

TILLAMOOK COUNTY PLANNING COMMISSION
October 1, 2009 – Beginning at 7:00 pm

I. CALL TO ORDER: Chair Ousele called the meeting to order at 7:07 pm.

II. ROLL CALL: Don LaFrance, Bruce Lovelin, Kurt Heckeroth, Gale Ousele, Terry Jones, Kurt Mizee

III. APPROVAL OF MINUTES: None

Commissioner LaFrance asked that minutes should be provided monthly and made a priority. Chair Ousele was in agreement with that request. Commissioner Lovelin asked if the minutes could be a one page length, not verbatim. Commissioner Heckeroth asked how long the minutes are available as sometimes the written record is not reflective of what is on the recorded tape. Mr. Parker acknowledged that the minutes have gotten behind in the past and it will be a priority to get those past minutes typed. Mr. Parker stated that if a situation arises where a transcript is needed, a third party would be hired, at the expense of the appellant, to type a transcript of the minutes.

IV. OLD BUSINESS: SUB-09-01: A request for tentative plat approval for Phase I of a cluster subdivision, identified as “The Cottages At Neskowin”, consisting of 25 single-family dwelling lots on approximately 8.81 acres. The subject parcel, located within the Community Growth Boundary of Neskowin, is zoned Neskowin Low Density Residential (NesKR-1), and is designated as Tax Lot 812 of Sections 25 and 36, Township 5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon. Applicant: SFA Design Group, LLC, 9020 SW Washington Square Dr., Suite 350, Portland, OR 97209. Property Owner: Hawk Creek Land, LLC, P.O. Box 1934, Sandy, OR 97055.

Chair Ousele opened the meeting by reading the Land Use Hearing Procedures and Chair statements. Commissioner Heckeroth stated that he had made a site visit since the last hearing.

a. **Staff Report:** Sarah Absher, Associate Planner, presented the staff report. Ms. Absher stated that on September 10th, the hearing was closed to public testimony, but the record remained open until 5pm on September 17th for public comment. The applicants had until 5pm on September 24th to rebut the public comments.

Ms. Absher summarized the primary issues raised in the public comment received between September 10th and 17th. The concerns raised were as follows:

1. Safety issues associated with Summit Road
2. Safety issues associated with Summit Road at the intersection with Highway 101, including concerns about adequate site distance and emergency access.
3. Off-site flooding impacts west of Highway 101
4. Upstream flooding impacts
5. Availability of sewer and water services
6. The existing deed restriction associated with the subject parcel which prohibits division of said parcel.
7. Preservation of natural features and impacts to sensitive areas including Hawk Creek and wetlands identified on the subject parcel.
8. Determining whether or not the proposed subdivision is consistent with the Neskowin Community Plan.

Rebuttals were received from SFA Design group and Hawk Creek Land, LLC. Additional documentation received from ODOT was emailed to Planning Commission members. Commissioner Lovelin stated that the ODOT information is inadmissible due to the late receipt of the documents, after September 17th 2009. Commissioner Lovelin moved the information from ODOT, submitted after September 17th, 2009, be disallowed. Commissioner Heckerth seconded. Chair Ousele asked for vote. Vote passed 6:0.

The applicants submitted rebuttal which addressed five areas of concern: storm drainage, wetlands, the intersection at Summit Road and Highway 101, the proposed conservation easement along Hawk Creek and the number of lots proposed. In the rebuttal SFA Design Group provided conclusions for 100 year storm event, an explanation addressing the cause of flooding west of Highway 101 and upstream flooding.

Ms. Absher stated concerns by public were raised regarding the adequacy of the review, by the county, of the proposed drainage plan. The drainage proposal has been reviewed and accepted by Tillamook County Public Works.

Ms. Absher continued, noting calculations were submitted by SFA for the Wetland mitigation project, who stated that the increase in wetlands habitat on the site will be approximately 12,723 square feet. Permits are required by the Department of State Lands before development can proceed. Ms. Absher states the applicants are aware of this requirement.

Ms. Absher reminded the Planning Commission that ODOT has approved the road approach for the connection from Summit Road to Highway 101 and a copy of the approved letter was included with original packet received prior to the September 10th hearing. She also stated that the applicants understand prior to final plat approval of the proposed subdivision, final approval from ODOT for the proposed access and intersection improvements is required and a condition of approval has been recommended.

Ms. Absher referred to the proposed Conservation Easement. The applicants have exceeded the minimum 15 foot riparian setback.

Ms. Absher continued by addressing the concern over the number of lots. The current application is for a 25 lot cluster subdivision. Each application for each phase will be reviewed separately. The applicants submitted a shadow-plat per the land division ordinance.

Conditions of approval were discussed:

- Commissioners discussed the language of condition 17. It was finally decided to delete condition 17 as any changes to the tentative plat, must be approved as part of the existing process.
- Commissioner Heckerth pointed out a typo in Condition 7-a “the agreement shall *inure* in.....”. Commissioner LaFrance pointed out the word inure is in the original letter from ODFW and should be left in the staff report.
- Commissioner Jones questioned condition #14. Ms. Absher stated that this is a standard requirement for every person who takes out a building permit. Discussion ensued and condition #14 was revised to read: **The applicant/property owner shall meet all requirements set forth by the Nestucca Rural Fire Protection District, including requiring the installation of a monitoring 13-D sprinkler system in each dwelling. A**

letter of final approval from the Nestucca Rural Fire Protection District is required for Final Plat approval.

- Condition #18 was revised to read: **All lots within the subdivision shall obtain access from the proposed interior roadway. Lots shall not be directly accessed from exterior roadways abutting the cluster subdivision. These roadways include Summit Road, East Lane, and Fairway Court.**
- Chair Ousele suggested the following change in condition #7 to clarify who the letter is from in the second sentence: The applicant/owner shall meet the requirements of the Oregon Department of Fish & Wildlife, including the implementation of a conservation easement along Hawk Creek. A letter of final approval **from Oregon Department of Fish & Wildlife** is required for Final Plat approval.
- Commissioner Jones asked Ms. Absher about condition #1 and whether the language should be clear about the beginning of construction, planned permits, etc. Is it necessary to add this? Ms. Absher deferred back to the planning commission if it needed further wording. Commissioner Mizze stated that he felt it was fine and did not need further revision.

Commissioner Lovelin referred to a traffic engineer report by Mr. Bernstein. Mr. Lovelin asked how this information fits into the record and whether there was rebuttal for this. Ms. Absher stated that the issues were addressed in the letter from ODOT. Commissioner Heckerth referred to condition #6, which clearly states the regulations the applicants have to meet to get the road approach. Dave Schrom, from Public Works, stated that the traffic engineer did not state anything new.

Chair Ousele asked for further comments on conditions. Commissioner Heckerth asked for clarification on what the shadow plat is and why does the county require it if it does not effect the Planning Commission decision. Ms. Absher stated that it is a reference tool for calculating maximum density and urban development.

Chair Ousele stated that the applicants were not able to rebut what they had heard. She went on to state that this was a time for the planning commission to ask questions of the applicant.

Matt Sprague spoke on behalf of the applicants. The following are the applicants comments:

- He asked for clarification on condition #17. After some discussion, Commissioner Jones stated that the way the condition was written would mean that any change would have to go before the Planning Commission, which is not standard protocol. The other option is to totally remove it as a condition. Mr. Sprague stated that they would be alright if the Planning Commission decided to remove #17 as a condition.
- Applicants are okay with the modifications to conditions 14 and 18 as revised by the Planning Commission.
- The applicants feel that condition #19 is a civil issue, not a land use/planning issue. Applicant asked for this to be removed. Commissioner Jones did state that the county should be aware of the state of the deed to prevent further suit. Applicants feel condition of land use decision based on deed restrictions, is improper for today's standards. It should be separated from the land use decision.

Chair Ousele asked the Planning Commission if they had further questions of the applicant. No further questions were asked.

Commission Jones asked a question of Ms. Absher regarding condition 19 and whether she had received clarification from county counsel, Bill Seargent. Ms. Absher stated that the County does recognize deed restrictions when permits are issued. Does the deed restriction get enforced by the planning department? Ms. Absher stated that plans are altered if a deed restriction is present. Commissioner La France asked for the counties policy on deed restrictions. Ms. Absher reiterated that County Counsel stated that the county could proceed with the review process, but the deed restriction would need to be removed or modified to allow for the current proposal prior to final plat approval. Commissioner Heckeroth asked if it was a regulation or not. Mr. Parker feels that the deed restriction should be a civil matter. After a lengthy discussion, Commissioner LaFrance asked that the condition be left for future reference. Commission members were in agreement and Commissioner Jones stated that they should proceed at their own risk regarding this issue.

Chair Ousele asked for any further discussion on the conditions. No further discussion.

Commissioner Lovelin went through the conditions as amended:

- Conditions 1-6 as written in staff report
- Condition 7 reads: The applicant/owner shall meet the requirements of the Oregon Department of Fish & Wildlife, including the implementation of a conservation easement along Hawk Creek. A letter of final approval **from Oregon Department of Fish & Wildlife** is required for Final Plat approval.
- Conditions 8-13 as written in staff report.
- Condition 14 reads: The applicant/property owner shall meet all requirements set forth by the Nestucca Rural Fire Protection District, including requiring the installation of a monitoring 13-D sprinkler system in each dwelling. A letter of final approval from the **Nestucca Rural Fire Protection District** is required for Final Plat approval.
- Conditions 15 & 16 as written in staff report.
- Condition 17 is deleted.
- Condition 18 becomes condition 17 and reads: All lots within the subdivision shall obtain access from the proposed interior roadway. Lots shall not be **directly** accessed from exterior roadways abutting the cluster subdivision. These roadways include Summit Road, East Lane, and Fairway Court.
- Condition 19 becomes 18 and is ok as written in staff report.

Conservation easements in lots 1-10 brought up by Commissioner Heckeroth. Chair Ousele stated that it was addressed in the applicants' initial testimony.

All Commissioners in favor of leaving condition #18 regarding the deed restriction.

Chair Ousele acknowledged Ms. Absher's staff report for its' thoroughness and put togetherness. Commissioner Jones was in agreement with Chair Ousele.

Commissioner Jones explained that taxes will be due for the current and next year. He just wanted the applicants to be aware that there will be a large sum of money due at that time.

Chair Ousele asked for further discussion. None given. Commissioner Lovelin moved that SUB-09-01 to be approved with the conditions presented in the September 25, 2009 supplemental staff report with the following modifications:

- Condition 7 reads: The applicant/owner shall meet the requirements of the Oregon Department of Fish & Wildlife, including the implementation of a conservation easement along Hawk Creek. A letter of final approval **from Oregon Department of Fish & Wildlife** is required for Final Plat approval.
- Condition 14 reads: The applicant/property owner shall meet all requirements set forth by the Nestucca Rural Fire Protection District, including requiring the installation of a monitoring 13-D sprinkler system in each dwelling. A letter of final approval from the **Nestucca Rural Fire Protection District** is required for Final Plat approval.
- Condition 17 is deleted.
- Condition 18 becomes condition 17 and reads: All lots within the subdivision shall obtain access from the proposed interior roadway. Lots shall not be **directly** accessed from exterior roadways abutting the cluster subdivision. These roadways include Summit Road, East Lane, and Fairway Court.
- Condition 19 becomes 18 and is ok as written in staff report.

Commissioner Jones seconded the motion. Chair Ousele asked for a vote. All in favor 5:0.

Commission Lovelin stated the he appreciated the applicant's willingness to work with CPAC and the public. He also encourages continued community work.

V. **NEW BUSINESS:** None

VI. **AUTHORIZATION FOR CHAIR TO SIGN APPROPRIATE ORDERS, IF NECESSARY:** Yes..
Loveline moved and Jones seconded. All in favor 6:0

VII. **ADMINISTRATIVE DECISIONS: LUC-09-06, LUC-09-41, LUC-09-43, ET-09-04, BLA-09-05**

Recommendation: Commission Lovelin asked that administrative decisions not be listed unless they are provided for view. Chair Ousele recommended that the decisions be emailed. Commission Jones suggested the decision get mailed out with staff report and agenda each month. Ms. Soilihi suggested leaving out the Land Use Compatibility decisions as they do not pertain and suggested putting a description next to each decision and what the nature of the decision was.

Election of officers, will be added to the November 12, agenda.

The Bunkers will be on the agenda for that time. Tapes are available for review in the DCD office. Staff reports will be available. Mr. Parker asked that Ms. Absher or Mrs. Biggs be contacted to get information on reviewing the tapes of the September 24th meeting. Supplemental staff report will be provided by Mr. Parker.

VIII. **DEPARMENT OF COMMUNITY DEVELOPMENT REPORT:**

Commissioner Lovelin commended Ms Absher's work on the staff report.

Mr. Parker stated that October 21, will be the next reading of the Short-Term Rental Ordinance in the BOCC meeting room.

Mr. Parker stated that a committee being set up following the Neskowin coastal erosion community meeting. This committee will be working with DLCDC on a pilot project for Neskowin, Pacific City and possibly Rockaway Beach, specific study for those areas.

Valerie Soilihi talked about the Transportation Growth Management Program grant to address the intersection of Pacific Ave., Kiwanda and Sunset Drives on the west end of the bridge in Pacific City. They will be looking at ways to improve the intersection. Mrs. Soilihi stated they are currently setting up interviews with adjoining property owners, utilities, etc. These meetings will be held October 19 and 20, to be followed up with group meetings to coincide with the CPAC meetings.

Mr. Parker stated that he has several Measure 37 claims coming in at this time. They are having vested rights hearings and meeting with land owners around these claims.

Mr. Parker said the building permit activity for the 1st quarter is right on schedule for budget, comparable to last year. Not sure what will happen during the winter. Fees were raised 35% over last year. Staff stated that there are a lot of public questions regarding land use issues.

Workforce Housing Taskforce is looking at accessory structures. Three more CPAC presentations to happen. Ms. Soilihi will look at re-scheduling the next Workforce Housing Taskforce meeting.

- V. **ADJOURNMENT:** There being no further issues Chair Ousele adjourned the meeting at 9:05 pm.

Kurt Heckerth, Chair

Christina Biggs, Recording Secretary

Date