

**CITY OF COQUILLE**  
**CITY COUNCIL MEETING MINUTES**  
**April 17, 2007**

**COUNCIL PRESENT:** Mayor Steve Britton, Councilors: E.N. “Corky” Daniels, Kathy Hagen, Bruce Parker and Fran Capehart

**STAFF PRESENT:** City Manager Terence O’Connor, Public Works Director John Higgins, Finance Director Chuck Dufner, Deputy Recorder Rene Collins, Attorney John Trew

**PRESS:** Robert Jump, The Sentinel

**AUDIENCE:** A roster of those present is on file in the City Recorder's Office

**1. CALL TO ORDER /PLEDGE OF ALLEGIANCE**

Mayor Britton called the City Council Meeting to order at 7:00 p.m.

**2. QUASI-JUDICIAL HEARING, 7:00 P.M. OR AS SOON AS POSSIBLE THEREAFTER. This is the time and place advertised for the Quasi-judicial hearing on remand from the Land Use Board of Appeals. The city Council will consider the Oregon land Use Board of Appeals Remand of the City’s approval of an application of James Smejkal (land and Timber Company, LLC), in file number (PUD-VAR-092005). The decision of the City Council was remanded by the Land Use Board of Appeals in Case No. 2006-111.**

Mayor Britton opened the public remand hearing at 7:11 p.m. on Tuesday, April 17, 2007. The City Council will consider the Oregon Land Use Board of Appeals’ (LUBA) Remand of the City’s approval of an application of James Smejkal (Land and Timber Company, LLC), in File No. (PUD-VAR-092005). The decision of the City Council was remanded by the Land Use Board of Appeals (LUBA) in Coquille Citizens for Responsible Growth et al., Petitioners, vs. City of Coquille, Respondent, in Case No. 2006-111.

Councilor Wiese stated LUBA remanded the City’s approval of PUD-VAR-092005 for the City to consider three specific issues. The first remand issue concerns slope density guidelines provided in CMC 17.48.030(2). The second remand issue relates to the sanitary sewer standards of CMC 17.08.170(D). The third remand issue relates to the riparian corridor standards provided by CMC 17.62.010 to .030. The City will limit the remand proceeding to the issues expressly remanded by LUBA and will allow testimony, argument and evidence on the remand issues.

The criteria used to decide this case can be found in Title 17 Planning and Zoning, Division II, Subdivisions, Chapter 17.08.170(D) Sanitary Sewers, Division III Planning and Zoning, Chapter 17.56 Planned Unit Development Section .040 Approval Conditions, Chapter 17.48 Hazardous Overlay Zone Section .030 Slope Density Guidelines (2) and Riparian Corridors, Chapter 17.62.010 to .030 of the Coquille Municipal Code and the Coquille Comprehensive Plan.

The property is identified as follows: Coos County Assessor’s Map T27S R12 WWM Section 31, Lot No.1500, No. 1600, No. 1700, No. 1800, No. 1900, No. 2200. Coos County Assessor’s Map T27S R12 WWM Section 31, CC Lot No. 100, No. 4400, No. 4500, No. 4800, in Coos County, Coquille, Oregon. More easily identified as the large, vacant, cleared area northeast of the City of Coquille.

All persons wishing to address this matter orally or by submitting written evidence are advised that the only issues that will be considered by the Council are those issues remanded by LUBA. Notice pursuant to legal requirements was published in the Coquille Valley Sentinel, posted at

City Hall and three other sites abutting the proposed development and given to interested parties.

Once the public hearing and record are closed, the Council will deliberate and consider whether to deny the application on remand or approve the application on remand.

Mayor Britton asked if any Council member had an exparte contact, including site visits, they wish to declare? Bruce Parker declared exparte, because he was on the planning commission when the approval was given before it came to City Council, but feels he can make an impartial decision. Councilor Capehart declared exparte because she attended the first planning meeting, but can make an impartial decision.

Mayor Britton asked if anyone wants to question members about the substance of the contact, there were none.

Mayor Britton asked if any Council members have any actual personal bias or personal interest that would preclude participation in this hearing? There were none.

Mayor Britton asked if anyone objected to the jurisdiction of the Council to hear this matter? There was none.

Mayor Britton reviewed the presentation procedure. If you wish to speak please stand and approach the microphone, giving your name and address. All testimony, argument and evidence must be directed toward the remand issues. All statements and/or questions should be directed to the Council.

Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issues precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue.

Failure of the applicant to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow this Council to respond to the issue precludes an action for damages in Circuit Court.

Mayor Britton called for Staff's presentation. Planner Higgins stated that planning staff has not prepared an additional staff report. Planning Staff has reviewed the submittals presented by Dan Terrell, Attorney for Mr. Smejkal and the Land and Timber Co., LLC and recommend approval as staff did at the planning commission level and as the planning commission recommended City Council approval.

Do any Council members have questions for the planning staff, there were none.

Mayor Britton called for the applicant or the applicant's representative to present testimony, argument and evidence in support of the application.

Attorney Dan Terrell, 375 W 4<sup>th</sup> Street Suite 204 Eugene Oregon, said he submitted a supplemental to his exhibit c (proposed findings), he added in the tax lots, the revised copy omitted tax lot 100 and needs to be included in the final decision. Attorney Terrell introduced Ralph Dunham from Stuntzner Engineering is here to answer questions.

There are 3 remand issues to be addressed; LUBA said you did not make adequate findings. He

feels you can reach the same decision with the proposed findings that have been submitted. The remand issues deals with three local code provisions. Council may interrupt the code and can make explicit interpretations as long as it is reasonable, and does not violate any statues or goals, Luba will agree that the interpretation is correct

***First Remand issue is the Slope Density Guidelines:***

The standard CMC 17.48.030 requires that you make a comparison between guidelines that are in the comp plan any site-specific analysis completed by experts. The comp plan does not contain any express guidelines about site density; it does have some general guidelines. The comp plan inventory provides 3 general classifications for residential land, suitable 0-18% allowed maximum amount of density, less suitable 18-30% and one unit per acre of density is recommended, least suitable +30% and one unit per 5 acres is recommended. You make the comparison by taking the average slope density of 21% and one unite per acre, we have 85 acres which calculates to 85 units and you compare that with what is proposed .The proposal is 85 acres 72 parcels with single dwelling units and up to 13 parcels with duplexes. It calculates to one unit to an acre compared to 1/5 units per acre which is comparable, the evidence in the record states that this site it suitable for 1.5 units per acre and can be safely developed. The other approach I submitted is to review the three different areas slope ranges and the area calculation would permit 120 units and our proposal is for less, and the density is 1.46. The proposal is less than what the comp plan calls for and we meet the standard.

For comparison you could look at the colored map and it breaks down the 3 slope ranges and gives and area calculation, and 120 maximum units would be permitted and we are proposing less at 90 units, we meet the standard under these guidelines.

***Second Remand Sanitary Sewer Standards***

This provision is under the portion of the code that regulates subdivisions, it is not an approval criteria for the development of a particular parcal in that development.

The code says sanitary sewers shall be installed and connected to existing mains, and you did require that during the approval process. The code later states that if it there is capacity problem with the City sewer system you do not have to connect the individual house until the capacity is available. You have required the developer to meet the standard, which is to install the sewer and connect to the existing main. You did not make any findings regarding the issue impractical, the code sates in the event it is impractical to connect the subdivision to the city trunk sewer system the planning commission may authorize the use of septic tanks if lot areas are adequate considering the physical characteristics of the area. Luba has asked you to address the standard including the term impractical. I have proposed you that if you can't connect to the city sewer due to a capacity issue then it is impractical to require them to use the City System. The planning commission may authorize the use septic tanks if the lots areas adequate considering the physical characteristics of the area. This language does not say when that determination of the adequacy of lot areas and physical characteristics of the area must be done, Luba and the opponent's thought that it needed to be done now. We think the language says if it is impractical we authorize you to try and obtain a septic permit for the developmental site. The conditional approval says that if do use a septic tank that when the connections are available you must connect to the City system, that conditional approval is consistent with the code. We know that there are some hookups available at this time, and they are used on a first come first save basis. The development of individual lots would not be able to take place until approximately 2010 once the entire process is completed. We have meant the standard by requiring the developer to install the infrastructure for sanitary sewers and connect that infrastructure to the existing mains,

we are asking the council to give the applicant additional options if incase at the time development there is not sufficient capacity for the development that is desired including waiting until the sanitary system is approved before moving forward

### ***Third Remand is Riparian corridor standards***

The code under in CMC Chapter 17.62 addresses the Riparian corridor standards. The code under section 1756.040 sub b and sub c allows two different ways for an applicant to request a planned development and subdivision. Sub B allows the applicant to come in at one time present the planned development application and subdivision application that gives the detail of roads and the property plat. Sub C allows two steps, the first being the approval of the concept due to the complicated site. Staff's response to the riparian corridor said that they look at this during the subdivision application process; it is not a standard at this stage. Council final decision needs to address this standard stating it is not approval standard at this stage and you may also want to include the additional findings stating there will be a public proceeding at a later date to address that standard during the subdivision application process. The impact on the riparian corridor has been mean by the variance placed on the street width on the riparian corridor area so we have meant that standard. The mitigation standards will be meant during the subdivision process. There were comment about the east – west connectors, and you can't have the east west connector without going through the riparian corridor. The City owns all the right of way, which makes it cost effective for the City. Council members did not have any questions. Mayor Britton asked if anyone else wants to speak in support of the application, there were none.

It is now time for the opponents or the opponent's representative to present testimony; argument and evidence, there were none.

Mayor Britton asked anyone else wish to speak in opposition to the application? Julie Watte 874 N. Henry, their property borders the 85-acre parcel, and her concern is the traffic impact that will be coming down Sixth Street down off the acreage. She wants to know who would pay for the stoplight when the traffic impact is so immense one is needed?

Mayor Britton said this issue would be addressed at a later hearing.

Does the applicant wish to offer rebuttal evidence? Before closing the record do Council members have any questions of either the applicant or the opponent? Dan Terrel in response to the opposition testimony, a traffic impact analysis was prepared and it indicated that it would remain a service level of A, and Ms. Watte concern is outside the scope of the remand issues.

Mayor called for any questions, there were none. The Public record was closed at 7:55 p.m. on Tuesday, April 17, 2007.

Mayor Britton announced that Council would proceed to with there discussion.

Councilor Wiese wanted to commend both sides for the information that has been presented. He said the issue of slope density is number is 1.14, but it does not concern. If someone ones to build a house and sewer is not available DEQ will decide if they may or may not have a septic system. We have also made provisions that when the City system is available they are required to hook-up. The riparian corridor is going to be crosses if you have east to west road and we set standards for this development, which will leave a smaller footprint. Councilor Capehart agreed with Councilor Wiese and felt the information presented was complete. Mayor Britton felt that all the requirements were meant.

**3. POSSIBLE ACTIONS BY THE COUNCIL**

Councilor Wiese made the motion to approve the Conditional Use, Plan Development and Variance application of James Smejkal, in File No. PUD-VAR-092005, on remand and direct the applicant to submit a final order with findings of fact in support of the approval and authorize the Mayor to sign the final order with findings. Councilor Hagen seconded the motion.

- Councilor Hagen – yes
- Councilor Capehart – yes
- Councilor Daniels – yes
- Councilor Wiese – yes
- Councilor Short –yes
- Councilor Parker -yes
- Mayor Britton - yes

Attorney Trew stated that the corrected documents would be presented to the Mayor for Signing.

**4. Adjournment**

Hearing no further business, Mayor Britton adjourned the meeting at 7:59 p.m.

\_\_\_\_\_  
Mayor Steve Britton

ATTEST: \_\_\_\_\_  
Deputy City Recorder