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WASCO COUNTY PLANNING COMMISSION HEARING

December 4, 2018

3:00 p.m.

The Columbia Gorge Discovery Center

5000 Discovery Drive

The Dalles, OR 97058

CALL TO ORDER

ROLL CALL

Members Present: Chair Rus Hargrave, Vice-Chair Brad DeHart, Vicki Ashley, Mike Davis, Chris Schanno; Alternates Kate Willis and LeRoy Booth

Absent Members: Jeff Handley and Lynne MacIntyre

Staff Present: Planning Director Angie Brewer, Senior Planner Will Smith, Associate Planner Dawn Baird, Planning Coordinators Brenda Coleman and Jensi Smith

Chair Hargrave opened the Planning Commission Hearing at 3:05 p.m.

Chair Hargrave called for roll call.

PUBLIC COMMENT:

Chair Hargrave asked for comment on non-agenda items. There were none.

Chair Hargrave recognized the Alternates to make a quorum.

APPROVAL OF PAST MINUTES:

Chair Hargrave asked for comments on any of the Minutes.

Commissioner Ashley moved to accept as submitted Minutes from September 4, 2018.

Commissioner Davis seconded.

Chair Hargrave called for the vote.

The motion was unanimously approved 7 to 0, 2 absent (Commissioner Handley and Commissioner MacIntyre).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair DeHart – yes
Commissioner Ashley – yes
Commissioner MacIntyre – absent
Commissioner Davis – yes
Commissioner Schanno – yes
Commissioner Handley – absent
Alternate Willis – yes
Alternate Booth – yes

Commissioner Ashley asked to have more time to review the Minutes from the November 6, 2018 meeting. There was consensus that the Minutes should be reviewed and brought to the next meeting.

QUASI JUCICIAL REVIEW OF THE APPEAL OF FILE #921-18-000017 (Continued from Nov. 6, 2018 Hearing)

Chair Hargrave moved to the Quasi-Judicial segment of the Hearing as follows:

This is a continuation of the public hearing for application #921-18-000017-PLNG, an appeal by Kevin McCabe et. al., from the Planning Director's approval of a Conditional Use Permit and Scenic Area Review for a commercial horse boarding facility for 5 horses, and to construct a 60'L x 23.75'W x 30'H (2,856 square foot (SF), including the first and second floor) horse barn for commercial horse boarding, with two attached sheds measuring 36'L x 10'W x 10'H (360 SF), and 60'L x 11.75'W x 10'H (705 SF) for a total of 3,921 SF, a 60' diameter x 20'H round pen, a 30'L x 20'W x 12'H equipment shed, a 16'L x 12'W x 10'H loafing shed, approximately 3,000 linear feet of fencing with 12'L x 5'H and 6'L x 5'H gates, and underground utilities including subsurface septic disposal system.

The property is described as 2N 11E 11, tax lot 2200; Account number 327.

On November 6, 2018, the Planning Commission opened the public hearing and accepted testimony from the applicant/owner and appellants. The record was closed to oral testimony at this meeting but was left open for 14 calendar days to accept additional written testimony. The 14-day comment period ended on November 20, 2018. Additional comments were received from Scott Jensen, representative for **Drs. Kevin McCabe** and **Edward McCabe**, and a final site plan was received from **Mark Fuentes**.

On Tuesday, November 27, 2018, the appellants requested, per Oregon Revised Statute (ORS) 197.763(6)(c), that the Planning Commission reopen the record to allow an additional 7 days to comment on the new information, i.e., the final site plan.

ORS 197.763(6)(c) provides the following:

If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.

Subsection (7) provides the following:

When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

In the request for an additional 7 days to comment, the appellant pointed out that there are deficiencies with and stemming from the new site plan including:

- Showing approximately 5,300 linear feet of fencing when the application has been clear about only needing 3,000 linear feet of fencing.
- Improperly labeled or omitted inventoried wetlands.
- The appellant states that these items could be answered if the applicant had completed the required Landscaping Plan "to the level of individual trees" as required by 14.020 D. Mr. Jensen stated that he believes the presence of wetlands/waterways might trigger additional requirements.
- Taking that route to trench for power it is virtually certain that major damage to tree root systems will occur. Trenching for the water line presents a similar issue.
- The equipment shed and associated paved area are large enough to require removal of trees.
- The parking area appears to require removal of trees.

The Planning Commission shall consider this request and vote to allow or disallow the request to reopen the hearing for written comments only in rebuttal to those comments submitted in the 14-day extension that lasted from November 6 to November 20, 2018. This comment period would last seven days, ending on December 11, 2018.

Chair Hargrave asked for questions. **Alternate Commissioner Booth** asked if only additional rebuttals are allowed to what was submitted in the 14 day period. **Chair Hargrave** responded yes. **Commissioner Davis** commented there have many opportunities for info to be brought in and would like to go directly into deliberation, to discuss it and then open it up for another seven days or so. **Chair Hargrave** state the problem is we may be deliberating without all the evidence we might eventually have. **Alternate Commissioner Booth** asked if that would be breaking the rules. **Chair Hargrave** stated for clarity – if it is open for another 7 days, we can get

additional written comments. Evidence might be the wrong word – we could have input, so deliberating today would cause us to not be fully informed.

Commissioner Ashley asked that if it is opened up, we have to open up the whole Hearing don't we?

Chair Hargrave responded it would be just for additional written inputs. He stated that in the 14 day period, we did get additional information. He questioned when would Mr. Jensen have the opportunity to respond to that? That is the reason we get into the additional seven days and it's the law. **Commissioner Ashley** stated she felt it would be better to open it up, air it out and go back. **Chair Hargrave** stated only to have written comments on the additional material that was submitted during the original 14 days that was brought in, not allowing additional info. **Commissioner Davis** asked if that would that be a chain reaction? If we give an additional seven days to respond, the testimony that is all written, it wouldn't stop someone else from coming in and saying they want another seven days. **Commissioner Ashley** said then someone else could come in and want to respond to that, and it would just snowball. **Chair Hargrave** stated he was not aware of any other law but you don't know what you don't know. **Director Brewer** stated the statute referenced is a 'shall' not 'may'. It is a state law that we 'shall' grant it, if requested. She said she heard the comment about snowballing and appreciates that. **Director Brewer** stated she would have to look at the rest of the statute around this provision but thinks there are other provisions in it that grants discretion from the Planning Commission about how many continuances they would like to entertain. This first request to extend the continuation is a 'shall', not a 'may'.

Commissioner Davis stated that if we could do some research also within the 7 days ourselves, someone needs to say 'hey what happens if the opposite side then gives a response, then we would have to give the seven day' then here we go. **Director Brewer** stated they would be responding to the information provided on the record, but no new information would be provided on the record, so it wouldn't be follow up, follow up, follow up. **Commissioner Davis** stated he feels like a little investigation on this is needed so they can be aware. It sounds like there isn't a choice but to grant the seven days. **Chair Hargrave** stated there has been significant new information received during that 14 day period. He noted some of it had come in right at the end of that period, with no time for **Mr. Jensen** to respond.

Chair Hargrave asked for a motion to grant the additional 7 day comment period.

Commissioner Davis moved to extend the comment period an additional 7 days and continue the Hearing to a time and date certain, January 8, 2019 at the Columbia Gorge Discovery Center, The Dalles at 3:00 p.m.

Commissioner Ashley seconded.

Chair Hargrave asked for further discussion. There was none.

Chair Hargrave called for the vote.

The motion was unanimously approved 7 to 0, 2 absent (Commissioner Handley and Commissioner MacIntyre).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes

Vice-Chair DeHart – yes

Commissioner Ashley – yes

Commissioner MacIntyre – absent

Commissioner Davis – yes

Commissioner Schanno – yes

Commissioner Handley – absent

Alternate Willis – yes

Alternate Booth – yes

Commission discussion:

Commissioner DeHart suggested a discussion about some of the items that will be coming up in January. **Chair Hargrave** stated it would be good to take a look.

DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

Director Brewer's Report:

➤ Update to Planning Commission Bylaws:

There have been discussions at the Board of County Commissioner (BOCC) about Planning Commission bylaws, how we select new members. There have been good conversations with the County Administrator about ways to encourage the Planning Commission to be comfortable in their roles and responsibilities, to make updates to the bylaws to allow for a rotation in leadership roles, so that everyone learns what it is to be Chair and Vice Chair. She is having preliminary conversation on this that she will bring to the Commission in January. In the recent appointment process, there was discussion on the selection committee that there should be a residency requirement. Should they live in the County part time or full time residents, how much time they spend in the county, etc. She will do some research and bring back to the Commission. She is interested in the Commission thoughts and any feedback they have. **Chair Hargrave** stated this is an old problem, more generally, what do elected and not elected do. It would be good to look broadly at this. It is an important issue for our County as the population shifts, where residency is blurred. Some may feel they live in Wasco County but have houses in two places. **Commissioner Ashley** said she has a problem with that. If you are going to make rules for the county, you should live in the county. She also feels all County employees should live in the county; their primary residency should be in the county. **Chair Hargrave** asked how you define primary residency. **Commissioner Ashley** stated where do you live? **Chair Hargrave** asked for how much of the time, 90%? Someone else suggested it could be where you vote. **Chair Hargrave** said the discussion should be postponed and noting this should be a lively discussion. **Director Brewer** said there are a lot of different ways to slice and dice this. We

will have to find what works for Wasco County. **Director Brewer** also noted that anything that this body recommends will have to be approved by the BOCC, saying they may have additional thoughts.

- **Alternate Commissioner Booth** said he had a question on the bylaws, section 4 ‘initial hearing and unprocessed actions.’ He is trying to understand the scope of the statement – ‘changes or alterations to conditions may be processed as a new application’. What/who would make changes that would make this a new application? **Director Brewer** stated it may be a reference to a major alteration to a proposal, and then it would need a new review. **Alternate Commissioner Booth** read “additional approvals shall be limited as follows. **Director Brewer** stated she would look at the section he had referenced.
- **Alternate Commissioner Willis** had a question regarding the issue before us. She noted there are some definite, hard requirements, specific things that are in code. Her question is regarding the use, and over time the adaptive uses. As example – equine use, boarding - how often have they come up like that that are hard and fast in the past, but that may have burry lines as you go forward, in terms of the actual use. **Director Brewer** replied it is how the land use development and ordinances are implemented. Code Compliance is also part of what we do. On a very high level, zoning identifies what kind of uses are allowed, is it National Scenic Area (NSA) or not, based on the definition of development, including all structural development, excavation, grading and fill, and also includes uses. Changes in use would very likely trigger a new land use review. **Senior Planner Smith** added that would include Home Occupations. If there were a change in use, or adding a use, that would require a new application. **Alternate Commissioner Willis** said as we go through the Wasco 2040, there will be consideration of those types of things, how we work together and with the community on those adaptations. **Commissioner Davis** added the Commission needs to be involved to know where the community wants to go with that. It is a real time to be involved so we can be responsive to the county.
- **Director Brewer** said she is interested in a Planning Commission orientation, noting there has not been any Planning Commission training in a while and would like to do a refresher for everyone. She would like to put together something, probably not by January. At a recent conference she was able to talk with peers around the state, to inquire about any orientation packets or presentations that they do with their Planning Commission. She found some good examples to pull from. **Commissioner Davis** inquired about any national conferences that may be available for Commissioners. **Director Brewer** shared the National Planning Conference in San Francisco this year. **Commissioner Davis** shared that when attended one in Seattle that he learned a lot, that it was very valuable. **Director Brewer** said the State conference, the local chapter, was in Bend that staff recently attended. It was noted there are APA memberships for some of the Commissioners. There are staff logins that are available to access those tools and information for Commissioners. She would encourage those that have their own logins already to look to see if there are trainings they are interested in. She stated she will look to see what might be good. **Chair Hargrave** state he and **Vice-Chair DeHart** will volunteer to work with her on that. **Senior Planner Smith** stated there are many trainings around the state, if something pops up, staff will let the

Commissioners know. **Director Brewer** asked if the Commission was interested in going to training or would they like to have a facilitator come out. The consensus was that training would be good. There was discussion about losing people if the training was somewhere like Eugene, where as if it were held locally, there might be 100% attendance. **Director Brewer** stated that Wasco is a great location to host for other counties and cities. She will find what is available and share with the group. She noted that she had discussed with **Long Range Planner Howsley-Glover** about bringing in a third-party facilitator to work with the group on the 2040 project. There will need to be training for the group and staff to help with the trickier conversations that will be part of it. **Chair Hargrave** stated there is a need for basic training. **Alternate Commissioner Willis** stated that the clarity of thought she could bring with team if herself and **Alternate Commission Booth** could anchor onto, they would have the blocking and tackling piece to it. It would help them to bring more. **Commissioner Ashley** shared that the training on Robert's Rules was a good, short, intense training that helped them with basic understanding.

- **Commissioner Ashley** asked if **Associate Planner Baird** would continue with this Application/Appeal when it comes back in January. **Director Brewer** stated she would not, **Senior Planner Smith** would be taking over.
- **Alternate Commissioner Booth** said he is interested in learning the Dos and Don'ts, what the current goals of the county are, to see where we are headed. How does he apply what is currently being reviewed against that.
- **Commissioner Davis** stated it would be good to get them up-to-date with an orientation of the Citizen's Advisory Group (CAG). **Commissioner Ashley** suggested it might be good to spend more than just a couple of hours on it.
- **Director Brewer** will send out a Doodle poll or something to check in about it. She stated there are already some meetings scheduled, including the BOCC on December 19th.
- **Senior Planner Smith** gave a brief update on the Community Planning Assistance for Wildfire (CPAW). They have sent their final recommendations to us, which we are reviewing now. Next week they will have a site visit, we will show them the fire assessment and how that looks. Wednesday morning they will be presenting to the BOCC.
- **Director Brewer** shared that we have sent out a Public Notice about flood plain mapping. This is for the risk map update project. We have LIDAR data that FEMA region 10 is going to use that data to refine our old flood plain maps. The notice identifies a few areas where FEMA and their STAR team consultants are doing some local ground truthing of their model, to make sure their numbers are accurate. That requires access to private properties. Property owners may see surveyors out and about. They are basically asking for access. Tygh Valley is in the affected area. She noted that she added a sentence to encourage property owners to take advantage of this free service, because if they chose to not let the surveys on the property, and down the road there is any ambiguity or challenges, they will be responsible to hire their own surveyors, which can be very expensive.
- **Director Brewer** let the group know there are four active energy proposals in Wasco County right now. Two will be reviewed by the State; two will go to staff because of their scale. There are two solar and two wind proposals. She noted the BOCC is the special advisory

group for EFSC on this and staff will facilitate with them to make sure our local ordinances are being upheld. **Senior Planner Smith** advised the group that both of the County reviewed proposals will come to the Commission sometime in the spring. There was discussion on the size and location, whether these would be the biggest in the state, deciding it will not be the largest. **Chair Hargrave** asked how many people will this employ. **Senior Planner Smith** stated the number will vary depending on where they are in the development of the project. **Commissioner Ashley** stated for the solar project that will be on her and her neighbor's property, it will most likely be around five once the construction is complete, as there is very little maintenance on them. **Chair Hargrave** asked when we review a proposal like that, to provide input, when you are taking it down, is there an endowment set aside? **Senior Planner Smith** stated that for both solar and wind there is funding up front that pays for that. There is a period of time through their financing then after that they reserve a bond. He stated the solar applicant had said that the amount equipment pays for itself. It is really easy to take them out as opposed to the wind turbines, and have scrap value. We require up front some financial assurances that will be taken care of. **Chair Hargrave** noted that when people come in for scrap, it doesn't look pristine when they are done.

- Planning Commission elections:
Commissioner DeHart suggested it might be good to establish some things before doing elections.

- **Director Brewer** stated that around 10:30 a.m. tomorrow the BOCC will have a discussion about Building Code, with the hope of making a decision then. If they keep it local, the Planning Department will become Community Development. This could change the organizational structure of the department.

Chair Hargrave adjourned hearing at 3:55 p.m.

Rus Hargrave, Chair
Wasco County Planning Commission

Angie Brewer, Planning Director
Wasco County Planning & Development