

# TILLAMOOK COUNTY PLANNING COMMISSION

## MINUTES

JUNE 14, 2001

### I. CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Chairperson Don LaFrance. Other members present were Kurt Heckerroth, Gale Ousele, Reet Vaga, Roger Tracey, and Scott Hill. Member absent was Joan Marti. Staff present were Lisa Phipps, Lynne Krueger, and George Plummer.

### II. APPROVAL OF MINUTES: May 10, 2001.

Page 1, corrections from April 2, line 4, the word :”smold” should be “smolt”; Page 6, paragraph 8, lines 3 and 4, the word “Hill” should be “Mill”; page 13, paragraph 3, line 2, the word “know” should be “known”.

Scott made a motion to approve the minutes of May 10, 2001 with corrections. Gale seconded it and the motion was carried 5 – 1 with Kurt abstaining.

### III. OLD BUSINESS:

None

### IV. NEW BUSINESS:

**Tentative Subdivision Request for Shorepine Village Phase II:** A request to complete Phase II, final phase, of the Master Plan for Shorepine Village. The tentative plat consists of 20 single family dwellings and 18 zero lot line single family dwellings. The subject property is zoned PCW R-2/PD (Pacific City/Woods Medium Density Residential Zone, Planned Development) The subject property is located in the community of Pacific City, bounded to the west by the Pacific Ocean and the east by Cape Kiwanda Drive. Shorepine Village Phase I abuts the north of the proposed project and Kiwanda Shores borders the south. The subject property is designated as Tax Lot 2200 in Section 24AD in Township 4 south, Range 11 West of the Willamette Meridian, Tillamook County, Oregon. Nestucca Ridge Development, Inc., applicant and property owner.

**Don read the oral statement regarding Quasi-Judicial public hearing procedures.**

There was no challenge to the Tillamook County Planning Commission to hear this matter. Regarding conflict of interest, Roger said that when he was president of the Pacific City/Woods Chamber of Commerce, this may have

been considered a conflict of interest, but since he is no longer the president, there is no conflict of interest.

Roger added that while he was president of the chamber there was a high school group that came to Pacific City from Portland on a community service project. The project involved planting stabilizing beach grass on a foredune. He said the grass for the planting was supplied by Jeff Shons, and the dune they planted is immediately adjacent to Shorepine Village. He said this is a coincidence.

There was no other conflict of interest or biases declared by members of the Commission.

Lisa said this proposal is for Phase II of Shorepine Village and will complete the Master Plan which was approved in 1995. She identified the subject site on a display map. Lisa also displayed a zoning map, indicating the site is zoned Pacific City/Woods R2-PD. Another display map showed the location of Phase I which abuts the current proposal. She also displayed the tentative plat for Phase II and it is virtually identical to Phase I in that it will consist of 38 lots with 20 single family dwellings, and 18 zero lot line single family dwellings.

Lisa added that the roads will be similar in Phase II as in Phase I and all variances for the roads were approved during the Master Plan adoption. She identified the open space identified as Tract F which is expansive. She went on to say that next to a commercial area, Tract B will be used for some over-flow parking and will be adjacent to lot 79.

Lisa noted that the only lots of any concern are the ones along the foredune and have been staked out so no structure will be cutting into the foredune. She said the rest of the parcel received a good review in the Dune Hazard Report. She added that the parcel is quite flat and is in an old vegetated deflation plain. The comments from the Division of State Lands identified a portion of the parcel that may require a permit prior to development. and Lisa said this is not out of the ordinary.

Again, Lisa said this parcel was approved as part of the Master Plan and the applicants fulfilled all Conditions of Approval for Phase I. She said the members could add Conditions of Approval to this application. She said she would discuss the current recommended conditions of approval if they decided to approve the project. She said she would recommend a modification to Condition number 10.

Reet asked if Phase I was fully developed. Lisa answered that it is almost completed. Reet then asked if there was going to be much of a traffic impact. Lisa said a left and right hand turn lane had been installed and those issues were discussed in full when the Master Plan was approved.

There were no more questions from the members.

Mary Jones, partner with Jeff Shons, identified herself as part owner of Nestucca Ridge Development. She said she hoped the members had seen what has been accomplished with the development of the first phase of Shorepine Village. She submitted some pictures for the member's review.

Ms. Jones went on to say that during the designing process for the Master Plan, the primary goal was to create a very traditional village of high quality. She said that in order to create the community they wanted, the following design features had to be incorporated: narrow streets, smaller lots, but more common areas, preservation of the important features of the land, and trails for walking and hiking.

Regarding the foredune area, Ms. Jones said there will be no development, but a movable ramp will be installed for easy access to the beach without disturbing the stabilizing beach grasses on the dune. She added that another common element to the development is the central seasonal pond. This area serves as storm drainage and becomes a beautiful area during the winter season.

Ms. Jones then described the designs of the houses, which are called northwest coastal.

Ms. Jones went on to say that Phase II is simply a continuation of what has been achieved in Phase I, and that includes, roads, number of lots, utilities, as well as home designs.

In conclusion, Ms. Jones asked the Commission to approve the tentative plat for Phase II for Shorepine Village.

Gale asked when the pond area was graded. Ms. Jones said it was done in 1996.

Roger said that part of the problem with walkways and trails is that most of them go to private ownership. But it is his understanding that at this time the trails and walkways in Shorepine Village belongs to the Homeowners Association and he wondered if the applicant sees any future problems with conflicts from public usage. Ms. Jones answered that the CC&R's are clear about the fact the trails and walkways are open to the public.

Jeff Shons said the trails have been identified as recreational and commuter trails. He added that on both sides of Cape Drive adjacent to and attached to the road they will be commuter trails. He said it just so happens part of the trails in Shorepine Village are near the road and they will have a recreational trail within a few feet of a commuter trail. Mr. Shons said all their trails will be open to the general public.

There were no more questions from the Commission. There was no testimony from the audience.

Lisa referred to Condition of Approval number 10 and read aloud a portion as follows: "The developer/owner shall submit a statement or dune hazard report

addendum from the project engineer, confirming the proposed development plans meet the mandatory development requirements of the dune hazard report to the department". She said the department would like to see the engineer submit a letter saying that these building plans comply with the dune hazard reports standards as well as the Conditions of Approval within the staff report when he gets and reviews the building permit.

Lisa said it would simply be a letter from the engineer saying the plans comply rather than asking the engineer to submit a complete dune hazard report. She added that the engineer would have to be licensed and registered engineer. Lisa suggested the members may want to add another condition that says '...if development is going to be occurring in the foredune area, another dune hazard report would be required.' She added that the applicant has no intention of constructing on the foredune area, but they are aware of a possible concern.

Don noted that there could be no development on the foredune unless there was a change in lot size. Lisa referred to the display map and said that as it stands, the dune hazard report was stating that within some lots, setbacks had been designated that would have no impact on the foredune. However, if they were to go into those setbacks there is a potential for destabilizing the foredune.

Don said that before anything could be built within the setbacks, a variance would have to be obtained. Lynne said that the tentative plat is not establishing any building envelopes, that the dune report only identifies building envelopes. Lynne said the concern of building on the foredune can be answered in Condition of Approval number 6, which means that all requirements of the dune hazard report have to be met.

Kurt asked the distance from the west side of the lots to the foredune. Lisa answered that the foredune backs several of the lots. Kurt asked what the potential is of the foredune moving toward the lots. Lisa said the dune is currently stabilizing itself and the vegetation is taking hold. She added that according to the dune hazard report, the dune would retreat on the ocean side rather than retreat toward the lots.

Roger noted that there was a lot of dune movement 1932 to 1965 and in 1965 dune grass was introduced and it became a significant stabilizer.

Lisa said this area is in the Pacific City Foredune Management Plan and they can do remedial grading around the structures and help maintain the foredune as long as they have a sub area management plan to support it.

There were no more questions to of staff. Don closed the hearing to testimony.

Roger said he felt the proposal was consistent with what is going on in the area.

Don said this development appears to be sitting a little bit further back than the rest of the lots along the foredune.

Roger made a motion to approve Shorepine Village Phase II subdivision according to the Conditions of Approval 1 through 17 as amended in Condition Number 10 by deleting the words “dune hazard report addendum”, along with the Dune Hazard Report GH-01-12.

The motion was seconded by Kurt and carried 6 – 0.

**ZC-01-01:** A request for a zone change for a 20 acre parcel from Farm (F-1) to Forest (F). The subject property is located on Cape Lookout Road about 800 to 1400 feet from the intersection with Sand Lake Road and designated as Tax Lot 301, Section 17, Township 3 South, Range 10 West of the Willamette Meridian, Tillamook County Oregon. Keith and Kap Bauer, applicants and owners.

Don announced that the procedure will be the same as in the previous item.

There was no challenge to the Tillamook County Planning Commission to hear this item. There was no conflict of interest or personal biases declared by any member of the Commission. There was no ex parte contact declared by any member of the Commission.

George gave copies of a aerial map to the members for their review as well as displaying one on an easel. for the benefit of all present. He also displayed a zoning map. He said there has not been any change since the aerial photo was taken in 1991 except a house has been built on a parcel he identified as the adjacent property to the east for the members.

George described the subject parcel as being approximately 20 acres and identified the location of a small meadow on the site.

Referring to the zoning map, George pointed to the different surrounding zones and noted that the subject parcel has been in Forest use for many years. He also described the topography of the parcel.

George then outlined the applicable criteria for the benefit of all present. Staff found that all criteria had been met. These reasons included the fact the property has been used for forest resource for many years; the soil has been determined to be better suited for woodland than farming; and the property will continue to be used as forest resource and if a dwelling is approved, it will be built in the meadow area;

In conclusion, George said staff recommends to the members to recommend approval to the Board of Commissioners for the zone change and comprehensive plan amendment ZC-01-01.

Don asked if other forestland adjoined this parcel. George said some U.S. Forest Service land abutted the subject site and he identified the U.S. land on the display map. George reminded everyone that the minimum lot size for forestland is 80 acres, but a zone can be created for parcels smaller than 80 acres.

Roger wanted to know what the applicant was accomplishing other than reducing their property taxes, by getting a zone change. George answered that the applicant will be gaining the ability to build a house through a template dwelling process. Building a house on Farm zoned property would be a very difficult process as a non-farm dwelling. George went on to explain the process and noted that the last attempt went to LUBA.

George went on to say that staff felt the zone change would be the best way to deal with the parcel since it has been managed as forest and will continue to be managed as such even if a dwelling is approved.. He said there is a natural firebreak that already exists and that is a plus.

Roger referred to the aerial photo and asked what the white area to the south of the subject property consisted of. George said was it was pastureland consisting of hay and staff did not see any impacts on the subject parcel.

Kurt asked what the size of the opening is for building a house. George said they are required to have a 30 foot completely cleared area and another 50 feet of area that doesn't have fuel buildup. He added that they would have to meet requirements of state law.

There were no more questions from the members.

Ron Larson, Box 219, Manzanita, OR., identified himself as an engineer with HLB and Associates in Manzanita. He said his firm has been retained by the applicants to assist them in going through the zone change process. He added that the applicants need to know what they can do about building a house on the subject parcel.

Mr. Larson said many conversations had been held with staff in order to determine the best way to go since this parcel is not being used as farmland and in fact has been used as forestland. It was decided that a zone change would be the better use of the land. Mr. Larson said it was not clear why the property had been zoned farm in the first place because it should have been zoned forestland originally.

Mr. Larson agreed with staff that all criteria has been addressed and met. He added that he also agreed that there will be no loss of resources by making the zone change. He went on to say the applicants plan to apply for one dwelling on the parcel in conjunction with forest use.

Roger wondered if the applicants would make up on the property taxes to off set the cost of this application. Mr. Larson said he really couldn't answer such a question, but he said his gut feeling would be "no".

Don agreed with Mr. Larson since it is already zoned farm. Mr. Larson said the option is no dwelling versus a dwelling and he didn't think it could be made back in taxes.

Regarding Mr. Larson's comment of not knowing how the parcel was zoned farm in the first place, Don said that a lot of the smaller acreage parcels that were adjacent to farm land came in voluntarily when the comprehensive plan went into affect about 20 years ago.

There were no more questions from the Commission.

There was no other public testimony.

At this time, George submitted a copy of a letter of support he had received from Shawn Reiersgaard from the Tillamook County Creamery Association.

Don commented that though he is always concerned about building homes on and conversion of resource zones, it appears this zone change will hold this parcel in a resource zone longer than if was kept in farm zone. He added that he had no problem with the zone change request.

Roger mentioned conditions of approval and George said conditions are generally not attached to a zone change request unless it was in an overlay zone for a gravel pit where the ordinance requires conditions. He added that the Planning Commission in not making a decision, but recommending a decision to the Board.

There was no more discussion.

Scott made a motion to recommend to the Board of County Commissioners approval of Zone Change Request ZC-01-01 based on the staff report and testimony.

The motion was second by Roger and carried 6 – 0.

**CU-01-08:** To allow the establishment of a soil mining operation on property in a Farm (F-1) zone including mining, processing, stockpiling, and sale of soil, and storage of equipment or vehicles used in conjunction with onsite mining and processing. Access to Wilson River Road will be at about 500 feet east of milepost one. The property is located south of Wilson River Road and is designated as Tax Lot 600 of Section 20, Township 1 South, Range 9 West of the Willamette Meridian, Tillamook County Oregon. Don Aufdemauer property owner and applicant.

Don announced that process for this item will be the same as in the previous agenda item.

There was no challenge to the Tillamook County Planning Commission to hear this matter. There was no conflict of interest or personal biases declared by any Commission member. There was no exparte contact declared by any Commission member.

George displayed a map of the subject site and identified the surrounding zones which consist of Farm and Rural Residential. He added that the applicant is applying for a conditional use in order to operate a soil mining operation.

George said the parcel is 36 acres in size, but the excavation site will be about 15 acres for the life of the proposed use. He added that the applicant plans to excavate approximately a quarter acre per year and averaging between three and six feet deep that will amount to about 1000 to 1500 cubic yards per year. He added that the excavation will occur at the back of the field and in time, moving away from the slough. The rest of the property will be kept in pastureland.

George went on to say the duration of excavation is projected for 60 years, and a buffer will be maintained along Dougherty Slough and The Wilson River Loop Road for about 100 feet. George pointed this out on the display map.

George then outlined the six applicable Conditional Use Criteria for the benefit of all present. He stated that staff believed the first criteria had been met.

Regarding criteria number 2, George said a concern is whether or not the soil under the topsoil is going to be as productive as the topsoil. Another concern of staff is if the operation could lead to cumulative impacts that would not be consistent with the applicable goals and policies of the Comprehensive Plan. George added that this project appears to be rather benign because the applicant plans to return the parcel to pasture land when the mining operation is completed. George said staff was unable to determine if the use is consistent with the applicable goals and policies of the Comprehensive Plan and the Planning Commission will have to make that decision.

Regarding criteria number 3, George said staff believed the parcel is suitable for the proposed use because of the size, shape location and topography. But, he said, the Planning Commission will need to address whether this criteria is met in relation to the parcel being suitable for the proposed use in relation to the soil features, in regards to protectiveness of the remaining soil.

Staff concluded criteria numbers 4 and 5 have been met, and criteria 6 can be met through Conditions of Approval.

In conclusion, George said staff is unable to make a recommendation at this time until the Planning Commission addressed and discusses the criteria he mentioned in his presentation after testimony of the applicant. He added that recommended Conditions of Approval have been added in case the Planning Commission chooses to approve the request.

Don stated that other mineral extractions are regulated by the Department of Geology and Mineral Industries (DOGAMI) and they have requirements for rehabilitation. He wondered if soil mining was regulated by any entity other than the county. George answered that DOGAM permits would not have to be obtained because the extraction will be below the amount required for a permit.

He added that he believed there will have to be rehabilitating in the pasture area, and Conditions of Approval could also require that.

Roger asked why the wordings of letters from Public Works received by staff and referred to as exhibits in the staff report and used for Conditions of Approval could not be included rather than just referenced. George said staff chose to include them as part of the letter because they are conditions that are being requested by another department's staff.

Don added that by including the letter themselves in the record, it shows where the condition came from rather than indicating the condition came from the Planning Commission. George added that it shows it was a particular agency is addressing a particular issue.

Kurt asked when the restoration operation will begin each year. He was told by the applicant that it will be late October.

George stated that Condition number C stated that the mining operation shall be operated as represented in the applicant's submittal (Exhibit III). George said he also included that the parcel shall be replanted annually in the fall so as the grass will be re-established prior to heavy rains.

There was a short discussion regarding the replanting of the pasture.

There were no more questions of staff.

Don Aufdemauer, 1410 Wilson River Loop, Tillamook, applicant. Mr. Aufdermaurer said many farms seed in the fall because if they seed in the spring, the weeds are beginning to come on and they would be competing with the seeds. He then discussed the lower soils and added that there is no blue clay on the parcel which indicated there is good soil all quite a ways down. He indicated he had dug as far as 13 feet and hit nothing but good soil.

Don asked Mr. Aufdemauer if he had done any consulting with a flood scientist or the NRCS. Mr. Aufdemauer answered that he had gotten some maps.

Don then asked what the chances are that the area may be come a small gravel pit with flooding in the wintertime and becoming non-productive.

Rich Gitschlag, engineer, 416 Laurel Avenue, Tillamook, answered Don's question by saying he had made a site visit and excavated down about 8 feet. He said there is a very slight variation in the clay and sand amount between what he found and the staff report pertaining to the soils.

Mr. Gitschlag referred to the display map and indicated an area that is approximately 20 feet above the summer floor that he said will stay above the mean high water. He added that all the soils in that area are flood-deposited soils and rich in nutrients.

Mr. Gitschlag said the packet exhibits indicate the intent is to keep the parcel in the shape so water will run out and not create an area that will not be suitable for pastureland.

Regarding the driving of the equipment over the fields, Mr. Gitschlag said the only place the equipment will be routed over existing farmlands except near excavation areas. He could not see where it would make a change in the character of the area.

Don asked if Mr. Gitschlag knew of any other soil mining that was taking place in the county. Mr. Gitschlag said he heard of people selling top soil here and there. Don then asked what percentage of the market would this project supply. Mr. Gitschlag answered that this particular type of soil, Nehalem silt loam, has a small market for sand filters, landscaping and excavation for homesites. It was then noted that the soil would be taken mostly from the area between the river and the slough.

George referred to the display map, indicated an area and asked if that area was wetter later in the summer than the higher area. Mr. Aufdermauer interjected that the area was a little lower. George then asked if there was a tussock problem at the site, and Mr. Aufdermauer answered he had never had such a problem, but the growth may be a little slower.

Gale asked what the cycle would be in terms of getting the land back to productive pasture land after excavation. Mr. Gitschlag answered it would be about a year. He added that the whole parcel would not be excavated at the same time, but a portion at a time that would require a couple truck loads.

Scott asked if it would make more sense to make a cover crop in the fall. He was told that grass is considered a cover crop.

Gale wanted to know if fiber materials had to be added to the manure that was to be used for organic materials when reseeding. Mr. Aufdermauer said there is enough organic materials already in the manure.

There were no more questions from the Commission.

There was no more public testimony.

George said staff did not see any adverse impacts regarding this proposal and all staff concerns have been addressed except the fact this may set a precedence in Tillamook County. He added that if the idea becomes popular, it could be addressed with some sort of ordinance policy provisions.

Gale referred to Figure 2, Notes number 3 in the Engineer's Report regarding placing hay bales along the outer perimeter for siltation control. She said she wanted to make sure this was included in George's comments. George said he would include that "the applicant shall operate as proposed in the their application." He added that the applicant has some good conditions of his own.

Gale asked if staff felt there was any need or provision for an on-going review of the operation to make sure the land is returned to pasture use. George said it is hoped the applicant takes the request seriously and adheres to all conditions. He added that Conditions of Approval gives staff the opportunity to check on the operation.

At this time, George submitted a copy of an aerial view to the Commission which was taken in 1994 and was a more current map than was first presented to the members.

Roger said it is surely possible the applicant will adhere to conditions, but he wondered if the next owner would follow the plan if Mr. Aufdermauer sold the property. George answered that any new owner will have to follow the rules and conditions, and the application is part of the staff report. He added that it is hoped that any future Farm and Forest planners would occasionally make a site visit to confirm all condition are being done.

Roger wondered if it should be made a Condition of Approval that staff be notified if there is a change in ownership. George stated that staff usually knows if there is a change in ownership especially in Farm zoned land. He added that he did not see change of ownership as a problem.

Don closed the hearing to all testimony.

Don stated he did not feel quite so concerned after hearing all testimony. Gale noted that her concerns had been addressed and answered.

Scott made a motion to approve Conditional Use Request CU-01-08 for a commercial soil mining operation in a Farm Zone based on testimony and the staff report and subject to the Conditions of Approval in the staff report as amended by changing "Exhibit C" to Exhibit III, and that the Commission finds that all criteria have been met.

The motion was seconded by Reet and carried 6 – 0.

V. **AUTHORIZATION FOR CHAIR TO SIGN APPROPRIATE ORDERS, IF NECESSARY.**

Roger made a motion for chair to sign appropriate orders if necessary. The motion was seconded by Scott and carried 6 – 0.

VI. **DISCUSSION ITEMS:**

**ADMINISTRATIVE DECISIONS:**

CU-01-05(a), CU-01-09(a), CU-01-11(a), DP-01-04, DP-01-05, DP-01-06, ET-01-04, ET-01-06, MP-00-01, NCMR-01-02.

There was no discussion regarding the Administrative Decisions.

**VII. PLANNING DIRECTOR’S REPORT**

Because Vic was not present because he had to attend a conference, but he wanted the members to know that he was okay. Roger expressed his support of Vic.

George said the camp issue(?) they had worked to hard on was appealed to the Board of Commissioners and the applicant decided not to pursue the application any further. He added that the applicant was trying to obtain another piece of property and if they are successful, the application will probably come before the Commission at a later date.

George said it is possible there will be no Planning Commission meeting in August, and the members will be notified.

George introduced Nadine Smith who was hired as Associate Planner. Nadine said she has been a planner for the City of Beaverton for 20 years as well as working for the City of Tigard for the past 5 years. Nadine added that she is very happy to be working with the county and living in Tillamook County.

George also introduced Sarah Miller who was hired as Office Specialist and will be the Recording Secretary for the Planning Commission.

**VIII. ADJOURNMENT**

There being no further business, Don adjourned the meeting at 9:00 p.m.

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Don LaFrance, Chair

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Vic Affolter, Director

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Barbara Legoo, Recording Secretary

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Date