

1 **Minutes** of December 8, 2009
2 Clatsop County Planning Commission **Regular** Session
3 Room 430, Public Services Building 800
4 800 Exchange Street
5 Astoria, Oregon 97103
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7 Vice Chairperson Brian Pogue called the December 8, 2009 Clatsop County Planning
8 Commission meeting to order at 10:03 a.m. Planning Commissioners (PC) present: Brian
9 Pogue, Mike Autio, Marsha Harper-Vellutini, and Clarke W. Powers. Excused: Cary Johnson
10 and Christine Bridgens

11
12 Staff present: Will Caplinger, Development and Services Manager, Transportation and
13 Development Services; Blair Henningsgaard, County Counsel; Michael J. Weston II, Planner;
14 Jennifer Bunch, Planner; Ed Wegner, and Julia Decker
15

16 **Business from the Public**

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18 No one from the public asked to speak.
19

20 **Public Hearings**

21
22 **Uskoski Variance Request:**

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24 Acting Chairperson Pogue explained that this matter is a variance request by Neal Uskoski/Nu
25 Ventures, Inc., for reduction of the 50-foot Resource Zone setback on property described as
26 T8N, R9W, Sec. 11AD, Tax Lot 700, continued from October 13, 2009. In the matter of
27 conflicts of interest and *ex parte* contacts, there were none. He asked if there were objections
28 for the Commission to hear the matter and there were none. Will Caplinger said that at the
29 October 13, 2009 meeting, the Planning Commission directed staff to develop findings with the
30 Oregon Department of Forestry. He met with Ron Zilli, ODF, and worked with the applicant. He
31 said the applicant's findings are attached as exhibit A and he went on to discuss them. He said
32 that the 50' setback applies to the main buildings and he discussed the definition of hardship
33 using Black's law dictionary as the County code doesn't define hardships such as this.
34

35 PC Autio said he recalls the applicant would meet with staff and ODF. Mr. Caplinger said they
36 did meet. He said that mitigation should have been at time of the subdivision creation. PC
37 Autio asked if the hardship is to be removed and PC Pogue asked if the findings are defensible
38 if the matter goes to LUBA. County Counsel Henningsgaard said that LUBA uses Webster's
39 dictionary for definition of a hardship and he thinks these findings are well-written. He added
40 that 35 feet is no better than 50 feet and if the Commission is comfortable with them, they're as
41 good as they're going to get.
42

43 PC Pogue asked for comments from Ron Zilli, Assistant District Forester, ODF. He provided
44 written comments (exhibit U-1). He noted that he asked for a meeting on site with the applicant
45 and was refused. He said that ODF believes other sites are there and requested that they be
46 identified. He said there is evidence of soil creep upslope of the subject property on ODF land
47 (J shape conifers directly upslope). He said ODF requests additional geo-technical work be
48 done on siting of residences. He showed a photo on an adjacent lot showing a hazard at both a
49 30 or 50 foot setback. He said that the hazard will exist for another 20 years and ODF has no
50 plans to harvest for at least two decades. He said that the hazard already exists and he
51 believes the hazard is increased by moving to 30 feet. He said that the Department of Justice

1 has recommended to ODF that a hold harmless agreement will not protect the state from a tort
2 claim. PC Pogue asked Mr. Henningsgaard about the usefulness of a hold harmless agreement
3 and Mr. Henningsgaard said he doesn't know what good it would do. He said he knows the
4 intent but doesn't know how it would apply. PC Autio asked about a deed restriction and PC
5 Harper-Vellutini asked for clarification from Mr. Zilli. He said that the Department of Justice said
6 there would be no value in creating a hold harmless agreement in the event of damage.

7
8 PC Powers asked Mr. Caplinger about the revised applicant's findings and he said that only
9 comments from ODF were on Finding A regarding other building sites that exist based on what's
10 reasonable and economical. Mr. Caplinger said that Finding H is not necessary. Mr. Zilli said it
11 was his understanding that consultation would develop between ODF, the applicant and the
12 county and that he did not have input on the applicant's findings. Mr. Caplinger said that in a
13 resource zone, all structures are subject to setback. Mr. Zilli recommends rejection of the
14 findings. PC Harper-Vellutini asked if a house could be insured without a hold harmless
15 agreement and she doesn't think it's economical to put a home in line with trees that may fall.
16 PC Pogue said that insurability isn't under the Planning Commission's authority.

17
18 PC Pogue asked the applicant Neal Uskoski to respond to the findings and asked why he had
19 not met with ODF. He said he tried to get hold of Mr. Zilli but was unable to. He said that ODF
20 is not interested in a boundary line adjustment or property exchange. He said he is a forestry
21 owner in Washington and they don't expect people to keep away from trees there. He said that
22 issues were addressed in the subdivision process and that geology would be addressed at the
23 time of building. He noted that the geologist said the risk is no greater there than anywhere else
24 in the Astoria area. He said he would be willing to buy the timber if it hasn't been logged yet.
25 PC Pogue asked if there should be a continuation and Mr. Henningsgaard said it would be
26 unusual to accept testimony after approval. PC Autio said the continuation was for ODF's
27 benefit and that if they don't want it, we don't need to include it. Mr. Henningsgaard and PC
28 Pogue said they may not want to leave it out and that it might protect Mr. Uskoski. Mr. Weston
29 suggested using the resource zone disclosure and wildlife zone exclusion in the ordinance. He
30 said this would be a covenant to the deed.

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32 **PC Autio made and PC Powers seconded a motion to adopt findings as presented.**
33 **Motion was approved unanimously.**

34
35 PC Pogue called for a five-minute recess at 10:50 a.m.

36
37 **Waters Conditional Use Request, Continuation:**

38
39 Acting Chairperson Brian Pogue said this is a quasi-judicial hearing on a request by Sam and
40 Donna Waters for a primitive campground on property described as T5N, R7W, Sec. 27, Tax
41 Lots 300 & 307, continued from October 13, 2009. PC Pogue asked if any Commissioner had
42 any *ex parte* contacts or conflicts of interest. He asked if there were objections for the
43 Commission to hear the matter and there were none. Mike Weston distributed definitions of a
44 primitive campground and recapped the request including timelines of the applicant and the
45 county. He said the property is not high value farm land which makes it permissible to have a
46 primitive campground on the site. He said the project is compatible with the County's
47 comprehensive plan. He said the site can be conditionally satisfied, i.e. buffering on the sides
48 and there is an adequate transportation network. He said there are no natural hazards on the
49 site that are identified, i.e. flood zone. He said the only criteria not initially satisfied is the site
50 plan and the site is compatible with the surrounding uses. He said he put a condition that the
51 fire department would need to address fire dangers. He read the definition of a primitive

1 campground in the county code which indicates tents or trailers only - not RVs. He said that an
2 RV park would have far greater requirements and that the application is for a primitive
3 campground with one RV for management purposes only. He said there could be tents, tent
4 trailers, fire pits, and picnic tables. He said staff has assessed the site as a primitive
5 campground and if the applicant is applying for a recreational vehicle park, more information
6 would need to be provided and assessed by the Commission.
7

8 PC Pogue asked what would happen if they violated the use and Mr. Weston outlined the
9 violation procedure through code enforcement. PC Harper-Vellutini asked about wetlands and
10 Mr. Weston said that the applicant should be aware that there are wetlands on the property that
11 will likely require a Department of State Lands Permit and a DEQ stormwater discharge permit.
12 He said these are not regulated by the County but there will be a 50' buffer. PC Autio talked
13 about noise issues and times that activities can take place. He asked whether the county can
14 be more proactive and indicate hours of 'quiet' time. Weston said that staff should review and
15 bring back to the Commission for review. PC Powers asked about buffering for sound and Mr.
16 Weston said that vegetative buffers reduce sound. PC Pogue asked if the design for buffers
17 needs to be approved and Mr. Weston said yes. He said he put in a descriptive where buffers
18 should be located.
19

20 PC Pogue asked about limitation on time, i.e. seasonal operation. Mr. Weston said he talked to
21 the applicant about months of operation which would exclude winter. He said that clarification is
22 needed on that and the amount of time someone could stay at the campground, i.e. not over 30
23 days. PC Harper-Vellutini asked if it could be stated that the applicant has to have something
24 that's in compliance. Mr. Henningsgaard said there are extensive requirements imposed by
25 the state for the operation of campgrounds. He read administrative rules relating to
26 campgrounds which would need to be complied with.
27

28 PC Pogue opened the hearing for public testimony and stated the rules. As there were no
29 comments from public agencies, he asked the applicant to speak.
30

31 Sam Waters - applicant - goal is to create a members only campground with social security
32 numbers given. Membership would include selected people only and that's why it would be
33 called a private campground. PC Powers asked if it would still be a commercial operation and
34 Waters said he would determine whether to charge or not. Waters said they may not charge for
35 membership. PC Autio asked if Waters is intending that this be a recreational vehicle park or a
36 primitive campground and Waters said he has seen RVs in primitive campgrounds with no
37 shower facilities. He said he is satisfied with tents and tent trailers. PC Pogue asked how rules
38 would be enforced and Waters said the Rode family lives adjacent to the park and friends who
39 are retired would be on site to make sure rules are honored. He said someone would be on-site
40 at all times. He asked that slanderous remarks not be made about her and his family.
41

42 As there were no proponents, PC Pogue asked for comments from the opponents as follows:
43

44 Steve Olstedt, 453 2nd Street, Seaside - Olstedt said he is representing family members and
45 that there are property line issues. He said that the fence line is being removed. PC Pogue
46 said that is a legal issue and that testimony must be focused on the project. Olstedt read
47 comments into the record. In summary, he said this will be a full blown commercial campground
48 with up to 100 campsites which needs a road plan, sewage disposal, permanent water source,
49 stormwater plan, wetland delineation because of proximity to Nehalem River, and traffic impact
50 study. He said all requirements should be submitted in time to permit public comment. He said
51 there is a potential loss of income on other campgrounds in the county. He said there will be

1 impacts on the neighbors but not on the Waters family because they do not live there. He said
2 all state and federal laws need to be adhered to. He urged the Commission to deny the
3 application. PC Pogue asked if any concerns have been alleviated now that the proposal is for
4 20 and not 100 sites. Mr. Olstedt said yes but there is still concern about water, toilets, and open
5 campfires. He said that he's surprised ODF is not objecting.
6

7 Herb Olstedt, 42179 Tweedle Lane, Jewell - He asked how many people would want this facility
8 next to them and that there are many campgrounds available in the area. He said the fence
9 issue is indicative of the problem with the Waters. He said the campground would create
10 problems.
11

12 Tony Frasier, 82144 Red Bluff, Seaside - Said there are code compliance issues with people
13 living in sheds. He said the manufactured home on site has issues with septic drainage on the
14 ground. He said the designated wetland on the property was 'bogged' two weeks ago. He
15 asked who was going to regulate the campground.
16

17 Michael Morrell, 3004 SE Teal Drive, Gresham - Said that if the campground is full, people will
18 just drive down the road and park on his land which is adjacent. He found a campground with a
19 fire ring down there right under a huge tree. PC Pogue asked if he had seen people just
20 pulling off and camping and Mr. Morrell said not until recently.
21

22 PC Pogue asked for proponent rebuttal.
23

24 Emil Rode - owns property - nothing wrong with septic - fence torn down by Frasier not by Sam
25 Waters. Water well is only 15 gallons per minute but quality is good.
26

27 Sam Waters - Never touched the fence - said that Tony Frasier did it - he said his credibility is at
28 stake. He said that his neighbor, Herb Olstedt, has campers on his property and it's a double
29 standard. He said he is not out to hurt anybody and the project is not a cash cow to get out of
30 debt. He said he just wants 20 spaces on 51 acres of land. PC Harper-Vellutini asked if he is
31 ok with primitive camping only and Mr. Waters said yes. She asked if he confirms that someone
32 will be on site watching and Mr. Waters said yes.
33

34 PC Pogue asked Mr. Waters if he would have problems with Building Code regulations for
35 primitive campgrounds. Mr. Henningsgaard explained that unless the County waives the
36 requirement, flush toilets will be required and state and federal requirements will have to be
37 complied with. He also said that by the time state requirements are complied with, the
38 campground may not be primitive and not what is being applied for. He said it would be a good
39 idea for Mr. Waters to meet with the Building Code division. PC Autio agreed and Ed Wegner
40 suggested that Mr. Waters meet with Jim Byerley who can discuss the building code issues.
41

42 PC Pogue asked if the public testimony can be closed and Mr. Weston said that would depend
43 on whether the Commission wants to accept new evidence. PC Powers said he would prefer to
44 keep testimony open.
45

46 **PC Powers made and PC Harper-Vellutini seconded a motion that the Planning**
47 **Commission will continue to wait for testimony back from the Planning Department on**
48 **the meeting the applicant Sam Waters has with the Building Department. The**
49 **information should include what criteria the applicant has to meet for a campground**
50 **along with updated and revised rules and regulations that are more definitive. Motion**
51 **was approved unanimously.**

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Mr. Weston will request that a representative of the Building Department attend the next hearing, which is scheduled for January 12, 10 a.m.

PC Pogue called for a recess at 12:05 p.m. and reconvened the meeting in five minutes.

City of Seaside Transportation Plan Update

Planner Jennifer Bunch introduced Kevin Cupples, Planning Director, Community Development Department, City of Seaside and Ingrid Weisenbach, ODOT area planner, who were going to talk about the Seaside Transportation Plan Update. They left information for review and this update will be included as the first item on the January Planning Commission agenda.

As there was no further business, PC Pogue adjourned the meeting at 12:15 p.m.

Respectfully submitted,

SIGNED ORIGINAL ON FILE

Brian Pogue
Vice Chairperson - Planning Commission