

Local

Planning Commissions finally approve mining zone change

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Bringing a contentious application process to its near conclusion, on Friday, March 31, 2017, the Baker County Planning Commission voted to approve PA-16-002, a request from Helge Brothers, LLC, for a zone change from Rural Residential (RR-5) to Mineral Extraction (ME), for a roughly nine-acre parcel located in the Cracker Creek Road area north of Sumpter.

Present from the Commission for the three-and-a-half hour continuance of the public hearing for the Remand of the request, on Friday were Chair Alice Trindle, Vice Chair Jim Grove, and Commissioners Suzan Ellis Jones, Tom Van Diepen, Kasey Wright, Tim Kerns, and Rob Crawford. County Planning Department staff presence included Director Holly Kerns, Senior Planner Eve Henes, Planners Kara Harris and Carson Quam, and Planning Assistant Kevin Berryman.

Presence also included Eastern Oregon Mining Association (EOMA) President Ken Alexander, EOMA Mineral Policy Director Jan Alexander, and Keith Jones.

During the Commission's five-hour public hearing, on Thursday, January 26, 2017, the Commission voted, four-to-two, to deny the request, based on lack of significance (whether the property is a significant resource), as required by the Baker County Comprehensive Land Use Plan. Grove made the motion to deny, Crawford seconded, and the motion carried, with Trindle, Grove, Kerns, and Wright and Van Diepen opposed (Jones was absent, due to surgery).

Two public hearings were held before the Baker County Board of Commissioners in the matter, one on Wednesday, February 1, 2017, and the second on Wednesday, February 15, 2017 (detailed in the Friday, February 3, 2017, and Friday, February 17, 2017 issues of *The Baker County Press*), with extensive testimony provided up to that point, for and against approval of the application. Noting an existing conflict between the Comprehensive Plan, and the zoning in the Zoning Map, which needed to be addressed, but stating that the application could be reviewed using the established process, County legal counsel Drew Martin recommended remanding the request to the Planning Commission, which the County Board of Commissioners then did, during the second hearing.

The Remand hearing was held on Thursday, March 23, 2017 (detailed in the Friday, March 31, 2017 issues of *The Baker County Press*), and, after further testimony was provided, during deliberations, it was decided that a decision could not be reached yet, and the matter was continued to Friday, March 31, 2017, with a motion from Crawford, and a second from Wright.

Trindle opened the Friday, March 31, continuance of the Remand by



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Planning Department staff and Planning Commissioners discuss the Sumpter mining claim issue yet again.

reminding attendees that the record was closed to testimony (the Commission was now in deliberations). She asked whether there was a challenge to the jurisdiction of the Commission to hear the matter (none was declared), whether there was any conflict to be declared by a Commission member (none was declared), and whether there had been any ex-parte contacts by a Commission member (none were declared).

Trindle spoke about the focus at the conclusion of the previous meeting, during which the Commission had decided that the criteria had been met to deem the property a "significant site," after which Trindle began a discussion about Goal V criteria, an analysis based on economic, social, environmental, and energy conflicts, were a zoning change approved, from RR-5, to ME.

Continuing with that same theme, Holly provided a checklist to the Commission (she noted it was just a guide), in order to help streamline the process regarding incoming conflicting uses with mining, to which she said, "The only components that I was able to identify in testimony was a residential use impact, about how residents feel, or how residents... react to mining..."

She noted outgoing conflicts also, and explained how she compiled the information, along with applicable exhibits, as well as other details, and she said this would be a starting point, and the Commission would be free to use it, or use another method to help analyze details.

Discussing the subject of the size of the potential impact area relative to the property, and conflicting uses, Trindle asked whether 1,500 feet (the default recommended range, Holly said) would be the consensus, and Grove found it acceptable, and Crawford suggested that it could be extended farther, depending on noise. Trindle said the applicant provided information in the Operating and Reclamation Plan, suggesting that the minimum property setback could be 25 feet adjacent from Federal lands, 30 feet from Spaulding Gulch, and 50 feet from the Tax Lot 1400 boundary line.

Van Diepen suggested the area could be reduced to 1,000 feet, and after further discussion and debate, Grove said he was reluctant to reduce the area farther, and that in discussing conflicting uses and

economic impacts, in his experience, the value of property next to ME would decrease, and there would be complaints against the ME.

Van Diepen said, "No, I think that's conjecture. I'm glad you're walking on water, and know that."

Grove said, "Well, I've got a few years of (real estate experience)."

After further discussion, and frustration about the slow rate of progress, voiced by Van Diepen, Jones said, "The other thing that bothers me is, we're going through this, and we need specific motions that are voted on and passed; otherwise, this is going to be a balled up mess... This is completely in violation of Roberts Rules (of Order), which our Bylaws state that we follow."

Crawford moved that there is no economic impact established on the incoming conflict, Wright seconded, and the motion carried. Wright moved that there is no social impact on the incoming conflict, Crawford seconded, and the motion carried.

After further discussion, Grove moved that ME would not be affected through any environmental impact with RR-5, Timber Grazing (TG), and the Sumpter City limits, Van Diepen seconded, and the motion carried. A similar motion carried, regarding energy impacts.

After the first of two short breaks, in discussing how ME affects the surrounding areas, Trindle suggested there are conflicting uses, Grove made that motion, Kerns seconded, and the motion carried. Further explanation provided by Holly resulted in Trindle asking for a motion that there are conflicting uses, and that they should be allowed, but in a limited way.

Grove made that motion, Crawford seconded it, and the motion carried.

Subsequent motions included Crawford's, who moved that Planning Department staff draft language requiring an acknowledgment of possible conflicts, for future development, building permits, etc., Jones seconded, and the motion carried. After further discussion, Trindle suggested that there are established conflicts within the impact area, with dwellings and RR-5 zones, such as property values, noise, dust and air quality, fire abatement, weeds, reclamation, and clarity on permits. Crawford so moved, Grove seconded,

and the motion carried.

Before the second short break, Trindle, Grove, and Crawford discussed the potential effects to property values, and Van Diepen stated that the Sutherlands, testifying in opposition, said they didn't ask any realtor about the effects to their property value, next to ME, and that would be speculation.

Deliberations continued for about an hour after another short break, during which the analysis of economic, social, environmental, and energy (ESEE) consequences, based on the decision to allow, limit, or prohibit a conflicting use, was discussed.

The various consequences were deemed to be low, with several motions made regarding the subject. Following this, the Commission discussed buffer zones, Grove suggested 200 feet, then 100 feet, and after some calculations, ultimately, Kerns moved for a buffer of 50 feet on Tax Lot 1400, and the buffers as suggested in the Operating and Reclamation Plan, Van Diepen seconded, and the motion carried.

Ultimately finding that the criteria had been met for approval of the application, Crawford made the motion to approve, Wright seconded the motion, and it carried. The application goes before the County Board of Commissioners for final approval.

Trindle said, "I'd like to take this opportunity to express my appreciation to all of you that participated in this process...It's a volunteer position...I'd like to give a special call out to Eva, and to Holly, for the time that you have spent on this...This was one of the more challenging situations, certainly, in the seven years that I've been on the Commission..."

Jones, providing comment later on the whole process, said, "If the four planning commissioners who voted to deny the application in January would have put their personal bias aside, and looked at the legal facts instead of just looking for reasons to deny it, this application would have been approved then—in January."

"Instead, they cost hundreds of hours more in staff time and supplies, cost the County Commissioners time, and certainly cost the rest of the volunteer Planning Commissioners more hours in homework, and meeting time and travel, not to mention the stress, time, and money of the applicant."

Sumpter

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Sumpter Valley Community Volunteers (SVCV) will be helping with a breakfast-type meal after the runners finish. There will be multiple aid stations along the route, with the Locked and Loaded off-road group volunteering at the station on Marble Pass and one on the Crest. The Baker City High School cross country/track team will be the beneficiary of the event.

Hostetler said the marathon runners will finish in three to four hours with the top runners on the 50-mile course finishing in about seven hours. He offered to bring signage about runners being on the road. After discussion on how busy the roads and trails can be, especially on weekends, Council agreed signage would be a good idea.

Hostetler stated they are expecting only about 75 runners the first year, but are hoping to see the event to grow to several hundred within a few years. More information on the race can be found at elkhorncrest.com. The group has rented the Grounds Friday to Sunday and will be out by noon on the final day, when Music in the Meadow begins.

Fire Department Report

Jim Sheller reported two medical call outs during the last month. The Department is getting ready for spring to get the gear out and start training again on fire. They have been doing medical training.

Planning Report

Leanne Woolf reported that at the Commission's 3/20 meeting, moved from Thursday to Monday due to flooding, Sheriff Ash came out and talked about law enforcement's part in an evacuation. He stressed that there is no way to plan for every eventuality and said the key is to communicate, communicate, communicate.

On April 6, the Commission reviewed a couple of new applications and answered questions from someone who may be interested in joining the Commission.

Woolf has stepped down from the Planning Commission but has volunteered to continue helping with the Comp Plan. John Young, Leland Myers, and Dave Stellman are on the Commission, with Stellman currently on leave of absence. A couple of people have expressed potential interest in joining. Clarke stated if anybody in the audience wanted to step up, there are openings. A full Commission would have five members.

Ordinance NO 2017-3: City Permits for Marijuana Retailers and Dispensaries

Council voted unanimously to read the ordinance by title only as it has been announced and posted for some time. City Recorder Julie McKinney read the ordinance twice and council voted unanimously to pass it.

Superintendent's House

Dennis Bradley of Oregon Parks and Recreation Department (OPRD) addressed Council regarding offered possession of the building known as the Superintendent's House. OPRD is proposing a no-cost transfer to the City, other than the cost for the City recording the deed. Certain stipulations are required, including that the property must be used for public purposes or benefit.

Bradley stated that approval would go through a seven-person Commission. The process usually takes two meetings, an informational meeting, and a second at which the Commission could take action.

Kammie Bunes of OPRD explained the idea of transfer was presented to the Commission in June 2016. She told them at that time that the focus of OPRD in Sumpter is at the Dredge itself and they do not have the time and money to put into the Superintendent's House. The Commission would be interested in hearing what the City would propose as far as use of the property and agreements with volunteer groups.

Christy Sweet, also with OPRD, explained the building is listed on the National Register and there would be grants potentially available to the City for building preservation. Some of the grants are 100% and others a 50% match, with the matching funds allowed to include in-kind services. She said OPRD has a preservation plan if the City would like a copy and mentioned that there are some Oregon Revised Statutes under which the City would fall if planning to make big changes to the property.

Bunes explained some strings that would be attached to the transfer are that OPRD cannot do a no-cost transfer to a non-profit organization. A reversionary clause would be included in the agreement stating that if the City doesn't follow the associated rules for historic properties, the building would go back to OPRD.

Bradley stated the Commission is going to want to make sure the City is willing to take the property on and understands the responsibility.

Clarke motioned that Council accept the offer to give them the Superintendent's House and write a formal letter. Motion passed unanimously.

Bunes explained the next meeting with the Commission is in June in the Salem area. Things would need to be mutually understood by about a month before. If more time is needed to get an outline of the plan to share with the Commission, there will be another meeting in September.

Budget Committee

Council voted unanimously to appoint Lila Young, Anna Stafford, Nancy Myers, and Gail Moore to the budget committee.

Resolution 305-A

Council voted unanimously to approve amendment listing sewer reserve under line item for debt-reduction.

Resolution 333-A

Council voted unanimously to approve amendment for movement of budget capacity within water, street, and sewer funds to cover unexpected expenses. Listed funds will neither increase nor decrease.

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