

TILLAMOOK COUNTY PLANNING COMMISSION

MINUTES

OCTOBER 10, 2002

I. CALL TO ORDER:

The meeting was called to order at 7:00p.m. by Chairperson Don LaFrance. Other members present were Kurt Heckerth, Gale Ousele, Anne Price, Joan Marti, Charlie Swan, and Scott Hill. Staff present were Bill Campbell, Director, Lynne Krueger, Lisa Phipps, Tim Franz and Bill Holmstrom.

II. APPROVAL OF MINUTES:

References were made to pages 1, 3, 5, and 9 regarding typos.

Scott made a motion to approve the minutes of September 12, 2002 as amended. It was seconded and the motion was carried 5 – 2 with Charlie and Kurt abstaining.

III. OLD BUSINESS:

There was nothing under old business to discuss.

IV. NEW BUSINESS:

OA-02-02: An Amendment to the Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14 to remove a Community Growth Boundary for the Community of Cape Meares. The purpose of removing the Community Growth Boundary is to partially address Periodic Review Task 11, Tillamook County Department of Community Development, applicant.

OA-02-03: An Amendment to the Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14 to remove a Community Growth Boundary for the Community of Falcon Cove. The purpose of removing the Community Growth Boundary is to partially address Periodic Review Task 11, Tillamook County Department of Community Development, applicant.

OA-02-04: An Amendment to the Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14

to remove a Community Growth Boundary for the Community of Tierra del Mar. The purpose of removing the Community Growth Boundary is to partially address Periodic Review Task 11, Tillamook County Department of Community Development, applicant.

Don read the oral statement regarding Legislative public hearing procedures.

There was no challenge to the jurisdiction of the Planning Commission to hear these items. There were no conflicts of interest or personal biases declared by a Planning Commission member. There was no ex parte contact declared by any Commission member

Bill gave copies of applicable criteria to those in the audience.

Lynne displayed maps of the communities of Falcon Cove and Tierra del Mar and said she did not have a map of Cape Meares. She explained that in reviewing these communities against the Rural Lands Rule a couple months ago, it was discovered that these three communities did not qualify for Community Growth Boundaries. She went on to say that in order for them to qualify they had to have residential as a base and two other land uses.

Regarding Cape Meares, Lynne said it has residential, some beach access, but no commercial or industrial.

Falcon Cove has residential as a base and public beach access, but it is not state recognized. It also has a small private school, but does not have a third use.

Lynne indicated Tierra del Mar also has a residential base and some commercial zoning, but no real commercial uses. It also has some public beach access, but it is lacking industrial or commercial use.

Lynne indicated staff had conferred with Department of Land Conservation and Development (DLCD) and staff was told that, as part of the Periodic Review Task, if these three communities did not meet the OAR, Oregon Administrative Rule, they had to be removed from Community status to an "exception area". She added that with this status, the area can still use rural residential zoning, but not commercial or industrial.

Lynne went on to explain that loss of the Community Growth Boundary means that the Rural Residential zoning requires 2 acre minimum for new

parcels rather than the current 20,000 square feet. Another change will be that in order to get sewer into the area, an exception to Goal 11 will be required. Lynne wanted to make it clear that the existing parcels of 20,000 square feet will not be impacted because they are recognized existing parcels.

Don asked what the consequences would be for not changing anything and leave it as it is now.

Lynne answered that DLCD would remand it back to the county because they would not approve or accept it as it is now. She added that Periodic Review would not be complete on this particular task.

Charlie asked if a current application for a subdivision would come under the 20,000 square foot limit. Lynne answered that it would and was approved by DLCD. This application will not be impacted by the change.

Charlie then asked if lot sizes could be less if the community became a city at sometime in the future. Lynne said that issue would be taken into consideration during the incorporation process. She added that it would also probably depend on the possibility of sewer and water in the area.

Gale asked what steps would have to be taken in order for Tierra del Mar, for instance, to get sewer services. Lynne said DEQ would have to declare this a health hazard area and it would depend on the scope of that declaration. She added that in some areas, it has taken a great deal of time, and in others it was easy to prove Goal 11 had been met.

Lynne noted that staff had attended an annual Association meeting in Tierra del Mar and explained at length what Community Boundary meant. She said 76 out of 78 people at the meeting indicated they wanted the boundary removed and only 2 wanted it to remain.

At the Cape Meares meeting, residents also indicated they wanted the boundary removed. Falcon Cove residents did not want any changes made at all – boundary or no..

Regarding resident contact, Lynne said at least 3 mailings were sent out pertaining to this issue and meetings were held as well.

Lynne noted that it is possible for any one of the communities to become a “Community”, but staff does not have the resources at this time to develop the exceptions necessary. She added that staff would be willing to help any of the communities through the process, but staff cannot do it themselves. All of it would have to be approved by DLCD.

There were no more questions of staff.

Nicholas Miller said he owned property in Tierra del Mar and if he couldn't sell portions of his property at 20,000 square feet, he would lose approximately \$400,000. He added that he felt trodden on by the state and he did not know if he had any recourse at all.

Donald Lettenmaier, 5960 Pollock Avenue, Tierra del Mar, said he has owned property there since 1950. Regarding the vote that was taken at the Association meeting in Tierra del Mar, Mr. Lettenmaier said it was not a fair vote because people were afraid to vote the way they really wanted to. He added that he thought there were three businesses in the community, a realtor, a rock store and the water system. Mr. Lettenmaier said it seemed that Tierra del Mar was like the "sand being blown away", and he wished it would stop.

Jim Hardie, 22541 Calgary Drive, Bend, OR. 97702 asked why having a water system in Falcon Cove would not constitute a business. Lynne said that none of the communities have industrial, which makes the third necessity for a Community Growth Boundary. Mr. Hardie also asked about the beach access. Lynne answered that a commercial use is needed in Falcon Cove, and a beach access is a public use.

There was no more testimony from the audience.

Lynne indicated that the Real Estate office mentioned earlier is considered a home occupation according to DLCD because it is not a full-fledged office. They are selling their own property and do not advertise. She added that they tried to get DLCD to consider home occupations as a business, but they would not unless they obtained a Conditional Use to operate as a commercial business.

Regarding the rock shop, Lynne indicated it does not have a restricted commercial use and the owner has never applied for a Conditional Use to operate the shop as a commercial business.

Lynne told the members they will be receiving a 7-page notice after October 18, regarding other Ordinance Amendments they will be reviewing. She again said the Department does not have the resources to do the exceptions, but offered help to the communities who may want to undertake the task. Lynne added that this Periodic Review has been going on for 8 years.

Lynne said the directive from DLCD was to remove the boundaries of these communities if they did not meet the requirements. She asked the members to recommend approval of the removal to the Board of Commissioners.

There was a short discussion pertaining to the exception process and Lynne said she anticipated Tierra del Mar will have sufficient changes in residency that will require the Community Growth Boundary.

Mr. Lettenmaier approached the podium and asked why the Nantucket Shores is not considered a commercial real estate business when the federal government recognizes it as far as taxes are concerned. Lynne again explained that it is a home occupation, because they sell only their own property and they do not sell individual homes as most real estates do. Mr. Lettenmaier asked about the connection between Nantucket and the Meyers property. Lynne answered that Meyers is a partner in one of the phases of Nantucket Shores and she added that his is the only other property Nantucket Shores can sell other than its own.

Anne asked if Mr. Miller could go through a process and sell off smaller portions of his property after the 2-acre minimum became affective. Lynne answered that there is no process to create smaller parcels outside a Community Growth Boundary.

Kurt asked if any of the residents at the meetings had a problem with the 2- acre minimum. Lynne answered that Falcon Cove was the only community that did not discuss the 2 acre versus the 20,000 square feet lot size. Lynne went on to say that she had signed off on some partition plats that had been submitted.

Charlie asked what would happen if the Commission did not recommend to remove the boundaries. He cited the affect the change would have on Mr. Miller because he could not sell small portions of his property. Lynne said DLCD would not sue the county, but would remand it back to the county, and in the meantime there would be no division of property at all until the issue was resolved. Both Charlie and Lynne stated they were not happy with the issue.

There was no further discussion from staff or the audience.

Gale made a motion to recommend approval of OA-02-02 to the Board of Commissioners to amend the Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14 to remove the Community Growth Boundary from Cape Meares based on the staff report and testimony.

The motion was seconded by Joan and carried 7 – 0.

Anne made a motion to recommend approval of OA-02-03 to the Board of Commissioners to amend Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14 to remove the Community Growth Boundary from Falcon Cove based on the staff report and testimony.

The motion was seconded by Kurt and carried 7 – 0.

Charlie made a motion to recommend to the Board of Commissioners they not remove the Community Growth Boundary from Tierra del Mar because of the severe personal problems that would exist if they did.

Charlie went on to say he thought \$400,000 was a great loss and he did not think it was the Commission's job to make DLCD totally happy, but he felt the Commission should protect the citizen that could have "serious injury" from such a change.

Don reminded everyone that the impact could be greater if Mr. Miller could not sell any of his property while the issue was being remanded back to the county.

Joan agreed with Don and added that the whole process could take 8 to 10 years and no lots could be sold in that time. Charlie admitted it would become a serious situation, but said he was not convinced that that would actually happen.

Lynne explained there are state deadlines that have to be met and she explained the remand process for the benefit of all present.

Don added that the Board will look at the state law as well as the administrative law in making a decision. When Charlie said he was not convinced this was a state law but a rule, Don said it is a state law because it is an OAR, Oregon Administrative Rule.

Charlie continued by saying he would rather see the state unhappy than one of the county residents and he did not want to see him injured. He added that he was not convinced that the county would be violating anything.

Charlie then asked if the county could adopt the parcel sizes currently permitted in Tierra del Mar. Lynne answered "no" because they do not

meet the minimum requirements to be considered a Community as she had outlined earlier in the meeting.

At this time, Bill Campbell explained the Administrative Rule for the benefit of all present. He gave examples of problems other counties had when there were delays in compliance. He added that staff does not agree with LCDD and had worked very hard to get the best for the people in the communities. Bill said the Rule is very restrictive and could be more flexible.

Don asked if by “does not agree” does staff mean it does not agree with the Rule or is the Rule clear. Both Lynne and Bill noted that the Rule is clear in its Community Growth Boundary regulations.

A short discussion followed regarding subdivision applications, major partitions, and sizes of their lots.

Charlie’s motion died for lack of a second.

Scott made a motion to recommend approval of OA-02-04 to the Board of Commissioners to amend the Tillamook County Zoning Maps and to amend the Tillamook County Comprehensive Plan Ordinance 32, Goal 14 to remove the Community Growth Boundary from Tierra del Mar based on the staff report and testimony.

The motion was seconded by Kurt and carried 6 – 1 with Charlie voting nay.

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

Charlie made a motion for authorization for Chair to sign the appropriate orders, if necessary.

Joan seconded the motion and it carried 7 – 0.

VI. DISCUSSION ITEMS:

ADMINISTRATIVE DECISIONS:

AR-02-12(a), DP-02-012, DP-02-16, EX-02-06 and GH-02-14.

Regarding AR-02-12(a), Charlie said the description of the dwelling as a “manufactured dwelling “ is incorrect and should be described as a “mobil home” instead.

VII. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT

At this time, Bill Campbell introduced himself as the new Director of Community Development and began work full-time on October 1. He added that he is very pleased to be here and very pleased with staff’s performance.

Bill told the members that the Board had upheld their decision in the Lovejoy hearing, AP-V-02-04.

The Board re-appointed Charlie to the Planning Commission and Bill added that Anne will be stepping down as a Commission member. It is hoped that the Board will receive some good applications because both Don and Anne will be hard to replace.

Bill also noted that a seven page notice regarding Periodic Review will be mailed to approximately 12 thousand residents in Tillamook County. The first hearing will be held by the Planning Commission on November 14 and with the Board of Commissioners on December 4.

At this time, Vic Affolter gave a short speech recognizing Don’s many years of selfless service to the Planning Commission. (sniff, sniff) He emphasized the years they had worked together and he noted that Don will be very much missed.

On behalf of the Department of Community Development, Lisa and Lynne presented Don with a clock that included a plaque indicating his years of service (blow nose here!!!)

VIII. ADJOURNMENT

There being no further business, Don, for the last time, adjourned the meeting at 8:19 p.m.

Kurt Heckerth, Acting Chair

Barbara Legoo, Acting Recording Secretary

Date