

Vice Chairperson Cary T. Johnson called the September 9, 2008, Clatsop County Planning Commission meeting to order at 9:10 a.m. Planning Commissioners (PC) present: Mike Autio, Christine Bridgens, Marcia Harper-Vellutini, Cary T. Johnson and Brian Pogue. Absent: Clarke W. Powers. (Note: PC Pogue arrived at 9:20 a.m.)

Staff present: Ed Wegner, Director; Patrick Wingard, Principal Planner; and Jennifer Bunch and Michael J. Weston II, Planners, Transportation and Development Services.

### **Minutes**

A quorum of four was present to consider the minutes.

**PC Autio moved and PC Harper-Vellutini seconded to approve the minutes of August 12, 2008, as presented. Motion approved, four in favor (Autio, Bridgens, Harper-Vellutini, and Johnson).**

### **Public Hearings**

#### **Donohue Variance Request**

There were no conflicts of interest, *ex parte* contacts, or objections to the planning commission's jurisdiction to hear the matter.

Vice Chairperson Johnson announced the Donohue variance request to oceanfront setbacks in Surf Pines had been continued from August 12, 2008. He and PC Autio stated for the record they listened to the recording of the hearing, including all testimony, from when it first began in July, as well as reviewed the minutes of the hearing, to enable them to participate in today's proceedings.

Vice Chairperson Johnson asked Planner Jennifer Bunch to review the variance request. Ms. Bunch drew attention to a memorandum distributed with the agenda and entered into the record exhibits 29 and 30, public comments received after the addendum was distributed, and read from her updated staff report. She said she had modified her recommendations due to learning the impacts on neighbors of changing the view lines within the subdivision.

Ms. Bunch recommended approval with conditions and noted the applicants wanted either a "yes" or a "no," not a compromise; however, because of the jog in the road, she was attempting to permit some sort of variance while preserving the view lines. She explained her proposal using a PowerPoint slide depicting a map.

PC Pogue arrived at this point: 9:20 a.m.

Principal Planner Patrick Wingard reviewed the options, and Ms. Bunch explained why she modified her recommendation.

Vice Chairperson Johnson opened the floor to public testimony.

1 Dan Bartlett, 210 Waldorf Circle, Astoria, representing the Surf Pines Association, told planning  
2 commissioners the association was concerned the variance would be injurious to other property  
3 owners. Mr. Bartlett also noted the applicants would need to obtain access to their property via  
4 tax lots under the control of the association rather than public rights of way, and the association  
5 preferred the planning commission deny the variance outright.

6  
7 Ed Vranizan Sr., 2946 SW Canterbury, Portland, owner of the home directly to the south of the  
8 Donohues' property, stated he attended the July hearing and submitted a letter, from which he  
9 now read. Mr. Vranizan said it was not the planning commission's responsibility to negotiate a  
10 compromise between the applicant and the homeowners association.

11  
12 Mark Barnes, P.O. Box 569, Astoria, representing the Sweeneys, 89460 Ocean Drive, Surf  
13 Pines, commented if the planning commission granted this variance, it would be construed as  
14 special privilege and as setting a precedent, which is why it is unusual to see variances to  
15 ocean front heights and setbacks. He thought the planning commission, should it approve this  
16 variance, could expect to see many more such requests.

17  
18 Mr. Barnes also noted a procedural issue, stating the meeting notice had conflicting times listed  
19 for this hearing; he recommended the commission wait until 10 a.m. before making its decision,  
20 to make sure no one else arrived to provide testimony.

21  
22 Sandy Sweeney, 89460, Ocean Drive, Surf Pines, the property owner just to the north of the  
23 Donohues', stated her home is for sale and she has just received an offer contingent on this  
24 variance not being granted. She said she needs to sell the home because of its stairs, which  
25 she can no longer negotiate, and losing the sale would be a hardship.

26  
27 Planning commissioners agreed to wait 15 minutes before making any motions. Vice  
28 Chairperson Johnson recessed the meeting at 9:50 a.m. and reconvened at 10:01 a.m.

29  
30 Vice Chairperson Johnson asked if there were any others who wished to present testimony.

31  
32 Norma Keever, 89026 Ocean Drive, Warrenton, explained building out farther than the  
33 established line impacts neighbors to the north, south and east, and the farther out a structure is  
34 built, the more the views are destroyed. She reviewed how the building line was established  
35 originally, when she and her husband found someone building 65 feet of the west of their home  
36 in the early 1990s. She commented the county commissioners initially found in favor of the  
37 developers, but the Keevers pursued the matter to the state's Land Use Board of Appeals,  
38 which remanded the matter to the county. The county commission then found in favor of the  
39 Keevers, and the developers took the matter to the state courts, which also found in favor of the  
40 Keevers.

41  
42 No one else requested to speak. Vice Chairperson Johnson closed the hearing and opened  
43 discussion amongst planning commissioners. PC Pogue commented the Donohues had  
44 purchased the property knowing where the homeowners association's building line was.

45  
46 PC Bridgens commented the commission had to follow the criteria, and PC Autio remarked he  
47 was inclined to reject the variance, but he added staff had done a good job on the request.

48  
49 **PC Pogue moved and PC Harper-Vellutini seconded to deny the request.**  
50 **Motion approved unanimously.**  
51  
52

1 **Election of Officers**

2  
3 **PC Pogue moved and PC Bridgens seconded to nominate Cary Johnson as**  
4 **Chairperson. Motion approved, four in favor and one (Johnson) opposed.**

5  
6 **PC Autio moved and PC Harper-Vellutini seconded to nominate Brian**  
7 **Pogue as Vice Chairperson. Motion approved.**

8  
9 **Public Hearings, continued**

10  
11 **Allen Variance Request**

12  
13 Chairperson Johnson asked if there were any *ex parte* contact or conflicts of interests to declare  
14 or any objections to the planning commission's jurisdiction to hear the matter. Hearing none, he  
15 asked Ms. Bunch to proceed.

16  
17 Ms. Bunch provided a brief review of Vaughn and Teri Allen's request for a variance to building  
18 setbacks, saying the Allens are requesting a 22-foot variance to the Resource Zone Setback to  
19 replace a building they recently demolished. The building had been a legal, non-conforming use  
20 on the same site, she explained, and the hardship justifying the variance was the site's  
21 topography. The building, a rental house, is a permitted use within the zone she said, and she  
22 recommended approval with conditions.

23  
24 Chairperson Johnson opened the public hearing. No one from a public agency requested to  
25 speak.

26  
27 Teri Allen, 85455 Highway 101, Seaside, spoke, saying she and her husband agreed with the  
28 proposed conditions. She offered to answer any questions planning commissioners had.

29  
30 As no one else wished to speak, Chairperson Johnson closed the public hearing and opened  
31 the floor to planning commission discussion.

32  
33 **PC Pogue moved and PC Autio seconded to approve the application**  
34 **subject to the conditions listed by staff. Motion approved unanimously.**

35  
36 **Holly Variance Request**

37  
38 Chairperson Johnson opened the hearing for a request by Doug and Cathy Holly for a variance  
39 to the 50-foot right of way in Svensen. There were no conflicts of interest, *ex parte* contacts, or  
40 objections to the planning commission's jurisdiction to hear the matter.

41  
42 Ms. Bunch provided the staff report, distributing exhibit 4b, a letter from Walter Hummasti, and  
43 saying the Hollys' request was to reduce the right of way from 50 feet to 22 feet in a 40-foot  
44 stretch. All other standards would be met, she said.

45  
46 Ms. Bunch directed attention to page 5 of the staff report and read from sections of it, pointing to  
47 page 6, which listed a criterion regarding hardship not being self-imposed that she believed had  
48 not been met. She referred to a letter in the record from Marsha Ettro. Ms. Bunch explained  
49 the Hollys wish to partition their property and, due to constraints imposed by the dwelling, septic  
50 system and accessory structures, the required 50-foot right-of-way easement for the driveway is  
51 not possible on a 40-foot stretch of the drive. Because the applicants constructed the accessory  
52 structure that creates the obstruction to the easement, she continued, the hardship could be

1 construed as self-imposed, even though the Hollys likely were unaware of the situation when  
2 they constructed the building.

3  
4 Ms. Bunch recommended denial of the variance but offered another way to achieve the  
5 applicants' goal. Referring to page 8 of her staff report, she said the variance might be avoided  
6 by instructing staff to place a condition of approval on the forthcoming partition application that  
7 allowed encroachment of the accessory structure into the right of way easement. She  
8 recommended denying the variance and instructing staff to devise just such a condition on the  
9 partition application.

10  
11 In response to PC Autio, Ms. Bunch said she had spoken with the applicants about her  
12 proposed solution, and they had found it acceptable.

13  
14 In response to questions from PC Bridgens and PC Pogue, Ms. Bunch explained this alternative  
15 would not set a precedent and the fire department had okayed the variance.

16  
17 Chairperson Johnson opened the floor to public testimony. No one from a government agency  
18 requested to testify.

19  
20 Applicant Cathy Holly, 92374 Svensen Market Road, Astoria, said she and her husband agreed  
21 with staff and said she was satisfied with the suggested compromise.

22  
23 There were no further comments, and Chairperson Johnson closed the public testimony portion  
24 of the hearing.

25  
26 After brief discussion, Chairperson Johnson asked for a motion.

27  
28 **PC Autio moved and PC Pogue seconded to accept the staff report as**  
29 **presented, to deny the applicants' request for a variance to the road**  
30 **standards, but also to instruct the staff to place a condition of approval for**  
31 **the forthcoming partition that would allow the encroachment of the existing**  
32 **structure in the right-of-way. Motion approved unanimously.**

33  
34 Before the planning commission recessed for a brief break before the next hearing, Mr. Wingard  
35 asked planning commissioners to check their calendars for Wednesday, September 24, at 5  
36 p.m., to see if they could participate in an upcoming joint work session with the county  
37 commission. He thought the work session would take about an hour and would be an  
38 opportunity to brief the commissioners on the code revision project. PC Harper-Vellutini will be  
39 out of the country. In response to a question from PC Bridgens, Mr. Wingard said planning  
40 commissioners could bring topics to the session. He reviewed procedures by which the revised  
41 code would be adopted.

42  
43 Chairperson Johnson recessed the meeting at 10:50 a.m. and reconvened at 11:03 a.m.

44  
45 **Comprehensive Plan/Zoning Map Amendment Request by Mike Morgan**

46  
47 After hearing no conflicts of interest, *ex parte* contacts, or objections to the planning  
48 commission's jurisdiction to hear the matter, Chairperson Johnson opened the hearing on a  
49 Comprehensive Plan/Zoning Map Amendment requested by Mike Morgan, acting as a  
50 representative of Peter Anderson et al., to rezone approximately five acres of F80 (Forest – 80-  
51 acre minimum) to RA2 (Residential Agriculture – 2-acre minimum), in an area southeast of the  
52 Tolovana State Park exit.

1 Planner Mike Weston reviewed portions of his staff report, focusing on the area topography and  
2 map, the criteria to be satisfied for a zone change, and the size of the lots in the area. Based on  
3 information he obtained from the Oregon Department of Fish and Wildlife, he recommended  
4 conditions, including an exclusion for damage by wildlife, in addition to riparian setbacks, and he  
5 noted Weyerhaeuser had likewise requested a Land Use and Practices condition, protecting  
6 surrounding F80 properties for continued forest use.  
7

8 In response to questions from Chairperson Johnson, Mr. Weston explained the wildlife damage  
9 exclusion prevented claims against the state and county in case a wild animal causes damage,  
10 such as a beaver damming a creek that backs up and floods a home. Planning commissioners  
11 discussed aspects of living next to F80 zoned lands. PC Harper-Vellutini wondered if  
12 homeowners were waiving rights to compensation if forestry practices contributed somehow to  
13 home damage. She suggested, as an example, firefighting practices of dropping fire retardant  
14 by helicopters.  
15

16 In response to questions, Mr. Weston said the applicants had not yet agreed to the conditions of  
17 approval and noted a number activities permitted in forest zoning are not particularly compatible  
18 with residential use, such as rock quarries, for example, a conditional use in forest zoning. He  
19 explained the proposed conditions and language submitted by DLCDC and Weyerhaeuser were  
20 common. The five acres, he went on, are irrevocably committed to residential or rural lands  
21 purposes, as the acreage size is not large enough for forestry. Mr. Weston entered into the  
22 record comments submitted, letters and emails, numbered 1 through 6, from people who live in  
23 the Haystack Heights subdivision directly to the west of the site of the proposed zone change.  
24 He distributed copies of the comments and characterized the questions they contained as being  
25 concerned with erosion control, septic and access.  
26

27 After reviewing the goals and policies, Mr. Weston noted he found all the statewide planning  
28 goals to be adequately met, adding that the applicant was seeking exceptions to Statewide  
29 Planning Goals 4 (Forestry) and 14 (Urbanization). He indicated the findings provided by the  
30 applicant were suitable and recommended the planning commission recommend to the board of  
31 commissioners approval with the conditions outlined on pages 24 and 25 of the staff report.  
32

33 Chairperson Johnson opened the floor to public testimony.  
34

35 Applicant Mike Morgan, P.O. Box 1032, Cannon Beach, representing the Anderson family,  
36 explained he had prepared the findings and was himself a nearby property owner. He added he  
37 was a planner for the City of Cannon Beach when Haystack Heights 3 was platted. Mr. Morgan  
38 reviewed points in his findings, including the history of the property, which had been in the  
39 Anderson family's ownership for more than 100 years and in continuous use. He concurred with  
40 the conditions proposed and pointed out on a map the parcel purchased by the family to use as  
41 an access easement to the otherwise landlocked parcel. The owners preferred the property  
42 remain treed, he said, adding erosion concerns had been addressed and the site has water. He  
43 thought there would be two houses added, which would have minimal impact to the road and  
44 neighborhood to the west.  
45

46 No one from any public agency requested to speak. No other proponents requested to speak.  
47

48 Janet Bates, 3731 E. Chinook, Cannon Beach, spoke in opposition, saying she saw potential for  
49 15 to 20 homes at build out, not two, and this would impact the neighborhood, she believed.  
50 Ms. Bates thought the 15 to 20 homes for which she saw potential would generate as many as  
51 150 to 200 car trips per day in the neighborhood, which she characterized as quiet, with a  
52 combination of paved and gravel roads and a number of families. She thought the application

1 should not be approved or should be limited to the two home currently proposed, saying the  
2 neighborhood was designed by the city to be small.

3  
4 Mr. Morgan responded, saying the owners are interested in approaching the city in three to five  
5 years but regarded the possibility of being included in the city's urban growth boundary as a  
6 gamble. He thought it more likely development would be four units per two and a half acres.

7  
8 Mr. Weston rebutted, saying capping development would be a disservice to the City of Cannon  
9 Beach, given the cost of providing services. Chairperson Johnson and Mr. Weston discussed  
10 the issue of deed restrictions, and Chairperson Johnson noted potential build out was a  
11 separate application and not part of the application before the commission at this time.

12  
13 Michele Johnson, P.O. Box 713, Cannon Beach, asked why the zone change was needed if the  
14 applicant didn't wish to do anything beyond what currently is allowed.

15  
16 Mr. Morgan stated the property was homesteaded and the owners contend the county made a  
17 mapping error when it included it in the F80 zoning.

18  
19 There being no others wishing to speak, Chairperson Johnson closed public testimony.  
20 Planning commissioners discussed the matter. PC Pogue commented the applications seemed  
21 to be the highest and best use. PC Harper-Vellutini agreed. Chairperson Johnson thought the  
22 application met the criteria.

23  
24 **PC Pogue moved and PC Bridgens seconded to recommend to the Board**  
25 **of Commissioners the conditional approval of a zone change from Forest**  
26 **80 to Residential Agriculture 2-acre minimum and adopt the applicants'**  
27 **findings contained herein with the conditions proposed by staff. Motion**  
28 **approved unanimously.**

29  
30 Chairperson Johnson recessed the meeting at 12:26 p.m. for lunch and reconvened at 1:01  
31 p.m.

32  
33 **Comprehensive Plan/Zoning Map Amendment Request by Clatsop County, continued**  
34 **from August 12, 2008**

35  
36 Chairperson Johnson opened the quasi-judicial hearing continued from August 12, 2008,  
37 regarding rezoning approximately 17 acres in the Dellmoor Loop area. PC Harper-Vellutini  
38 declared *ex parte* contacts, saying she knew some of the people involved but that she had no  
39 financial interest in the matter and it would not impact her ability to hear the matter. There were  
40 no other *ex parte* contacts, no conflicts of interest and no objections to the commission's  
41 jurisdiction to hear the matter.

42  
43 Mr. Weston provided his staff report, reviewing the topography of the area and its current use.  
44 Mr. Weston reviewed the map and the area's soils and topography, the rationale behind  
45 swapping the zoning to correct a map error, and how he thought the error occurred in the first  
46 place.

47  
48 In response to questions from Chairperson Johnson, Mr. Weston stated he had calculated a  
49 potential for ten lots and six development credits.

1 Mr. Weston said there were still details to be worked out and he asked the commissioners to  
2 continue the matter until the next hearing to allow him to work out some things with the property  
3 owners.

4  
5 Chairperson Johnson opened public testimony. No one from a public agency wished to speak.

6  
7 Speaking in support was Karl Muller, 89736 Seals Road, Warrenton, who said he owns a  
8 successful wetlands delineation and believes that buildable land that has been mislabeled  
9 should be relabeled, a matter he considered to be independent of the Anderson Estate property  
10 situation. He asked why what happens on the Anderson Estate affects his property.

11  
12 Mr. Weston explained a rezone rather than a correction would be a different and possibly  
13 contentious procedure. He thought correcting the map would be easier for everyone, including  
14 the state. Otherwise, he said, it would require the county to seek a number of complex and  
15 possibly controversial goal exceptions.

16  
17 In response to questions from PC Harper-Vellutini and PC Pogue, Mr. Weston said he thought it  
18 was the only way to proceed without having to address the goals, and though it would  
19 downzone one property, it offered that property's owner six development credits. PC Harper-  
20 Vellutini observed the property probably already was being used as a cranberry bog. Mr.  
21 Weston said he would see if the estate's executor would be able to attend the next meeting.

22  
23 PC Pogue asked how the county might proceed if the other property owner doesn't want to  
24 participate in the swap. Mr. Weston thought the county would drop its request and Mr. Muller  
25 and his neighbors could apply for a zone change.

26  
27 Mr. Muller asked why he should be responsible for a county or state error, and PC Pogue  
28 wondered about the county's liability. Mr. Weston observed the zoning on Mr. Muller's property  
29 had not changed since he acquired it – he'd bought it zoned the way it is now – so it seemed  
30 unlikely the county would be liable.

31  
32 Ryan Osburn, speaking in favor of the amendment, said he and his partner Corey Olson were  
33 considering purchasing the Anderson Estate property and would like the development credits  
34 Mr. Weston was proposing.

35  
36 No opponents requested to speak.

37  
38 Planning commissioners agreed to continue the matter, and Chairperson Johnson announced it  
39 would be continued at the October 14, 2008, planning commission hearing at 10 a.m. in the  
40 Judge Guy Boyington Building, 857 Commercial, Astoria.

#### 41 42 **Comprehensive Plan/Zoning Map Amendment Request by Betty Sandy**

43  
44 After hearing no conflicts of interest, *ex parte* contact, or objections to the planning  
45 commission's jurisdiction to hear the matter, Chairperson Johnson opened the hearing on  
46 Comprehensive Plan/Zoning Map Amendment requested by Betty Sandy to rezone  
47 approximately 3.5 acres to the west of Dellmoor Loop Road, north of the cranberry bogs, from  
48 Exclusive Farm Use (EFU) to Residential Agriculture – 2-acre minimum (RA2). The request  
49 would require taking an exception to Goal 3, he said.

50  
51 Mr. Weston provided the staff report and entered into the record four exhibits, including the  
52 public notice and three emails, one in favor, one against, and one from the Seaside School

1 District. Mr. Weston said Ms. Sandy had submitted a letter from the Seaside School District,  
2 indicating the change would not impact the district. He quickly reviewed the elements not  
3 satisfied, and then listed the conditions of approval he recommended. Recommended  
4 conditions included riparian setbacks, wildlife damage exclusion and land use practices similar  
5 to those recommended in the request by Mike Morgan for the property behind Haystack Heights  
6 3 near Cannon Beach, heard earlier in the day.

7  
8 Mr. Weston said Ms. Sandy still needs to satisfy goals 7 and 9 and suggested continuing the  
9 hearing until October to permit more time.

10  
11 Chairperson Johnson opened public testimony. No one, not opponents, proponents, nor public  
12 agency representatives, wished to speak.

13  
14 Chairperson Johnson continued the matter to the October 14, 2008, planning commission  
15 hearing, at 10 a.m., in the Judge Guy Boyington Building, 857 Commercial, Astoria. He left the  
16 record open.

17  
18 Mr. Weston added two exhibits to the record.

19  
20 **Adjournment**

21  
22 Chairperson Johnson adjourned the meeting at 2:19 p.m.

23  
24 Respectfully submitted,

25  
26  
27 **SIGNED ORIGINAL ON FILE**

28 Cary T. Johnson  
29 Chairperson, Planning Commission  
30  
31