

CROOK COUNTY PLANNING COMMISSION MEETING

September 22, 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 Vice Chair Gary Bedortha called the meeting to order at 4:00 p.m. The meeting was conducted by WebEx (a call-in service) and in-person at the Crook County meeting room. Commissioners attending the meeting in person were Vice Chair Gary Bedortha, Susan Hermreck, and Laquita Stec. Commissioner George Ponte 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. Planning Permit Tech, Jennifer Orozco and Planner Katie MacDonald participated via WebEx. Ann Beier, contract employee with Crook County was also present.

Parties in Attendance:

See sign in sheet

Participating via phone WebEx:

See sign in sheet

MINUTES:

None

AGENDA ITEMS:

#1 Grandview Plat Review – Removed

#2 Brasada Phase 5 Plat Review – This item was initially removed at the hearing. Shortly after the Public Hearing began, Adam Conway, a representative for Brasada arrived. Commissioner Stec moved to add item back to the agenda. Commissioner Hermreck seconded. All four commissioners present voted in favor of adding it back to the agenda.

Ann Beier, Crook County staff, noted Planning Commission approved the replat of the casitas in Phase 5. Ann Beier recommended the Planning Commission sign the plat and forward it to the County Court.

Adam Conway from DOWL Engineering noted this is the final plat of Phase 5 replat and that Brasada seeks approval to sign the plat out of meeting to accommodate moving forward with the County Court. Adam Conway noted Brasada held off on some of the construction so they will come in front of the County Court with an improvement agreement. Brasada did not want to do construction during the summer months since the location is in a busy hub; will hold off on construction until winter months when not as busy.

Ann Beier noted that on a prior plat, the Planning Commission had moved to sign the plat out of meetings. Beier recommended doing that again and to condition it on the final plat being prepared by surveyor and a final improvement agreement being signed by court. Once those two things complete, and plat signed by all others, the Planning Commission Chair can sign the plat out of session and then forward to County Court. Planning Commission and County Court is always the last to sign.

Commissioner Stec moved to approve the Phase 5 replat conditionally sign off by surveyor and departments and the improvement agreement, and for the chair to sign out of the meeting. Commissioner Hermreck seconded the motion.

Commissioner Ponte – Aye

Commissioner Hermreck – Aye

Commissioner Stec – Aye

Vice Chair Bedortha – Aye

The motion passed 4-0.

PUBLIC HEARING

Vice Chair Bedortha noted this is deliberation by the Planning Commission on a request by the Applicant, Knife River Corporation Northwest, to add the subject property to the Crook County inventory of significant aggregate resource sites (Application 217-21-000436-PLNG) and to authorize the extraction of sand and gravel from the site (Conditional Use Application 217-21-000573-PLNG). The property is identified as Township 14 South, Range 15 East, WM, Section 14, tax lot 103. The property is zoned Exclusive Farm Use – Prineville Valley and Lone Pine Areas (EFU-2).

Vice Chair Bedortha read the opening statements and asked the commissioners if they had any questions on the process.

Vice Chair Bedortha noted the applications were considered in two public hearings before the Crook County Planning Commission. The first evidentiary hearing was conducted on July 28, 2021 and continued for additional testimony to an August 25, 2021 public hearing. At the conclusion of the August public hearing, the record was left open for seven days for rebuttal evidence and argument (until September 1, 2021) and an additional seven days for the Applicant's final argument (September 8, 2021). The record consists of testimony received at the public hearings and written testimony including the Applicant's original burden of proof statement and Exhibits 1 – 34.

Vice Chair Bedortha noted the Planning Commission will be evaluating the requests 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), ORS 215.296, ORS 215.298

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

Chapter 18.180 Transportation

EX PARTE CONTACT , CONFLICT OF INTEREST, BIAS:

Vice Chair Bedortha asked if any Planning Commissioners had a conflict of interest.

Commissioner Stec – No

Commissioner Hermreck – No

Commissioner Ponte -- No

Vice Chair Bedortha – No

Vice Chair Bedortha then asked if any Planning Commission had any ex parte contact with the applicant or any member of the public. Vice Chair Bedortha noted there was a site visit on July 28, 2021.

Commissioner Stec – No

Commissioner Hermreck – No

Commissioner Ponte -- No

Vice Chair Bedortha – No

Vice Chair Bedortha then described the order of proceedings. Staff recommended considering the two applications separately; specifically to consider the comprehensive plan amendment request before prior to considering the conditional use permit.

Vice Chair Bedortha polled the commissioners to see if they have any questions of staff.

Commissioner Ponte asked about the role that the ESEE analysis played in the Planning Commission's decision.

Ann Beier explained that ESEE analysis requires identifying impacts within in an impact area around mining area (20:55). Impact area is 500 feet per comprehensive plan. Ann Beier explained the Planning Commission is to

weigh environmental, economic, social, and energy consequences of allowing or not allowing mining. The language in the administrative rule applies to all Goal 5 resources (aggregate, wetland, riparian). The conflicting uses for wetlands likely different than for a gravel mine. Ann Beier continued to note that the Code doesn't state what wins and what loses; it just says look at the consequences. Mining will have environmental impact, such as on groundwater. We know there are economic values attached to mining, but also loss to agriculture and property values. We know there are social impacts; noise, dust, etc. There may also be social benefits; source of aggregate in community. There are energy consequences; we don't have to haul things as far. Ann Beier noted, though, that it is a balance. There is no guide as to what wins or loses.

Ann Beier continued to explain that the County's comprehensive plan policy isn't helpful in determining what those consequences mean. She noted there are three choices: One, there are no conflicting uses. Two, conflicting uses are so important that we should never allow a mine. Third, we need to balance the uses.

Vice Chair Bedortha asked if there were any other questions for staff.

Commissioner Stec noted, in trying to balance the impacts, it seems like anything that is positive is in favor of application; anything is negative favors the opposition. How do we find a balance between a dollar figure and quality of life?

Ann Beier noted there was no testimony regarding dollar figure value of the mine, but that we heard testimony of loss of property value and value of mine; but no quantitative figures.

Ann Beier continued and noted that conditional use criteria looks at livability. Neighbors testified to property values. Such impact, if not an economic consequence, then social consequence. There isn't a ledger that shows dollar figures. Considerations to be balanced.

Commissioner Hermreck noted she has been involved in rock plants her whole life. During that time, reclamation involved the land being left better, but feels Knife River left it worse. Commissioner Hermreck recalled that one opponent testified all neighbors will all sell out to mines. Commissioner Hermreck questioned, how do you approach Goal 5 on that?

Ann Beier noted that the Planning Commission couldn't get a conditional use permit if there was not a resource and could put conditions on it to avoid significant cost increase on farming and/or to protect groundwater.

Commissioner Hermreck noted there is little doubt the resource is there; problem is going further. So, how paramount is this vote? (33:30)

Ann Beier noted that the Planning Commission can add the site to the inventory, but consider, based on testimony heard, can the impact be mitigated subject to the code language we have?

Ann Beier further noted that Goal 5 has nothing to do with reclamation. Planning Commission can make a decision to add it to the inventory and then come back and look at CUP application and say the applicant can't cut it.

Ann Beier restated that this conversation is separate from the conditional use application.

After concluding staff questions, the Planning Commission moved on to deliberations.

Commissioner Stec moved to recommend to the county court to add site to inventory of significant resources as 3B which is less important than conflicting uses.

Commissioner Ponte seconded the motion.

Commissioner Stec (43:35) described the basis of her motion. She noted there are currently 9 other active sites within a mile. She also noted that she did the back and forth ESEE analysis and came up with the following examples. One positive is it a local resource, the landowner will make money from it, and the site will be reclaimed at some point. On the negative side, it will lower property values, result in less productive soils, and also, as heard at the July hearing, Woodward site has been going on for six years, 90% going to Facebook, so if Facebook stops building, could slow mining for up to 12 years, which is a long time for the site to be out of farm use. On social impact, provides employment, but already nine other aggregate sites in area, tax revenue greater than farm revenue. Further, no indication expansion will result in new jobs. Negative social impact would be reduction of quality of life, noise, dust, and not being able to use yards on Saturday. Based on testimony, Knife River hasn't been good neighbor regarding dust and noise. Environmental impacts, applicant didn't list any. Negative environment impacts include destruction of wildlife, dust, problems with neighbors' wells and springs. Positive impacts on energy could use Woodward site for processing. Negative, it could be transferred out of the County. Positives didn't outweigh the negatives. The site is not as important as conflicting uses.

Commissioner Ponte (47:30) agreed with much of what Commissioner Stec stated. He recognized the need for aggregate, but that this isn't the right place to do it. He has a concern about groundwater (quality and quantity) and anticipates a loss in property values. Commissioner Ponte stated he did not hear that 90% goes to Facebook; instead he heard 1/3 goes to Facebook and remaining 2/3 is going to Bend and Redmond (so not directly benefiting Crook County). He questions suitability of farmland after reclamation and reduction in yields and income from dust. Social consequences, concerns about noise, dust, traffic and livability are difficult to mitigate. Commissioner Ponte noted, to date Knife River doesn't have great track record for managing dust. In terms of three motions, not sure latitude to say not a significant resource. But if you look at in big picture, where you look at nine other sites that are close, can it really be significant?

Commissioner Hermreck agreed with Commissioners Stec and Ponte.

Vice Chair Bedortha doesn't agree on importance of other sites and thinks it is a perpetual cycle. Without

knowing status of other sites, it is hard to know whether proposed site is significant. He noted 3B is limiting, so prefers staff recommendation of 3C.

The commissioners voted on Commission Stec's motion:

Commissioner Ponte: No

Commissioner Hemreck: No

Commissioner Stec: Aye

Vice Chair Bedortha: No

Commissioner Ponte noted he is leaning more towards rejecting site as significant site for inventory. In Crook County we are surrounded by rock. His concern is about where they have proposed to mine the rock; it is not the right place to do it. If proposal further out of town, he would be voting for it, but that this is not the appropriate location.

Will Van Vactor noted that the comprehensive plan prohibits considering other sites as basis for a denial to put it on inventory and read relevant plan language.

Commissioner Stec noted if the Court thinks it is not a 3B site, then they can change the designation.

Commissioner Hermreck noted she is not sure it is fair to ignore the aggregate resource and suggested recognizing it and then moving on to the conditions.

Commissioner Stec suggested making the recommendation to County Court and let them make final decision.

Commissioner Ponte noted that based on what staff stated, and not consider what is around the proposed site. That changes his view a little bit as to rejecting it as a significant resource site and the alternative would be to list it as a 3B site.

Vice Chair Bedortha noted the Planning Commission can restate the motion.

Commissioner Ponte moved that Planning Commission recommend to add site to significant inventory as 3B site, significant site less important relative to conflicting uses.

Commissioner Stec seconded.

Vice Chair Bedortha asked for discussion.

Vice Chair Bedortha noted he is fine listing it as a resource, but thinks it is a 3C site.

Commissioner Hermreck noted the 3C designation protects the resource site, but not sure it protects the neighbors as much.

Vice Chair Bedortha called for a vote.

Commissioner Ponte: Aye

Commissioner Hermreck: Aye

Commissioner Stec: Aye

Vice Chair Bedortha: No

The motion passed three votes to one vote (1:02:30)

Vice Chair Bedortha then reiterated that staff recommended that the Planning Commission wait until the County Court hears the Goal 5 resource listing before deliberating on the CUP.

Ann Beier noted the earliest staff recommends is October 27 at 4:00 pm; that gives us two county court hearings.

Commissioner Hermreck moved to present recommendation to County Court and continue CUP to October 27th (217-21-000573-PLNG) for deliberation only.

Commissioner Stec seconded.

Vice Chair Bedortha asked for discussion and then a vote.

Commissioner Ponte: Aye

Commissioner Hermreck: Aye

Commissioner Stec: Aye

Vice Chair Bedortha: Aye

Vice Chair Bedortha noted that if there are any questions, to direct them to staff. He also noted that County Court will hear the resource listing, not the conditional use permit.

Brent Bybee, Planning Manager then provided update on upcoming Planning Commission schedule.

Commissioner Ponte moved to close. Commissioner Stec seconded. All voted in favor (motion passes 4-0-0).