

CROOK COUNTY PLANNING COMMISSION



November 28, 2018

Crook County Planning Commission Chairperson Michael Warren II called the hearing to order at 6:00 p.m. Commissioners present in addition to Warren were George Ponte, Bob Lundquist, and Commissioner Pro Tem Lawrence Weberg. Laquita Stec, Susan Hermreck, and Gary Bedortha were not present.

Crook County Planning staff present were Planning Director Ann Beier and Planner Katie McDonald.

Warren led all persons present in saying the Pledge of Allegiance.

OPENING STATEMENTS

Warren explained the Commission procedures. He called upon the Planning Commissioners present to state any conflicts of interest or ex parte contacts. He asked if any member of the public wished to challenge any of the Commissioners concerning any item on the agenda.

Conflicts of Interest: None.

Ex Parte Contacts: None.

Challenges: None.

APPROVAL OF MINUTES

Beier suggested that review of the draft minutes for the meeting of November 14, 2018 be continued to the following meeting.

Warren stated that this could be done.

FIRST ORDER OF BUSINESS

Final Decision for RMG Destination, LLC (applicant/owner) – Record Number 217-18-000334-PLNG.

Beier said that she had prepared the decision, and asked if the Commissioners wanted any changes.

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Weberg asked if anyone had opposed the decision.

Beier said that no one had. She said that the Roadmaster was comfortable with the approach, and that the Circuit Court had dismissed the appeal. She said that the extension stands.

Weberg moved that the Commission accept the Final Decision.

Ponte seconded.

The Commissioners present approved the motion by a vote of 3-1. Lundquist cast the dissenting vote.

PUBLIC HEARING

Clint Woodward (owner/applicant) – Record Number 217-18-000341-PLNG is requesting modification of the conditional use approval authorizing mining and extraction of sand and gravel on the subject property (**C-CU-776-95**) approved by the Crook County Planning Commission on February 22, 1995. The specific request is to modify the existing conditional use permit to explicitly allow placement of a mobile asphalt plant on the site, and to allow processing of clean concrete, asphalt, and other rock material from off-site on the subject property. Aggregate sites are subject to the requirements of CCC 18.144. The property has been designated as a significant aggregate site in the Crook County Comprehensive Plan (C-P (M-23-95) and is identified as T 15 S R 17 EWM TL 812, located on the north side of the Post-Paulina Highway.

Beier said this is a modification of an existing conditional use permit to allow an existing mobile asphalt batch plant to be placed on the property, and for clean concrete, asphalt, and other rock material from off-site to be recycled on the property. She said that a site visit had been conducted on the present date. She said the mining operation had been approved in 1995. She said that approval of the request would be subject to DOGAMI and DEQ approval, and ODFW limitations on operations in Winter Range. She said that the applicant and staff would work with ODFW. She said that the asphalt batch plant would be regulated by DEQ under the existing air quality permit, which applies to the plant rather than to the site. She said that the plant would not be operated on a daily basis, but would be used to meet demands for asphalt for individual projects.

Weberg asked if there is air quality approval.

Beier said that there is. She said that the area is subject to some winter inversions, but asphalt will not be processed in winter. She said that the plant has an active permit, and has not generated any complaints.

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Lundquist asked if the operation is scheduled for requalification.

Beier said that was a question for DEQ. She said that a local land use decision is needed for DOGAMI approval.

Warren asked if the proposal ties into the whole site.

Beier said that it does. She said that the applicant will work with DOGAMI on new mining procedures. She said that the applicable criteria for Commission approval is contained in CCC 18.144, and that it is not necessary to go into the inventory process. She said that mining operations for this site are required to be protected from conflicting uses within 500 feet.

Ponte commented that the ordinance does not address material recycling.

Beier said that the Commission must see if it is compatible. She said that the area surrounding the site is predominantly used for grazing by Breese Ranches.

Beier said that water must be available for dust mitigation. She said that the site is more than 500 feet from conflicting uses, and from streams. She said that the applicant is requesting to blast about twice per year, and that language is needed to address that. She said that staff recommendations are based on experience with other sites. She said that notice to neighbors and the County is required. She said that the property is within Winter Range. She said that blasting will be addressed by conditions.

Beier said that DOGAMI has no issues with recycling, unless the material is used for fill onsite, in which case a fill permit would be required. She said that old asphalt is considered to be an inert material, like concrete or rock. She said that tires are not an inert material.

Warren said that a letter had been received from 1000 Friends of Oregon concerning blasting offseason.

Warren asked if there were any state or federal agency representatives present. There were none.

Clint Woodward, the applicant, offered proponent testimony. He said that, as Beier had explained, he wants to operate an asphalt plant and conduct recycling on the site. He said that he has the necessary equipment. He said that he has met all of the criteria, and that other asphalt plants are operating in the County.

Lundquist asked if the batch plant would have an official schedule of operations regulated by DEQ.

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Mike Curtis, the applicant's consultant, testified on behalf of the applicant. He said that a Source Test is required every ten years, and that an operational test with report is to be done every year. He said that an air quality test is done in conjunction with the Source Test, with DEQ onsite.

Weberg asked if the modified operation will result in more dust.

Woodward said that dust can be controlled.

Beier said that letters had been received from ODFW, and from the City of Prineville. She said that they were generally in support.

John Morgan testified in support of the proposal. He said that he owns one of the closest parcels to the site, which is within two miles. He said that he favors the proposal provided all agencies are in support.

Mike Irvin offered testimony in support. He said that he lives within one mile of the site, and the creek on the subject property runs past his house, and he has no concerns if the proposal is approved by the regulatory agencies. He said that the creek does not run year-round. He said that prevailing winds will blow dust away from residences in the area.

Weberg commented that the water level in the Breese Ranches stock pond indicates that the groundwater level in the area is low.

Joe Floyd offered testimony in support. He said that pollution which has been discussed by persons in opposition will not exist with the batch plant. He said it is good that resources are being recycled. He said that there are presently few places to take old concrete. He urged approval.

Marlo Dill testified in support of the proposal. She said that she is a farm and ranch real estate appraiser experienced with mining operations. She said that supplies of good quality aggregate with easy access are limited. She said that she lives within 2700 feet of a quarry, and has experienced little dust.

Brett Morgan testified in support. He said that he lives near the site, and he has had zero problems from the pit. He said that there are no problems with dust, noise, or traffic. He said that he has used recycled material for road base.

Lundquist asked Morgan how long he has lived in that location.

Morgan said that he has lived there for thirty-one years.

Scott Smith testified in support of the proposal. He said that he is the Street Superintendent for the City of Prineville. He said that use of recycled asphalt is the norm to reduce emissions. He said that most job bids include 30% recycled material, and some jurisdictions use up to 60 percent recycled asphalt on roads. He said that the

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proposed batch plant will be a specialty plant to serve local users, and will not be a large-scale operation. He said that it will generate minimal truck traffic, and will eliminate traffic impacts from transporting asphalt from further away.

Ponte asked Smith if there is a price difference between recycled and virgin asphalt.

Smith said that recycled asphalt is cheaper. He said that it is almost a requirement, because virgin asphalt is not affordable.

Jason Snyder testified that he is a Breese son-in-law, and uses land near the site for grazing. He said that the applicant keeps up the fencing on his property. He said that he is a landscape contractor, and uses recycled materials. He said that the applicant's operation is entirely above-board.

Warren asked for other proponent testimony.

Chuck Hegele said that he does not know the applicant, but he is a contractor and developer, and owns a small gravel pit. He said that ODOT is imposing limits on truck traffic which will increase transportation costs. He said that local batch plants are needed. He said that big companies do not want to produce asphalt for small projects, but that small operators will. He said that a small batch plant is needed to produce material to fix potholes in roads in the area. He said that a small plant can fire up for a day, and would benefit him and his customers.

Warren asked for opposition testimony.

Ramona Lane said that she would give her time to Kristy Cooper.

Warren said that a time limit had not been set for testimony. He said that Lane was welcome to speak, or not.

Kristy Cooper offered testimony in opposition to the proposal. She said that she lives 4000 feet from the quarry, and at a lower elevation. She said that she had known the quarry was there, but does not want an asphalt plant. She said that pits are supposed to be temporary. She said that the applicant's operation is not in accordance with his permit. She said that she had problems with chemicals from an operation she previously lived close to, and now has allergies which would be aggravated by the proposed operation. She said that she has an organic garden which must not be exposed to chemicals, and the proposed operation would put her out of business. She said she would have to move to protect her health. She said that there are lavender farms, organic farms, a vineyard, and livestock in the area which would be affected. She said that the application is not a modification. She said that some farmers have been in the area for many years, and their land is a primary asset for them and their heirs. She said that a twenty-three year old court ruling focused on quarries. She said that the proposed use is a new use, and needs a new environmental review. She said that fugitive dust cannot be mitigated, and it affects horses and cattle. She said soil and water will be affected for miles around. She said that Colorado does not permit

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quarries near vineyards. She said there is a vineyard within two miles of the pit. She said that her crops and other organic farms will be harmed.

Cooper said that toxic chemicals cause cancer, and constitute chemical trespass. She said that excess nitrogen disrupts ecosystems. She said that the site is one mile from the Ochoco Reservoir, and will drive away campers. She said that the Comprehensive Plan calls for reduction in particulate matter in the County. She said that 80 truck trips per day had been approved. She said that the County is on the cusp of becoming an air quality problem area. She said that other batch plants in the area are not operating at capacity. She said that the plant should be in an industrial area. She said that the surrounding area is a “juniper jungle”, and there is a wildfire hazard. She said that the site is on sloping terrain. She said that the applicant has no plans for fire, stormwater, or groundwater. She said that snow runoff in the area is massive. She said the area is prone to flash floods. She said there are many streams, springs, ditches and culverts in the area. She said that Juniper Creek runs for more than two weeks, and surrounds the applicant’s site on three sides, and runs to Ochoco Creek and the Crooked River. She said that regulatory agencies are investigating the applicant’s operation. She said that buried materials will leach into surface water. She said the applicant’s operation has no buffer, and there is excessive noise. She said that the topography of the site amplifies the noise. She asked where fuel tanks will be located. She said that the Paulina Highway is too narrow for truck traffic, and it is obvious that more truck traffic will result. She said that the applicant has not submitted mitigation plans which must be submitted with the application, rather than addressed by conditions. She said that a surface water management plan, a security plan, a noxious weed plan, and other plans are required.

Beier pointed out that all of the environmental quality things referred to by Cooper are handled by DOGAMI, and the County has no jurisdiction.

Weberg said that the Paulina Highway is a state highway, and the County has no jurisdiction there.

Beier said that the quarry has operated since 1995. She said that the requirements listed by Cooper are not before the Commission. She said that the County does not do mine safety.

Cooper made additional comments concerning water and fugitive dust. She said there has been no blasting in recent years. She said that a dry operation is not possible. She said that County approval must be obtained before DOGAMI approval. She said that rock on the site has not been tested since 1995. She said that asphalt has been buried on the site and hydrocarbons will seep into groundwater.

Lundquist asked Cooper if she has proof that asphalt has been buried on the site.

Cooper said she had seen it. She said she had followed dump trucks carrying asphalt, and had seen it buried.

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Beier said that the Crook County Compliance Officer had visited the site and had not seen anything buried, and that DEQ had not seen anything buried either. She said that the applicant has stockpiled material on the site, and that he could use it for fill and has not done so.

Cooper said she had provided a photo showing material being buried, and said that she had emailed about it. She said the site was completely changed from formerly. Beier said that no formal complaints had been received.

Russ Cooper testified that buried material had been pulled back out and recycled. He said that material from the streets of Prineville had been buried. He said that he is a pilot and had seen changes in the site from the air.

Darlene Hansen testified in opposition. She said a heavy industrial use should not be in a farm zone, and an asphalt plant is not allowed. She said that agriculture needs to be protected. She said the Commission should not be discussing the issue.

Beier said that the Commission has previously approved mobile batch plants in EFU zones, including for ODOT. She said that the applicant is seeking approval for a mobile batch plant.

Harper said that the plant may not be temporary.

Beier said that the plant is not new, and has been in operation at different locations. She said that operating it on the site will not increase emissions. She said that the Commission has previously approved this use in EFU zones.

Weberg said that the property is not a heavy industrial site.

Beier said that mining is specifically permitted in EFU zones. She said that recycling is not clearly stated, but is not prohibited.

Steve Harlan said that he is opposed to the proposal. He said that he owns 175 acres on Juniper Creek, and grows industrial hemp. He said that the wind blows down the mountain, which is a wildlife preserve. He said that his hemp crop cannot be exposed to pollution, and will be destroyed. He said that other batch plants are not running at capacity. He said that an environmental impact study is needed.

Beier said that the issues raised by Harlan were not before the Commission.

Harlan said that his crop cannot stand any pollution. He said this is his last shot at establishing a decent ranch.

Tiina Ellis said that she keeps bees. She said they are disoriented by pollution, and die (colony collapse). She said her well would be polluted.

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Weberg asked Ellis how far she lives from the site.

Ellis said that she is four miles away, west of the site. She said that bees travel that far. She said she has lived there for four years.

Christine Hiaason said she operates Prineville Lavender at Highway 26 and Short Lane. She said she grows and eats vegetables. She said she does not have a USDA organic operation, but is concerned about air flow and pollution. She said that people were raising legitimate questions.

Warren asked for additional opposition testimony.

Kristy Cooper said she got documents from DEQ. She said that the applicant's quarry did not produce much in 2010 and 2016.

Woodward testified that he had never buried anything on the site.

Beier said that burial was not the issue. She said that modification of the use was the issue.

Warren said information about asphalt plants was provided in the exhibits.

Amber Hudspeth, the applicant's consultant, provided testimony. She said that quarries are regulated by DOGAMI and DEQ, and other state agencies. She said that the applicant's site was permitted by DOGAMI in 1995.

Weberg asked if a site must be reclaimed if it has not been mined out.

Hudspeth said that reclamation is done incrementally.

Beier said that reclamation is done in phases, and is overseen by DOGAMI.

Ponte asked if a stormwater management plan is required.

Hudspeth said that it is. She said that a different permit number is required if runoff is contained onsite. She said that other parameters are handled by DEQ.

Beier said that environmental information is submitted with the mining application, and not with the land use application. She said that the County does not handle environmental and runoff issues.

Hudspeth said there is much more detail in the DOGAMI application.

Beier said that the County will receive a copy.

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Hudspeth said that she could see no scenario where the Army Corps of Engineers has jurisdiction. She said that more detail is required in reclamation plans now than in 1995. She said that asphalt and concrete are allowable as fill for reclamation. She said there is no sense in burying materials during mining.

Beier asked if the applicant has information on groundwater.

Hudspeth said they had looked at many well logs. She said that only catastrophic events would affect groundwater.

Warren asked how close the nearest well is.

Woodward said it is 1300 feet away.

Hudspeth said that is not an issue in a hard rock area.

Ponte asked if there is a contaminant plan.

Woodward said there will be a spill kit onsite.

Mike Curtis said a berm will be used to control spills. He said that asphalt is transported as a hot liquid.

Ponte asked about noxious weeds.

Hudspeth said weed control is a standard issue. She said they will work with the Weedmaster.

Woodward said the site is sprayed for weeds.

Warren said an annual weed plan is needed.

Ponte asked for language to require development of a Noxious Weed plan.

Weberg asked if there is an air quality issue if the project is properly implemented.

Hudspeth said that DEQ administers the Federal Clean Air Act. She said a state air quality initiative has been adopted, and other controls are used.

Woodward said there is a batch plant on the edge of Redmond, and there is no air quality issue there.

Weberg asked if any night lighting would be used.

Woodward said it would just be temporary.

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Weberg asked what the minimum operating temperature is for asphalt processing.

Woodward said it is 45 degrees. He said there will be no operations in winter. He said no processing water will be used. He said the only water use will be for dust control.

Beier asked if an asphalt plant requires water.

Curtis said this plant uses a bag house to control emissions. He said that few batch plants now use water.

Woodward said that Kristy Cooper had complained about a batch plant on the site when there was none there.

Warren asked if an inspector had come out then.

Woodward said that inspectors came out and found nothing.

Beier said that she had summarized agency statements. She said that agencies had indicated that the applicant was willing to work with them.

Hudspeth said that she had information about laboratory findings. She said that rock quality was better as the operation reached deeper levels. She said that the site produces high quality material which is suitable for paving work.

Woodward said that sound within 150 feet of the Coopers' property had been measured at 45 decibels, which is less than traffic noise. He said there is no noise pollution.

Beier asked if there was a berm on one side to reduce noise.

Woodward said that was the case.

Hudspeth said that the crusher on the site has multiple belts and pieces of equipment, but there are no multiple operations.

Beier said that a site plan showing the containment area would be helpful.

Warren asked if cold oil is solid.

Hudspeth said it is very thick, and no containment is required.

Ponte asked about blasting.

Woodward said it would be done at least once per year.

Warren asked if blasting is already permitted.

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Beier said that it is. She said there are no neighbors within 500 feet. She said that there would be conditions on blasting.

Woodward and Hudspeth said that blasting is a standardized procedure.

Beier said that blasting is regulated by OSHA.
Warren asked if there is grazing on the property.

Woodward said that there is, in summer. He said there have been no conflicts between grazing and other asphalt plants. He said that it is permissible to mix asphalt and dirt.

Hudspeth said that lead must be removed from material prior to recycling.

Beier asked about the percentage of recycled material.

Woodward said it is about 10 percent.

Hudspeth said that trucks will carry material in both directions, and deadheading will be avoided.

Woodward said he charges less than the dump to recycle material. He said there is a demand for good dirt for landscaping. He said that sagebrush and juniper must be removed from the property.

Warren closed the public hearing. He called a five minute break at 8:50 p.m.

Warren reopened the meeting at 8:55 p.m.

Warren said that more documentation was needed on Exhibit 10.

Weberg asked if the site is already listed in the Comprehensive Plan.

Beier said that the site is already on the Comprehensive Plan Significant Resource Inventory.

Warren asked if they could control stormwater on the entire property.

Beier said that it will only be controlled on the 80 acre site. She said that all of that area will not be mined.

Beier said that the Commission could look at the DEQ test before the site is operational, if the agency is willing to provide it.

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Beier commented that they had been discussing types of agriculture which had not been considered before, such as lavender, organic crops, and beekeeping.

Weberg commented that there had been no runoff in the site area during the flooding of two years ago.

Warren asked if the staff could provide a map of organic crop locations.

Beier said they would do it, but would need addresses of actual crop locations, rather than of property owners' residences.

Warren said a site plan was needed.

Beier said they could get one from the applicant.

Ponte moved that the hearing be tentatively continued to the meeting of December 19, 2018.

Lundquist seconded.

The Commissioners present approved the motion by a vote of 4-0.

Warren closed the meeting at 9:10 p.m.