questions from Commissioners at this time.

Chair Warren asked for any other testimony.

Ned Naumes is a resident of Brasada Ranch and purchased a lot in 2007. He submitted a letter to the Commissioners and then went on to describe the inadequate trails, safety when using trails and most of the trails have not been built. Naumes quoted the applicants language in the burden of proof and stated that those were not factual. He stated that the increase in construction traffic is a real safety concern for residents and guests trying to use a trail or road. He stated that the trail system is not in place and the developers have provided false information in regards to the trails. He stated that the HOA is controlled by the developer and will not defend the home owners. He asked the Commissioners to deny the application until the trails are built, especially due to construction.

Commissioner Weberg confirmed that Naumes documented everything in his submitted statement.

Naumes confirmed that it was, except for showing on maps where the trails are not constructed.

Discussion among all regarding the process and options for including information at the hearing.

Beier stated that over time the plans slightly change from the tentative plan versus when the phases come in for approval with the details and ownership had changed.

Mr. Naumes asked when the change of ownership happened.

Ownership changed hands in 2010 and Naumes replied that they would have been responsible for compliance with the original approval.

Beier restated that the details come in with each phase versus the tentative plan. She offered to allow Naumes to leave a copy of the map he had and give it an exhibit number.

Naumes made a request to have a copy of the map and indicate what trails are there and what are not there.

He restated that a lot of the trails do not exist.

Commissioner Ponte then asked if Naumes' claim is that the map that was presented by the applicant is showing trails that don't exist in some form.

Naumes responded that there are far less than what is shown. He referred to what was shown on the Tentative Plan versus what is shown does not exist. He added that safety is a strong concern.

Chair Warren then clarified the application before the Commission tonight is for a replat of the Phase 5, which is for less density.

Naumes responded that the applicant is asking for something and ask that the Commission not approve any further action until the condition for trails from the original decision are met.

Commissioner Bedortha stated that this application is a replat. He then asked staff the if on future phases can the Commission then say the applicant must show X number of miles of trails in that phase, or would that be overstepping the role.

Beier replied that the Commission may request it but not sure how they would be bound by it and would there be other legal ramifications. She stated that the safety concerns around construction are valid and not sure that by putting trails in would address the safety concern.

Commissioner Bedortha then asked of staff regarding the validity of what the applicant has submitted.

Beier then stated that is a very valid question, and staff can research with GIS aeriels, etc. We accept information with the assumption that people are truthful. She stated that if the Commissioners would like staff to verify the information in this case, that they could direct staff to get that information and bring it back to them.

Commissioner Bedortha then stated that the applicant has provided a base line for what is there now by providing the map to the Commission.

Beier then stated that the County does not have code language around trails which would indicate how many miles of trails.

Commissioner Bedortha responded that the Applicant has provided a base line of 11 miles as a starting point.

Beier responded that the Commission would not do a look back through previously approved phases but for new phases coming in there could be a review of connectivity or that the trails depicted are built.

Commissioner Bedortha then asked for counsel regarding if the Commission can condition future expansions.

Eisler responded that we cannot move the goal post from the original approval. He added to Ann's point that it is the burden of the applicant to show how the conditions have been met. He reminded the Commission that they are the finders of fact and the burden is on the Applicant. He also added that the Commission is limited in this application to reviewing Phase 5 only.

Commissioner Weberg then asked if the Commission can ask for a bond from the Applicant so that the trails can be built.

Beier responded not in this decision. She added that Brasada has indicated they would work with the home owners to get this issue worked out.

Naumes finished up with requesting that Brasada show a document that shows the deviation from the Tentative Plan to what has been built and proposed.

Chair Warren stated that Applicant will get a chance to address what has been brought up.

Gary Wojtech, a resident of Brasada provided testimony regarding safety concerns in Brasada from excess construction traffic. In regards to Phase 5, he stated he has no real opinion on this particular replat. The reason he asking for the Commission to disapprove is that this is the only leverage for the homeowners to get the Applicant to fulfill their commitment. He added his concern of validity from what was provided by the Applicants regarding what is there. Safety is the main concern.

Commissioner Stec clarified if the safety issue is with the construction traffic coming in or because there are no bike paths.

He stated that the safety concern is with construction workers building houses, delivery drivers, and visitors on the road which is very congested because the trail system is not built.

No further questions from Commissioners.

Chair Warren asked the Applicant to offer rebuttal testimony.

Allan Cornelius provided testimony that they did not submit the map to be fictitious in any way. He has measured trails with aerial mapping and signage present on the trails. Cornelius then went on to point out and describe the trails, including surfaces, on the map.

Commissioner Ponte then asked if Cornelius would say how the trails were surfaced that he had just pointed out.

Cornelius responded that certain trails are paved, graveled, and a fair point to what was offered earlier in testimony many are natural terrain trails. Trails use include mountain biking, horseback riding, or hiking. There are not walkable in the neighborhoods or a managed trail. He continued to describe different trails in Brasada. Cornelius spoke to the difference of opinion among homeowners as to if they would like to have a trail near their home or not. Cornelius then described the future plans for a trail system and concerns regarding construction traffic.

Chair Warren asked about the trail along Shumway Road and followed it up with how many miles of paved trails are currently in.

Cornelius responded approximately 4 miles. He invited anyone to come out and walk the trails.

Chair Warren then asked if there was anything else he wanted to respond to.

Chair Warren then reminded the Commissioners that they are there to review the criteria of the replat; even though there has been a lot of talk on trails.

Commissioner Weberg then stated that he feels there is a commitment from the Commissioners to uphold the condition of putting trails in. There was testimony tonight that there is going to be a meeting on June 26th between the homeowners and Brasada and that the Commission should hold off on making a decision, until that meeting has taken place.

Beier stated that this is a decision for a replat and does not involve trails on the development, except as it relates to this replat. She added that Commissioner Brummer has engaged with a few property owners on this issue as well as Judge Crawford. Judge Crawford, John Eisler and herself had a phone call with Brasada to engage with the property owners regarding trails. The Commissioners cannot condition the replat to them having a meeting. When another phase comes before the Commission that would be the time to address the trail system and get an update on how the dialog and progress is going. The safety concern regarding construction traffic is a real concern but there doesn't seem to be an avenue for this body to address it.

Eisler supported Beier's statement that the Commission cannot hold up a replat on the issue of trails. He stated the importance of decision and conditions, especially in this case where they were done in the past and years later we are still trying to apply them. This shows how important public input is to bringing light on this issue.

Chair Warren then asked if the Applicant would like to waive their 7 day right.

Chair Warren closed the Public portion of the hearing and asked for a motion to hold deliberations.

Commissioner Ponte then moved to approve application number 217-21-000095-PLNG a replat portion Brasada Phase 5. Commissioner Stec then provided a 2nd.

Commissioner Ponte then stated that even though they are going to stick to the replat tonight. As an avid hiker and walker, there are different trail surfaces and locations may not be appealing and going forward how could the Commission condition trails with enough specificity to satisfaction of users and uses.

Commissioners then discussed the opportunities that may present with a new phase on how to condition trails when there are no standards in code.

Commissioner Bedortha would like to direct staff that with the next phase staff confirm the trail progress and take the concerns presented today seriously.

Commissioner Stec stated they can dictate use of the open space and ask if part of that use can be trails. Beier responded that yes open space can be trails. What staff found in discussion with Brasada was that the trails were outside of the platted area. The Commission can ask if there are trails that serve the phase.

Discussion among the Commissioners regarding trails and how to address the issue in the future continued.

Chair Warren then thanked everyone for the comments as it helps inform the Commissioners and making clearer decisions.

Chair Warren then called for the vote

Commission Bedortha - Aye

Commissioner Stec – Aye

Commissioner Ponte - Aye

Commissioner Weberg - no
Chair Warren - Aye
Motion Passes 4-1-0

Beier explained the process for the final decision, including it would be signed outside of a hearing and then sent out for a 12 day appeal period.

Beier then asked for a report back from Brasada on the meeting on the 26th and thanked everyone for their participation.

APPROVAL OF MINUTES

- April 14, 2021; minutes will be held over to the June 23 as there is not a quorum
- Chair Warren asked if there were any comments on the minutes.
- Chair Warren then asked about page 4 at the top in regards to bylaws and recording

Commissioner Ponte moved to close the meeting.
Commissioner Bedortha seconded motion.
Commission Bedortha - aye
Commissioner Stec – aye
Commissioner Ponte - aye
Commissioner Weberg - aye
Chair Warren – aye
Motion Passes 5-0-0

Chair Warren closed the meeting @ 7:35 p.m.