



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

MEMORANDUM

DATE: October 14, 2015

TO: Deschutes County Planning Commission

FROM: Anthony Raguine, Senior Planner

RE: Hearings Officer's Findings and Recommendations on the Riley Ranch Nature Reserve; File Nos. 247-15-000333-CU, 334-SP

BACKGROUND

On September 10, 2015, staff conducted a Work Session with the Deschutes County Planning Commission (DCPC) to discuss the Riley Ranch Nature Reserve project and why the quasi-judicial land use decision is under their review authority. In short, Title 19 of the Deschutes County Zoning Code requires the Bend Urban Area Planning Commission (BUAPC) to render a land use decision for any project categorized as a Type II review involving the Deschutes River Corridor. It was determined by staff, in consultation with County Legal Counsel, that because the BUAPC no longer exists, the review authority now rests with the DCPC. At the time of this determination, the land use applications were already noticed for a public hearing before the Deschutes County Hearings Officer (HO). In light of this situation, the HO conducted the public hearing and staff requested the HO provide findings and recommendations that would be taken to the DCPC. Attached to this memo are the HO's findings and recommendations for the public hearing scheduled on October 22, 2015.

LAND USE ISSUES

Bridge

The applicant, Bend Park and Recreation District (District), proposes a bridge along the western portion of the property that would cross the Deschutes River. The eastern half of the bridge would be sited on the subject property which is zoned Urban Area Reserve (UAR10). The western half of the bridge would be sited on the Shevlin Sand and Gravel property which is zoned Surface Mining (SM). Both zones include minimum setback standards for structures from property lines. The District argued that the bridge is similar to a driveway or walkway that is specifically exempt from the definition of structure and, therefore, should be exempt from the setback standards. The HO disagreed finding that a bridge, unlike a driveway or walkway, is not a ground-level structure.

As detailed by the HO, the bridge cannot meet the minimum required setbacks for structures in either zone. Consequently, the HO recommended that if the DCPC approved the proposed park,

that the bridge not be approved. Additionally, the HO noted that the setback issue could be resolved by: (1) A text amendment that would exempt bridges from the setback requirements; (2) Approval of a Variance from the setback requirements; or (3) A property line adjustment that would place the bridge entirely on a single property, rather than have it cross a property line. All three options would require separate land use review and approval.

Vehicular Site Distance

Both the Deschutes County Road Department and the District's traffic study identified a lack of adequate site distance looking north from the Glen Vista Road/O.B. Riley Road intersection. In response to this issue, the traffic study recommended a number of improvements including: (1) the installation of several signs; (2) recessed pavement markers (RPMs); (3) removal of the existing "pork chop" right-turn-only feature on Hardy Road on the west side of the Glen Vista/O.B. Riley Road intersection; (4) trimming and removal of vegetation and repair of fences within the right-of-way and on private property adjacent to the west side of O.B. Riley Road; and (5) removal of mail boxes on private property on the east side of O.B. Riley Road north of Glen Vista Road.

The HO found that most of the recommended remediation measures either involve cooperation with private property owners who did not participate in the public hearing, or require approval from both the city and county engineers, each of whom expressed concern about the cost, function and maintenance of some of these measures. Because of the uncertainty as to if, when and by whom the recommended sight distance remediation measures will be completed, the HO found that the District has not met its burden of proof to demonstrate the proposed park will not create an undue burden on the public street system.

150-DAY LAND USE CLOCK

The subject applications were submitted on June 25, 2015 and were deemed complete on July 27, 2015. Therefore, the 150-day period for issuance of a final local land use decision under ORS 215.178 would have expired on December 23, 2015. A public hearing on the applications was conducted on September 8, 2015. After the public hearing, the HO left the written evidentiary open through September 22, 2015, and allowed the District through September 29, 2015 to submit final argument pursuant to ORS 197.763. By an electronic mail message dated September 24, 2015, the District waived the filing of final argument and the record closed on that date. Because the District agreed to extend the written record from the public hearing through September 24, 2015, under Section 22.24.140 of the development procedures ordinance the 150-day period was tolled for 16 days and now expires on January 8, 2016. As of the date of the HO findings and recommendations, there remain 87 days in the extended 150-day period.

PLANNING COMMISSION OPTIONS

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date certain; and then allowing a specified amount of time for a rebuttal period; and a specified time for final legal argument by the applicant, or
- Close the hearing, allowing the applicant a specified amount of time for final legal argument. Deliberations will be scheduled at a date to be determined.

Attachments:

1. Hearings Officer's Findings and Recommendations