

CROOK COUNTY PLANNING COMMISSION MEETING

August 25, 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 4:00 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, Linda Manning, Laquita Stec, and Gary Bedortha. Commissioner Susan Hermreck attended via WebEx. The following County staff was present at the meeting: Community Development Director, Will Van Vactor; Planning Manager, Brent Bybee; and Senior Permit Tech, Hannah Elliott. Planner, Katie McDonald Planning Permit Tech, Jennifer Orozco participated via WebEx.

Parties in Attendance:

See sign in sheet

Participating via phone WebEx:

See sign in sheet

MINUTES

- **July 28, 2021 minutes**

Planning Commissioners have the minutes from the July 28, 2021 hearing before them.

Chair Warren asked for any comments, additions, or corrections on the minutes?

Commissioner Bedortha stated that the top of page three where it lists the Commissioners with a 'no' does not indicate that they were not at the site plan, but that they were answering the Ex Parte, Conflict of Interest statement.

Commissioner Bedortha moved to accept the minutes as corrected.

Commissioner Stec seconded the motion.

Chair Warren called for the vote?

Commissioner Manning- aye

Commissioner Ponte- aye

Commissioner Hermreck- aye

Commissioner Bedortha- aye

Commissioner Stec- aye

Chairperson Warren- aye

PUBLIC HEARING

Chair Warren called the Public Hearing to order at 4:10 pm.

Chair Warren read the opening statements, asked for questions on process, and introduced the item for consideration:

The Planning Commission will continue to take testimony on two planning files:

File 217-21-000436-PLNG, a proposed amendment to the Crook County Comprehensive Plan to add a property to the County's inventory of significant aggregate resource sites

And

File 271-21-000573-PLNG requesting conditional use approval for mining operations on the property.

The Planning Commission will be evaluating the request against the following applicable criteria:

Oregon Administrative Rules (OAR) Chapter 660, Division 16

Oregon Administrative Rules (OAR) 660, Divisions 33

Crook County Comprehensive Plan. Ordinance Numbers 43 and 51, Comprehensive Plan Mineral and Aggregate Policies

Crook County Comprehensive Plan, Chapter III, Land Use, Agriculture, Policies for Agricultural Areas of Crook County.

Oregon Revised Statutes 215.283(2)(c) and ORS 215.296

Crook County Code

Chapter 18.08 Definitions

Chapter 18.16 Exclusive Farm Use zones

Chapter 18.144 Aggregate Resource Sites

Chapter 18.160 Conditional Uses

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

Chair Warren mentioned that there was a site visit on July 28th and the record reflects who attended.

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

Commissioner Manning - no

Commissioner Ponte- no

Commissioner Hermreck- no

Commissioner Stec- no

Chair Warren disclosed that he received an email regarding Exhibit 21; he responded that they had received it and included Planning Staff.

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, staff asked for any questions from the Commissioners.

Commissioner Manning- no

Commissioner Ponte- no
Commissioner Hermreck- no
Commissioner Bedortha- no
Commissioner Stec- no
Chairperson Warren- no

Chair Warren clarified that no opposition testimony was on the phone lines

Monique Davis testified that they oppose the application. They have concerns regarding dust and economic consequences from loss of aesthetic quality. What benefit are the citizens of Crook County getting? Would this set precedent by opening up other agricultural fields and loss of farmland?

Commissioner Stec asked about Exhibit 5, submitted by Davis, regarding the spring that was mentioned. Davis responded that there are two springs on their property which supplies horses. She is concerned about the loss of water.

Commissioner Stec asked about their property location. Davis responded that it is north of the Vanier property and leased out for farming.

Commissioner Manning clarified Davis's location. Davis replied that they are on the north property border of the property. Commissioner Manning asked about a berm. Davis said that there is a proposed berm now and she is working with Knife River regarding the dust and noise.

Chair Warren asked about the location of the spring on the South Side of the property. Davis responded that there are two springs and yes they are on the south of the property.

Billie Johnson, representing Mark and Juanita Fleming, testified that they are opposed to the rock pit and their concerns for dust and water.

Adam Mikulski, offered testimony opposed to the gravel pit. They have concerns regarding dust, noise, conditions of approval and offered lessons learned regarding enforcement. Commissioner Stec asked about Exhibit 7a and 9a were submitted from them. Mikulski responded that yes they were and offered a few more items. He asked for more complete mitigation and reclamation plans. Chair Warren asked how deep their well is. Mikulski responded 50 feet deep.

Karen Mikulski spoke about the dust issue for after hours and when the operators are not present. Chair Warren then clarified that dust continues after hours. Mark Mikulski stated that the piles of material are not watered. Hannah clarified that the Exhibit 19 are the pictures.

Commissioner Stec asked if they were reading answers (Exhibit 26) from the questions (Exhibit 19). Mark said they just received them and he was reading them.

Commissioner Bedortha asked about the operator instead of the County for compliance. In terms of conditions are there any conditions that could be clearer or stood out?

Mark Mikulski responded with conditioning operating hours, watering the berms, keeping the weeds down, trees dying, dust, noise, and working on Saturdays.

No questions from the Commissioners

Billie Johnson testified that she is directly to the south of the proposed pit. She is concerned about the dust, her business, and water.

No questions from the Commissioners

Ron and Sylvia Rudabaugh testified that they are concerned about the dust, water (well) and loss of property value. They had an appraisal and have lost value. He offered to condition Knife River to set aside for loss of property value.

Commissioner Stec clarified the Rudabaugh property location.

Rudabaugh said they are to the North but just in the 750ft line. They have a 50 foot well and they are affected by dust, noise, water and are concerned their well will go dry.

No further questions from the Commissioners

Alex Pomraning, spoke to dust, conflicting uses, and reviewed Exhibit 20.
Chair Warren asked where his location is.

Commissioner Stec asked about the signatures.

Pomraning is submitting opposition signatures with addresses.

Commissioner Manning clarified that the current operation is split zoned.

Commissioner Stec clarified the split zones.

Commissioner Manning asked if Ponderings can see the entire site.

Pomraning stated that he is able to see both the existing and proposed site.

No further questions from the Commissioners.

Dick Zimmer lee, neutral but has concerns. He is the farmer that is responsible for farming and stated that they cannot be planted due to condition of soil and lack of water. He stated that a major concern is how to return the land to arable and productive land. He also is concerned with the change in irrigation patterns from the ground disturbance. He asked the question as to who's responsible for putting the land back to arable, productive ground.

Chair Warren asked about irrigation.

Zimmerlee described the current irrigation on the Vanier property, berms, and then spoke about OID rights and water concerns.

Commissioner Stec asked if he is currently farming under lease the Woodward reclaimed site.

Zimmerlee stated that he is leasing the property and that the ground is not farmable as it stands from reclamation.

Commissioner Stec asked if he was currently farming the Vanier property and how they are irrigating it.

Zimmerlee responded that on the Vanier property they irrigate from a pump in the canal on Lamont. He added that the Woodward, Porfily and Vanier properties are on a single system. Commissioner Stec asked for clarification of the water for the properties. Zimmerlee stated that there is a stream on the Davis property, creek and pond but there is also OID canals.

Commissioner Hermreck asked if he was leasing a field that was stated to be reclaimed and viewed on the site visit which was basically a field full of pig weed. Zimmerlee stated that is the parcel Knife River finished with reclamation and released this spring and it has not had water.

Chair Warren asked if they had water could they have farmed it. Zimmerlee stated that part of the property could be but some couldn't; due to water shortage, grading, and soil conditions.

Chair Warren asked about the soil for reclamation, can it be done to bring the soil back. Zimmerlee stated that the top soil was not put back. He stated that the soils study has no nutrients and lacking organic material. He further described the process of amending the soil.

Commissioner Bedortha asked if DOGAMI signed off. Zimmerlee stated that he did not know for sure, his understanding is that they did.

Commissioner Ponte asked who is financially responsible for making the soil productive. Zimmerlee stated that Knife River has stated they won't, the land owner has leased it out, and it could fall to the lease but he asked who is responsible.

No further questions from the Commissioners.

Jack Spencer offered testimony that in his experience soil cannot be put back to the condition it was prior and who will be in charge of making sure it was. He asked about who will be responsible for administering the mitigation plan. He asked about where the water is coming from for supplying the current Woodward pit. He asked about water supplying the mining operation, noxious weeds, and traffic impact on roads.

No commissioner questions.

Commissioner Stec asked about the Exhibits. Chair Warren stated that there are 26 exhibits and Hannah noted that number 27 is now on the website. Beier stated that all of the exhibits are entered into the record (1-27).

Chair Warren asked for rebuttal from the Applicant.

Matt Ropp, Planning Manager for Knife River and asked about time, he stated that there rebuttal would be at least an hour. He asked for the record to be left open for additional testimony and rebuttal.

Discussion about procedure and process continued.

Ropp continued with the applicant's rebuttal. He outlined the difference with two files before the Commission and the criteria that govern them. He then reviewed the exhibits, including the updated site plan that Knife River provided.

Commissioner Bedortha asked about the haul road going over the Woodward site and if there will be active mining where the road will be going through.

Ropp replied and stated that he spoke with Mr. Zimmerlee and that Mr. Zimmerlee does not represent Knife River and his concerns are misplaced and should be brought up with the land owner. Ropp stated that as of now DOGAMI has not released that ground Woodward property.

Chair Warren asked if the DOGAMI permit would be still be active for the Woodward site, as long as they are using the haul road.

Ropp stated that the DOGAMI permit will still be active and they could ask for a partial release of the bond, but it will have an active permit. He also noted that a large number of concerns have been heard primarily for the industrial processing area as well as for the EFU- Woodward site and is not the subject of this application.

Commissioner Stec stated that her understanding of the Woodward site is that it is a separate application but an extension of the site because they are still utilizing the Woodward site. She also asked if someone sign off on reclamation for the Woodward site prior to reclamation of the Vanier site.

Ropp stated that Woodward property will be reclaimed as they move forward but the processing activities are on heavy industrial land and not subject to a conditional use permit.

Commissioner Stec then asked who decides if the site has been reclaimed.

Ropp stated that it is DOGAMI.

Commissioner Stec followed up with a question of time frame.

Ropp answered that it is when they tell them that they are done mining and ask for reclamation.

Commissioner Stec clarified that it would be for the EFU land not the Heavy Industrial land.

Ropp answered that primarily yes; it would for the EFU land. Processing is not part of a DOGAMI permit.

Commissioner Stec followed up with if there is a part of that process that says they have to sign off on part before moving to another part.

Ropp restated her question to say that DOGAMI would need to sign off on the entire Woodward site prior to moving to Vanier and he answered that he did not believe so. He explained the reason for the haul road to be internal.

Commissioner Hermreck asked about DOGAMI process and does that process take into account the soil productivity.

Ropp replied with detailing the DOGAMI requirements for mining.

Commissioner Hermreck clarified her question, in that the claim is the soil is not productive and how does he address that.

Ropp replied that what he has heard is anecdotal, that it is less productive. Ropp stated they are not farmers and put the soil back and coordinate with the land owner. Those are unique to each lease.

Commissioner Bedortha remarked that it does matter to his decision that if there is going to be an access across the Woodward site that there is an active DOGAMI permit. He feels that there is an importance for a connection between the operations. Secondly he asked about the DOGAMI requirement for reclamation. Ropp replied that it needed to be revegetated consistent with the application that was filed. He also stated that there would be an active DOGAMI permit for the existing site during the Vanier operation.

Commissioner Hermreck asked about the 30 acres of pig weed across from a seed farmer.

Ropp responded that Mr. Zimmerlee explained that and it was a miscommunication between the farmer and land owner.

Commissioner Hermreck followed up with asking how it could be reclaimed with a cover crop, signed off on and then pig weed overtook it.

Ropp answered that there was an active DOGAMI permit.

Commissioner Hermreck then asked how it could be an active permit if the property was turned over to the land owner.

Ropp said that they tell the land owner when they are done mining and if the land owner is ready for it and if the land owner makes a deal with someone else to farm it that it sounds like there is a miscommunication as that land is still under the DOGAMI permit.

Chair Warren then clarified that the Applicant's process when they are done mining that cell is to contact the land owner and not contact DOGAMI for sign off. That way the land owner or farmer is responsible to get the land back to the way it was and provide a ground cover, so when DOGAMI comes to sign off on reclamation the crop is in place.

Ropp stated that is correct.

Chair Warren then followed up with, stating therefore there is no DOGAMI approval required prior to giving the land back to the land owner.

Ropp stated that they would have the top soil replaced and feel confident they would sign off prior to giving it back to the land owner.

Discussion regarding timing, replacing berms, and bonding occurred.

Commissioner Stec asked about the use of the berms and timing for them coming down.

Ropp stated that the berms on the Woodward site would stay until they were completely done mining and they would not be done mining until they mined under the industrial site which would not happen until the very end of the entire operation.

Commissioner Stec clarified that could be anywhere from 6 to 12 years.

Ropp replied that was a fair assumption.

Commissioner Stec followed up with a question regarding the processing site and if they do not move it, will they be bringing in material to process through it.

Ropp did not answer that question and it is in an exception area.

Commissioner Hermreck asked about the discrepancy between the 30 acres of land that has been turned over to the land owner and the condition of the soil with an active permit.

Ropp stated that he cannot speak to any communication between the land owner and farmer. Knife River has removed the gravels, graded and not actively mining, it is in an area where the proposed haul road will be and there is an active DOGAMI permit.

Commissioner Hermreck restated her question as, are they satisfied with the condition of the ground or is that responsibility of the land owner.

Ropp responded that it was

Ropp continued with applicant rebuttal regarding dust management, which is Exhibit 23.

Commissioner Ponte asked questions regarding the dust management plan.

Commissioner Bedortha asked about what happens when the land has been turned over to the land owner and there is still an active DOGAMI permit.

Ropp stated it sounds like a miscommunication.

Ropp then continued offering testimony on groundwater, exhibit 26.

Commissioner Bedortha asked about two sites that are offsite and if they were in communication with the land owners.

Ropp replied that there is a level of adverse impact and it is a consideration of the review. He listed the wells and springs that they will be monitoring and collect base line data.

Mark Stacy, Hydrogeologist, spoke to the ground water Exhibit 24.

Commissioner Hermreck asked about the addition of the lines and how they would protect the wells.

Stacy responded that the addition of the recharge trench would provide an opportunity for the water to be added closer to the wells.

Commissioner Stec clarified that the most vulnerable wells were the Mikulski and Johnson wells directly across from the addition of that recharge trench.

Stacy responded that was correct.

Commissioner Stec asked about areas 10 and 11 with the retention trench by Davis spring #2 and is there anything else to be placed for protection of that spring.

Stacy responded that they think what they have proposed would be adequate and will be monitored through well testing.

Commissioner Stec asked about the elevations and ground water flow.

Stacy responded that the groundwater flows from the Northeast to the Southwest.

Stacy continued to go through Exhibit 26.

Chair Warren asked if DOGAMI will be signing off on the trenches and how they are constructed.

Stacy responded that is correct.

Commissioner Bedortha asked if the south recharge trench will be within the 100ft setback.

Stacy responded the trench would be within the 100ft setback. Ropp stated they would like the option of placing them within the 100ft setback.

Ropp reviewed the roles of the governing bodies.

Chair Warren acknowledged the role of DOGAMI and regulatory authority.

Chris Lidstone added DOGAMI's responsibility and reviewing process. He addressed previous opponent testimony.

Stacy continued to go through Exhibit 26.

Lidstone provided testimony in response to opponent testimony, specifically to reclamation plan and the process through DOGAMI.

Commissioner Manning asked about the chemicals used for dust management and would they affect the ground water.

Lidstone responded with specific chemicals and that they should not and will not affect ground water.

No further commissioner questions.

Ropp spoke to the testimony and the Exhibits provided that do not include new evidence but with more specificity. He asked for the record to be left open for supplementing the record.

Discussion regarding process took place with staff and Commission.

Chair Warren then offered the opportunity for anyone in attendance to offer surrebuttal if they felt any new evidence was provided.

Mikulski asked if his understanding of the recharge trenches, from previous hearing was that they were going to bring in sand and gravel for filtration and this hearing that the mining would only be removing the top soil, leaving the existing sand and gravel in place.

Pomraning, Mona asked if there are only five wells being monitored and theirs will not, questioning what will happen to other wells in the area. She also asked about the water evaporation, water for farming, and water conservation.

Chair Warren asked if the applicant will submit any further rebuttal in written.

Ropp asked to leave the record open.

Commissioners asked about procedure and timelines.

Commissioner Bedortha asked that staff update the list of conditions for deliberations so the Commissioners have one document to deliberate with.

Van Vactor responded that it having those conditions does not mean that the application is approved.

Commissioner Stec clarified that the Commissions responsibility to the community include any proposed conditions and that those conditions reflect the community.

Beier stated that proposed 14 days and then 7 days would not get the material in time for an updated staff report.

Commissioner Bedortha then asked that they stay with the minimum of 7 and 7.

Commissioner Bedortha moved to close this portion of public hearing and leave the record open for written rebuttal for seven days, and can be submitted until September 1, at 4pm, then applicant's seven days for final argument submitted by ,September 8, at 4pm. Deliberations only will be September 22, at 4pm.

Commissioner Stec seconded the motion.

No Discussion

Chair Warren called for the vote.

Commissioner Manning- aye

Commissioner Ponte- aye

Commissioner Hermreck- aye

Commissioner Bedortha- aye

Commissioner Stec- aye

Chairperson Warren- aye

Motion Passes – 6-0-0

Staff provided an update regarding minutes and audio files.

Commissioners and staff discussed written minutes and audio recording for reference.

Commissioner Stec moved to adjourn.

Commissioner Ponte seconded the motion.

No Discussion

Commissioner Manning- aye

Commissioner Ponte- aye

Commissioner Hermreck- aye

Commissioner Bedortha- aye

Commissioner Stec- aye

Chairperson Warren- aye

Motion Passes – 6-0-0

Chair Warren closed the meeting @ 7:52 p.m.