

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

Minutes of July 26, 2016
Clatsop County Planning Commission
Regular Session
Judge Guy Boyington Building
857 Commercial Street
Astoria, Oregon 97103

The regular meeting was called to order at 10:00 a.m. by Chair Francis.

<u>Commissioners Present</u>	<u>Commissioners Absent</u>	<u>Staff Present</u>
Bruce Francis		Clancie Adams
Myrna Patrick		Heather Hansen
Thomas Merrell (departed 10:50 a.m.)		Chris Crean
Michael Magyar		Julia Decker
Christopher Farrar		
Robin Risley		
Bill Cook		

Agenda Adoption:

Commissioner Patrick moved and Commissioner Farrar seconded to adopt the agenda as presented. Motion passed unanimously.

Chair Francis introduced and welcomed newly appointed Commissioner, Bill Cook.

Business from the Public:

There was no business from the public.

Minutes:

Commissioner Patrick moved and Commissioner Magyar seconded to approve the July 12 2016 Clatsop County Planning Commission Regular Meeting minutes as corrected. Motion passed with Commissioner's Cook and Risley abstaining.

Election of Chair and Vice-Chair:

Commissioner Risley moved and Commissioner Patrick seconded to appoint Bruce Francis Chair of the Planning Commission. Motion passed unanimously.

Commissioner Risley moved and Commissioner Farrar seconded to appoint Thomas Merrell Vice Chair of the Planning Commission. Motion passed unanimously.

Continuation of a quasi-judicial hearing to consider final written findings to deny a zoning map amendment from Rural Community Residential to Rural Community Multi-Family Residential on 10.4 acres of land in the Miles Crossing area, and a conditional use permit for a 48-unit multi-family development. The applicant is Richard Krueger and Bella Ridge Apartments, LLC. The property is commonly known as 92257 Lewis & Clark Rd, Astoria, OR. Staff: Heather Hansen, Community Development Director

Commissioner Risley stated she had read the minutes from the July 26, 2016 meeting as she was unable to attend.

1 Commissioner Cook recused himself as he was not a sitting Commissioner at the July 26, 2016 Planning
2 Commission meeting.

3
4 *Chair Francis called the hearing to order at 10:12 a.m.*

5
6 **No ex-parte contacts, or site visits were reported at this time.**

7
8 Commissioner Magyar recused himself from hearing this issue due to a possible conflict of interest.

9
10 **No challenges to the Planning Commission's right to determine this matter or the participation of any**
11 **commission member in this hearing or decision were reported at this time.**

12
13 **Heather Hansen, Clatsop County Community Development Director.**

14 Ms. Hansen presented the proposed amendment to the original finding and notice of decision for review.

15
16 **Chair Francis declared the testimony closed at 10:13 a.m.**

17
18 *Commissioner Merrell moved and Commissioner Risley seconded to approve the findings for denial for the*
19 *zone change based on criterion 5.412(3)(D) and the July 28, 2016 Notice of Decision. Motion passed with*
20 *Commissioners Cook and Magyar abstaining.*

21
22 **Quasi-judicial hearing regarding a zoning map amendment from Arch Cape Rural Community Residential**
23 **to Rural Community Commercial on 0.61 acres of land in the Arch Cape area. The applicant is Butch**
24 **Coleman Trust on behalf of Harry E. Coleman IV. The property is commonly known as 79328 Highway**
25 **101, Arch Cape, OR. Staff: Julia Decker, County Planner**

26
27 *Chair Francis called the hearing to order at 10:15 a.m.*

28
29 **No ex-parte contacts, conflicts of interest or site visits were reported at this time.**

30
31 **No challenges to the Planning Commission's right to determine this matter or the participation of any**
32 **commission member in this hearing or decision were reported at this time.**

33
34 **Julia Decker Clatsop County Community Development Planner.**

35 Ms. Decker reviewed the staff report outlining a zone change from Arch Cape Rural Community Residential
36 to Rural Community Commercial for property located behind the old Arch Cape Deli Building along Highway
37 101. The Arch Cape Design Review Committee voted to recommend approval at their July 12, 2016
38 meeting. She reviewed correspondence received from the Cannon Beach Fire Chief, Arch Cape Water and
39 Sanitary District, Clatsop County Public Works, and ODOT. Ms. Decker also reviewed the recommended
40 conditions of approval, zone change criteria and allowed conditional uses. She noted the amount of land
41 being converted is approximately 26,500 square feet and is adjacent to existing RCC zoned land in the same
42 ownership. The rezone would continue to consolidate commercial development to the existing RCC zoned
43 area as required by the community plan. Future development would be reviewed for consistency with the
44 provisions of the Land Use Ordinance. Staff recommended approval of the zoning map amendment with
45 conditions of approval.

1 **Debra Birkby, 79829 Gelinsky, Arch Cape, OR.**

2 Ms. Birkby spoke in favor of the zone change as the change will allow the Arch Cape commercial center to
3 expand since many of the commercial properties in Arch Cape are currently being used in a residential
4 manner, limiting commercial possibilities.

5
6 **Chair Francis declared public testimony closed at 10:46 a.m.**

7
8 *Commissioner Farrar moved and Commissioner Magyar seconded to approve application #20150412 for a*
9 *zoning map amendment and adopt the findings in the staff report and conditions of approval. Motion*
10 *passed unanimously.*

11
12 ***Chair Francis called for a recess at 10:50 a.m. and reconvened the meeting at 11:02 a.m.***

13
14 **Legislative hearing regarding Comprehensive Plan and Land and Water Development and Use Code**
15 **amendments regarding the Southwest Coastal Citizens Advisory Committee and development standards**
16 **in Arch Cape. Staff: Heather Hansen, Community Development Director**

17
18 ***Chair Francis called the hearing to order at 11:03 a.m.***

19
20 **No conflicts of interest were reported.**

21
22 **Mike Manzulli, 80285 Woodland Heights, Arch Cape, OR.**

23 Mr. Manzulli challenged the Planning Commission's authority to hear this matter due to the county's failure
24 to provide adequate hearing notice to affected property owners and the staff report relies on the February
25 BOC (Board of Commissioners) meeting as authority to make revisions to the comp plan and ordinances but
26 due to the LUBA remand, the February decision is ineffective.

27
28 **Chris Crean, County Counsel**

29 Mr. Crean responded that Mr. Manzulli's concerns address procedural errors and do not apply to the
30 jurisdiction of the planning commission to hear the text and comprehensive plan amendments.

31
32 **Heather Hansen, Clatsop County Community Development Director:**

33 Ms. Hansen stated that on February 10, 2016 the BOC passed a resolution to discontinue the Southwest
34 Coastal Citizens Advisory Committee (SWCCAC) effective immediately and directed staff to prepare
35 amendments to the Comprehensive Plan and Land and Water Development Use Code reflecting this
36 decision. The decision was appealed to LUBA and they agreed discontinuing the SWCCAC required the
37 county to follow a legislative comprehensive plan and development code amendment process. The LUBA
38 decision did not affect the board's directive to prepare the amendments as they can direct staff to prepare
39 amendments at any time without a resolution. Staff is now conducting the legislative hearing process
40 started in May 2016. Ms. Hansen presented a summary of the proposed amendments and provided the
41 following information:

- 42 • The SWCCAC met on July 12, 2016 and a summary of the oral testimony from that meeting has been
43 provided for review. The SWCCAC has not reviewed or approved the minutes from that meeting making
44 them unavailable at this time. The SWCCAC voted to deny the amendments citing they are inconsistent
45 with Goal 1 - Citizen Involvement.
- 46 • All property owners located in the Arch Cape overlay were notified of the July 12, 2016 SWCCAC meeting,
47 and provided a web link to view meeting materials and contact information for questions or comments.
48 Public notice was published for both the SWCCAC and Planning Commission meetings in all local news

1 media. A copy of an e-mail from Patrick Wingard, DLCD, confirming that proper notification procedures
2 were followed was also provided.

- 3 • Retaining a citizen advisory committee is not a state requirement. CAC's were formed in the late 1970's
4 to advise on the development of community plans and were not formed to hold public hearings on CUP's,
5 variances or house plans.
- 6 • Other ways to implement Goal 1 are addressed in the proposed amendments including ad-hoc advisory
7 committees, community organization notifications, and project postings and neighborhood meetings.

8
9 **John Piatt, 79896 Cannon Road, Arch Cape, OR:**

10 Mr. Piatt provided background information on the formation of the Arch Cape Community Club and CAC.
11 He stated his surprise that the BOC voted to discontinue the CAC after a 40 years of continued involvement
12 with no evidence given to suggest the committee made inappropriate recommendations or used any
13 authority not delegated to it by the county. Mr. Piatt asked for a clear understanding of why the change is
14 being made now and how will it improve community involvement.

15
16 **Charles Dice, 31911 Clatsop Lane, Cove Beach, OR**

17 Mr. Dice is a member of the Arch Cape Community Club and resides in Falcon Cove. The CAC and design
18 review board has operated for many years as an asset but in past few years things have not gone as
19 smoothly due to county staff involvement. He also feels there is an unfair bias as staff and counsel have
20 their own agenda as well as unfettered access to rebut issues and analyze public comments that the public
21 does not have. Mr. Dice asked the commission to take into account the public comment and what people
22 would like to see for their community.

23
24 **Virginia Birkby, 79829 Gelinsky, Arch Cape, OR.**

25 Ms. Birkby is a full time resident and property owner in Arch Cape who has served two terms on the
26 SWCCAC. The Clatsop County Comprehensive Plan provides for citizens advisory committees in
27 communities to maintain and enhance the quality of their own unique area including maintaining
28 residential character, housing, public facilities, transportation, open space, recreations and scenic and
29 natural areas. The Arch Cape CAC provides continuity, historical perspective and follow through which is
30 essential to offset the unusually high land use planning staff turnover in Clatsop County. Ms. Birkby asked
31 the commission to maintain the Arch Cape Citizens Advisory Committee and postpone the amendments to
32 enable maximum community participation.

33
34 **Debra Birkby 79829 Gelinsky, Arch Cape, OR.**

35 Ms. Birkby stated she is familiar with reviewing staff reports and feels it is an improper decision making tool
36 as it is the opinion of one person and doesn't provide input from those people affected. She questioned
37 why during the term of an interim County Manager did the BOC decide to dissolve the CAC as well as the
38 decision to notify only organized community entities of planning decisions or upcoming meetings limiting
39 the community involvement in land use decisions. She feels the county is hiding behind the term "legal
40 liability" which the CAC presents to the county. Ms. Birkby cited examples of staff changes in interpreting
41 code with turnover. She requested the people of Arch Cape continue to be the first step in planning for
42 their community and not be left to defend themselves against the wishes of staff members that are not
43 elected or appointed.

44
45 **Mike Manzulli 80285 Woodland Heights, Arch Cape, OR.**

46 Mr. Manzulli moved to Arch Cape because there was a community group working grassroots and making
47 recommendations directly to the county. The July 12, 2016 CAC meeting had 40 plus residents and property
48 owners in attendance. The CAC fills the gaps in staff reports with their local knowledge and they have
49 always wanted to work with the county but feels the relationship is adversarial. Mr. Manzulli feels Arch

1 Cape cannot afford to lose their local voice in future development and code revisions that protect
2 community assets, natural resources, and livability and doesn't trust the county to keep those things in
3 effect. He encouraged the commission to follow the recommendation of the committee by taking no action
4 today and working to find a better solution than dissolution.
5

6 **Theodore Lundy,**

7 Mr. Lundy has owned a short term rental property in Arch Cape for 40 years and served on the SWCCAC for
8 many years, most recently as Chair. He doesn't feel there is work duplication for staff as in most cases the
9 CAC agrees with staff. On the few occasions when staff and the CAC don't agree, the CAC tries to follow the
10 zoning ordinance but sometimes it is interpreted differently and that's to everyone's advantage as two
11 sides are presented. Mr. Lundy went on to cite examples where the CAC has resolved neighbor conflicts.
12 The July 12, 2016 CAC meeting was held to a full fire hall and even though only 14 people actually testified,
13 there was a large community voice in favor of continuing the CAC. He asked the commission to retain the
14 committee and review the proposed amendments with community meetings and input.
15

16 **Linda Eyerman, 80296 Pacific Ave, Arch Cape, OR.**

17 Ms. Eyerman has owned property in Arch Cape property for 17 years, is a part time resident and has served
18 on the SWCCAC committee for four years. She recapped the written testimony she submitted regarding the
19 range of issues the CAC deals with. She was a petitioner in the case of Jensvold vs. Clatsop County
20 challenging the BOC decision to dissolve the CAC to LUBA and reviewed her interpretation of the ruling. Ms.
21 Eyerman's opinion is the CAC can't and shouldn't be dissolved due to its value to the county and Arch Cape.
22 The CAC members are appointed by the BOC making them a part of the governing structure with a role in
23 making recommendations, holding hearings and providing input.
24

25 **Chris Crean, County Counsel**

26 Mr. Crean responded to a question from the Commission as follows:
27 The BOC is the body that adopted the comp plan and all its content. It has the authority to amend it as it
28 deems appropriate without demonstration of compliance with the criterion. An interpretation has been put
29 forward that the committee can continue as long as it meets and remains active. This interpretation
30 elevates the CAC giving it veto authority over the elected BOC and subverts the hierarchy of legal authority
31 in the county. The BOC has the authority to establish policy for the county including creation or termination
32 of advisory committees and there's no authority for the proposition that an appointed advisory committee
33 has authority superior to the BOC.
34

35 **Gordon Church, 79878 Highway 101, Arch Cape, OR.**

36 Mr. Church and his family have owned property in Arch Cape for at least 68 years. He voiced concerns
37 regarding justification for dissolving a committee that has been active for 35-40 years. He feels the
38 replacement of the CAC with ad-hoc committees eliminates the continuity the committee has
39 demonstrated during its existence and loses the history and structure of the CAC's involvement with the
40 county. He questioned how much burden the CAC creates on staff and asked for an explanation of the
41 restructuring of the ordinances as adequate answers have not been provided. Mr. Church feels if the
42 burden on staff has become overwhelming, the CAC members and the citizens of Arch Cape would be
43 willing to talk about ways to streamline the process.
44

45 **Steve Pinger, 80098 Pacific Road, Arch Cape, OR.**

46 Mr. Pinger stated the CAC provides great benefit to the residents of Arch Cape with its presence and effect
47 on design guidelines. The CAC's ongoing interpretation and flexibility with design guidelines sustain the
48 qualities of the natural environment that exists in the Arch Cape area and provides an essential increment
49 in the political system and environment of the county. The dissolution of the CAC and rewriting the

1 ordinance seems as if it is solving some problem other than staff burden and is a more extreme measure
2 than is warranted. Mr. Church feels there may be other models of community organizations that would
3 maintain the benefits that are currently offered by the CAC but asked that an alternative be in place before
4 the CAC is dissolved.

5
6 **Chris Crean, County Counsel**

7 Mr. Crean responded to testimony as follows:

- 8 • LUBA didn't reach a final decision on the merits of the motion to dismiss but did say the BOC resolution
9 had two operative sections. The first terminated the committee and the second requested staff prepare
10 comprehensive plan and development code amendments to remove the committee from those
11 documents. That was the last instruction received from the BOC and staff is not free to ignore that. The
12 LUBA decision affected the first part of the resolution saying dissolution of the committee would have to
13 go through the legislative amendment land use process and that is what we're doing today. The process
14 for initiating legislative amendments to the county's Comprehensive Plan and relative code can come
15 from the county manager, staff, citizens, etc.
- 16 • Addressed the assertion that the Planning Commissioners and County Commissioners are discouraged
17 from going outside the staff report in making a decision. Explained the differences between legislative
18 and quasi-judicial hearings including the decision making criteria and allowed evidence.
- 19 • Why is this happening now? When laws are adopted it takes time for them to be implemented at the
20 local level. He referenced House Bill 3661 with which was approved in 1993 and its impacts on statute
21 197.763 which set very specific requirements for evidentiary hearings on quasi-judicial land use
22 applications. By the year 2000 it became clear that the SWCCAC was holding evidentiary hearings
23 requiring they comply with those requirements and requiring staff to prepare a staff reports, prepare and
24 publish meeting notices, take minutes and generally becoming more active in the committee meetings.
25 This also raises the issue of legal liability in regards to ADA claims, hostile work environment, etc. If the
26 committee was a community association or neighborhood association, not part of the county, there
27 would be no concerns but because it provides a formal role of the county, anything it does potentially
28 creates liability for the county.
- 29 • Written notice of the legislative amendments were sent to the sewer district, community club and every
30 property owner in Arch Cape. The proposed text amendment would still require notice to property
31 owners within a certain distance of the proposed development per state law.
- 32 • The CAC creates an additional process resulting in time delays to applicants and additional costs to the
33 county in staff time.
- 34 • There's nothing in Goal 1 that requires an advisory committee in Arch Cape. There is a citizen
35 involvement process throughout the county, including Arch Cape. The amendments recommend adding a
36 process for recognizing local community organizations which allows Arch Cape citizens to become
37 advocates rather than advisors.

38
39 Discussion and questions between Planning Commission members, staff and counsel.

40
41 ***Chair Francis declared testimony closed at 1:14 p.m.***

42
43 *Chair Francis moved and Commissioner Magyar seconded to continue the hearing to September 13, 2016 to*
44 *allow staff to prepare and present options and alternatives. Motion passed Unanimously.*

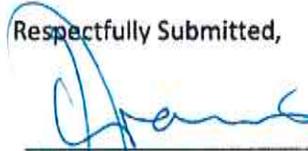
45
46 **Other Business:**

47 Ms. Hansen spoke to the Commission regarding the possibility of parliamentary procedure training at a
48 future meeting.

1
2
3
4
5
6
7
8
9

As there was no further business or discussion, Chair Francis adjourned the meeting at 1:38 p.m.

Respectfully Submitted,



Bruce Francis
Chairperson - Planning Commission

