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CROOK COUNTY
AUG 18 2021
PLANNING DEPT

August 18, 2021

Filed via email: Plan@co.crook.or.us, Katie.McDonald@co.crook.or.us

Crook County Planning Commission
c/o: Katie McDonald, Planner, Crook County Community Development Department
300 NE 3rd St, Rm. 12
Prineville, OR 97754

Re: Application File No. 217-21-000431-PLNG – Open Record Period Submittal

Dear Chair Warren and Planning Commissioners,

Following the August 11, 2021 public hearing on application file no. 217-21-000431-PLNG, the Planning Commission left the written record open for seven days. Central Oregon LandWatch (“LandWatch”) submits this letter in response to the written and oral testimony submitted by the applicant on the day of the hearing.

I. The application continues to fail to meet the criteria at ORS 215.283(1)(d), OAR 660-033-0130(9), and CCC 18.16.015(3) for a relative farm dwelling.

The applicant presented significant new evidence and argument at the August 11, 2021 public hearing. The record, however, is still lacking and cannot support findings that the applicable criteria have been met.

Any findings concerning whether the subject property is an existing commercial farm operation must be supported by substantial evidence. The applicant’s oral testimony about commercial activity on the subject property alone is not sufficient. The application materials do not include, for example, any receipts for farm expenses, invoices from farm product sales, or tax documents showing farm income attributable to the subject property. Without such substantial evidence in the record, the County cannot find that the subject property is an existing commercial farming operation as required by CCC 18.16.015(3) and OAR 660-033-0130(9).

The County must also be able to find that any such evidence shows that the subject property is a farm operation of commercial scale. The applicant’s August 11, 2021 submittal states that the subject property is in farm use as defined at ORS 215.203 and that it receives farm



tax deferral. Supplemental Burden of Proof at 2. Those facts do not show that the subject property is a *commercial* farming operation. “[W]hat distinguishes an existing ‘commercial’ farming operation from its noncommercial counterparts is largely a matter of scale and intensity.” *Richards v. Jefferson County*, 79 Or LUBA 171, 180 (2019). LUBA has provided ample options for thresholds a county may choose from in determining whether a property is an existing commercial farming operation for purposes of OAR 660-033-0130(9). *Id.* at n. 4.

LandWatch also continues to question whether the applicant requires the assistance of a relative in the management and farm use of the existing commercial farming operation as required by CCC 18.16.015(3) and OAR 660-033-0130(9). The applicant stated at the August 11, 2021 hearing that the assistance of a relative is helpful and convenient for tasks such as moving sprinkler lines and tending to cattle. But evidence is still lacking that assistance is *required* in order to maintain an existing commercial farming operation. The application materials report no material change in the applicant’s circumstances that would now result in the applicant requiring the assistance of a relative.

II. A temporary dwelling permit is required on the subject property.

At the August 11, 2021 hearing, the applicant stated that the relatives sold their former house and are living in a recreational vehicle on the subject property. To LandWatch’s knowledge, the County has not issued a temporary dwelling permit for the subject property that would allow this use. If that is the case, the subject property is in violation of the County code. CCC 18.04.040, CCC 18.04.100.

III. Conclusion.

As LandWatch has made clear throughout the proceedings, the County erred in approving an application that fails to meet the necessary criteria. The standards and criteria for approval of a relative farm dwelling are strict and require more than bare assertions. Only by making findings supported by substantial evidence that all of the criteria have been met will the County ensure that unnecessary dwellings are not placed on EFU land, which harm Crook County’s agricultural land base and commercial agricultural economy.

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Regards,



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