

CROOK COUNTY PLANNING COMMISSION MEETING

August 11, 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, Commissioner George Ponte, Commissioner Linda Manning, Commissioner Laquita Stec, Commissioner Gary Bedortha, and Commissioner ProTem Lawrence Weberg. Commissioner Bob Lundquist participated via Webex. The following County staff was present at the meeting: Community Development Director, Will Van Vactor; Planning Manager, Brent Bybee; Planner, Katie McDonald, and Senior Planning Permit Tech Hannah Elliott. Planning Permit Tech, Jennifer Orozco participated via WebEx.

Parties in Attendance:

See sign in sheet

Participating via phone WebEx:

Rory Isbell, Central Oregon Land Watch

MINUTES

- **None**

OTHER BUSINESS

- **None**

PUBLIC HEARING

Chair Warren called the Public Hearing to order at 4:05 pm.

Chair Warren read the opening statements, asked for questions on process, and introduced the item for consideration: Planning File Number 217-21-000513-PLNG –an appeal of an administrative decision to approve a relative farm help dwelling on property located at 5712 NW Ryegrass Rd. (file number 217-21-000431-PLNG). The appeal filed by Central Oregon LandWatch is subject to the provisions of Crook County Code 18.172.

Chair Warren read into the record the criteria.

Chair Warren asked for Planning Commission members to identify if they had a conflict of interest or had any ex-parte contact and bias with the Applicant or any member of the public, besides the site visit.

Commissioner Ponte- no

Commissioner Manning - no

Commissioner Stec- no

Commissioner Lundquist- Recused himself for personal reasons from hearing 217-21-000513-PLNG.

Pro Tem Commissioner Lawrence Weberg- no

Chairperson Warren- no

Chair Warren stated that there had been a site visit early that day and listed those in attendance, staff included Katie McDonald and Brent Bybee. The applicant showed the location of the proposed dwelling, questions asked about how he irrigated and what crops were planted, general layout, and where the applicant's house is currently.

Chair Warren disclosed that he has done work with the Lane's in the past. He was not a part of the sale on this property purchase or listing. He has represented them in the past.

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. He also asked if there were any questions to what they saw on the site visit.

Hearing none, Chair Warren then asked to hear from staff.

Katie McDonald, Planner introduced the appeal and provided a brief summary of the application. She reviewed the timeline of the process and quickly summarized Central Oregon Land Watch's (COLW) position. She stated they had raised a procedural question and asked Community Development Director Will Van Vactor to address that aspect.

Will Van Vactor, Community Development Director spoke to the procedural question raised by COLW and although staff may have errored in not providing mailed notice 20 days prior. He stated that the appellant was aware of the appeal; he referenced an email confirming the date of the hearing from COLW. Van Vactor added that any party could request the record be left open.

Commissioner ProTem Weberg asked if testimony was supposed to be received two weeks prior to the hearing. Staff responded that it is requested prior, but can be submitted up to and during the hearing.

McDonald continued with COLW assignment of errors with staff's decision, which was based on information submitted at the time of review. For further response to those assigned errors she would defer to the applicant. At that McDonald asked for any questions from the Commissioners.

Commissioner Ponte asked how COLW was entitled to a notice.

Van Vactor responded that anyone is free to comment on an application. Staff sends notice to neighboring property owners, but in this case they are a party. He noted that the email he referenced would be included as Exhibit 3.

Chair Warren asked about the date of the initial appeal.

McDonald responded that it was June 18.

Chair Warren then clarified the date of the email.

Van Vactor said it was June 28.

Commissioner Ponte asked about the result of the decision for this hearing, if it was the appeal or the administrative decision.

Discussion regarding the hearing took place; the hearing would be de novo for the Relative Farm Help Dwelling, only.

Commissioner Bedortha asked what the income requirement was for a Relative Farm Help Dwelling. McDonald responded that it was not a criteria.

Commissioner Stec asked about the primary farm dwelling criteria. McDonald responded that the primary farm dwelling standards have a path that does include income.

No further questions from Commissioners.

Chair Warren then asked to hear from any state or other agencies and with none present asked to hear from the Applicant.

Lisa Andrach, Attorney with Fitch and Neary, who represents the Applicant, stated she was recently retained and therefore did not get comment to staff for incorporation into the staff report. She then went on to review their submittal. She stated that the Applicant is agreeable to the hearing be de novo. Andrach described the property and characteristics. She outlined the findings needing to show that it is a commercial farm operation and the relative help is needed for assisting. She stated that she has included case law to help clarify the need for a relative help. Andrach then asked Patrick Lane to speak to the day to day operations of the farm.

Patrick Lane, Applicant provided testimony for the day to day farming operation, including maintenance of farm equipment and cattle. He stated that he makes all of the decisions regarding the operation and he does make an excess of \$40,000 from farming. He exports the crops for commercial sale. Lane stated that after he injured himself the help on the farm has become more important. He lines out the work to be done and his dad does it.

Chair Warren asked for questions from the Commission.

Weberg asked how long he had lived in the area. Lane responded that he has lived in the area a long time.

Commissioner Manning asked how long he has been farming.

Lane replied that he has been farming for five or six years.

Commissioner Manning followed up with how he started farming.

Lane stated that he purchased forty acres five or six years ago and started farming then deciding he wanted to continue and grow his operation.

Commissioner Manning clarified that he didn't start out with the current property.

Lane provided a brief personal history.

Chair Warren asked about the previous property Lane had and if his dad helped with that property.

Lane answered that yes he did, every morning.

No further questions from Commissioners.

Jim Lane, Applicant's father provided testimony on his willingness to provide help to his sons and see them succeed in their endeavors.

Chair Warren asked if anyone would like to speak in support or neutral.

None

Chair Warren then asked for anyone in opposition.

Rory Isbell, staff attorney with Central Oregon Land Watch (COLW) provided testimony regarding their appeal of the administrative approval. Isbell stated that COLW intent is to protect farm ground and prevent unneeded housing. Their position is that the operation is not of sufficient scale to be commercial and that although it is convenient to have help, the relative farm help dwelling is not necessary. Isbell points out that in the application material and the administrative decision it states that the farm operator spends significant time away from the farm and that is a crucial fact for COLW. He also states that the purchase price Mr. Lane paid for the property is due in part to the citing of additional dwellings on land zoned EFU. Isbell asked that the record be held open for additional 14 days to provide additional time for the appellant respond to the new material.

Commissioner Bedortha asked for clarification on the request from COLW for 14 days, if it was Planning Commission discretion anything more than 7 days.

McDonald responded yes.

Chair Warren called for any further opposition testimony, hearing none he asked the Applicant for rebuttal.

Patrick Lane stated that he goes to Arizona for a vacation after the irrigation season. He stated that the need for help on the farm is required for maintenance.

Commissioner ProTem Weberg asked if there are machines and hay storage and for sale on the property.

Lane replied that yes there is.

Commissioner Stec asked if there was any other source of income.

Lane replied that he ropes a little and has cows, but no other income.

Commissioner Manning asked when the applicant is in Arizona does he conduct farming business.

Lane replied that he spends time with one the people he sells hay to that has a press.

Chair Warren asked about the purchase of the property and if the price included all of the equipment

Lane replied the hay shed, pivot lines, and hand lines were included, and replacement would be for the pivot would be approximately \$125,000, water rights are around \$13,000 this year.

No further questions from the Commissioners.

Chair Warren asked the applicant for their position regarding the request.

Andrach responded that the code mentions seven days and that is what they should follow. She believes the appellant had adequate notice and the opportunity to appear. She included that COLW had the opportunity to address any issues publically.

Chair Warren asked staff for guidance regarding the procedure.

Commissioner Stec asked if Mr. Isbell was the opponent or the appellant.

Van Vactor responded that Mr. Isbell with COLW was both.

Commissioner Stec asked about the 14 day open record period.

Van Vactor stated that the minimum is 7 days and that anything more than that is optional.

Discussion regarding holding the record open and was decided to hold the record open an additional 7 days, with 7 days rebuttal, and 7 days final

Chair Warren asked for a motion.

Commissioner Stec moved that they close the public hearing, and for record be left open for seven days (August 18), written rebuttal for seven days (August 25), and the Applicant's final written argument (September 1), then deliberations to a date and time certain September 8 at 4pm.

Commissioner Ponte seconded the motion.

Commissioner Bedortha feels that the seven days is sufficient for the material, the appellant has had an opportunity and that staff has addressed the procedural error adequately.

Chair Warren called for the vote.

Commissioner Manning- aye

Commissioner Ponte- aye

Commissioner Bedortha- aye

Commissioner Stec- aye

Commissioner ProTem Weberg- aye

Chairperson Warren- aye

Motion Passes – 6-0-0

Staff provided updates on upcoming Planning Commission meetings.

Commissioner Stec moved to adjourn.

Commissioner Bedortha seconded the motion.

No Discussion

Commissioner Manning- aye

Commissioner Ponte- aye

Commissioner Bedortha- aye

Commissioner Stec- aye

Commissioner ProTem Weberg- aye

Chairperson Warren- aye

Motion Passes – 6-0-0

Chair Warren closed the meeting @ 5:37p.m.