

# TILLAMOOK COUNTY PLANNING COMMISSION

## MINUTES

DECEMBER 12, 2002

### I. CALL TO ORDER:

The meeting was called to order at 7:03 p.m. by Chairperson Gale Ousele. Other members present were Scott Hill, Charlie Swan, Anne Price and Bruce Lovelin. Staff present were Bill Campbell, Lynne Krueger, and Lisa Phipps.

### II. APPROVAL OF MINUTES: For November 14, 2002.

No corrections were made. Charlie Swan made a motion to approve the minutes of November and Anne Price seconded. The motion carried 5-0.

### III. OLD BUSINESS:

There was no old business

### IV. NEW BUSINESS:

Gale introduced Bruce Lovelin, the new Planning Commission member from Netarts.

The first order of business was ZC-02-02, a request for a zone change to rezone 10 acres currently zoned Pacific City-Woods High Density Urban Residential (PCW R-3) to Pacific City-Woods High Density Urban Residential with a Planned Development Overlay (PCW R-3 PD). Requested area is designated as Tax Lot 100, Section 24, Township 4 South, Range 11 West of the Willamette Meridian, Tillamook County Oregon. Sumco Ltd., applicant, Lavilla M. Spooner, Property Owner.

Gale announced that the sign-in sheet was being circulated. She read aloud the Quasi-Judicial Public Hearing Procedures. There were no challenges, no conflicts of interest, and no exparte contact declared by any Planning Commission member.

Lynne gave the staff report and announced that this is the first step of several that are necessary to develop this property. She handed a zoning map and tax lot map to each commission member. Lynne noted that a correction needed to be made about how much property is abutting Cape Kiwanda Dr. The staff report showed 600 feet abutting and it is actually 1100 feet. The 600 feet is the distance between the proposed accesses.

She mentioned that the drawings were only conceptual. Tonight's decision is strictly for the zone change and planned development overlay and not for a tentative subdivision or a master plan. Two letters of comment were received from Leonard Rydell and Carolyn McVicker. Lynne gave copies to the Commission members. The applicant is requesting the authority to develop forty single family units, two multi-family units with commercial development. The Planned Development Overlay will allow the applicant to utilize the land for more uses than the single R-3 zone allows. Other zones that surround this property are Pacific City-Woods R2PD zone and Recreation Management (RM). She explained to the Planning Commission that they will be making a recommendation tonight and that the Board of County Commissioners will make the final decision.

Bruce Lovelin asked Lynne what the open area below the tax lot is. Lynne explained that the parcel below Tax Lot 100 was BLM land. Bruce then asked if there were any future plans to develop the BLM land and Lynne's comment was we had no information regarding development. Bruce then asked what the arrows were on the map. Lynne advised him that these mark the community boundaries for Pacific City-Woods, a rural unincorporated community.

Gale asked if there were any further questions of staff. Bruce asked if the letters received would have any bearing upon the staff's recommended decision. Lynne stated that the letters deal with the master plan and the final product. Lynne then mentioned that the question before the commission tonight is the overlay of the Planned Development zone. The applicant will have to come back and submit a master plan and a tentative subdivision, which are separate application processes. Issues raised in the letters of comment included bike paths and some open common areas. Lynne stated that these are issues that the applicant can look at when he submits plans, but there are no plans being submitted tonight. Bruce thanked Lynne for explaining this to him.

Gale asked if there were any further questions of staff. There being no further questions, Gale then asked for the applicant's presentation.

John DeJong represented the applicants. He didn't have anything else to add to Lynne's report. He stated that he was here to answer any questions the Commission members may have of him. He also stated that this is the first step of many steps to develop this property. He noted that the overlay gives them the opportunity to proceed with a mixed-use type of development. He mentioned that it won't increase the density, it just gives them more flexibility. He asked for copies of the two letters of comment and Lynne gave them to him. His comment was that he would try to incorporate the comments into the development proposed for the property.

Gale asked if there were any questions. Anne referred to the application for the planned development overlay and that for item A6 regarding the economic and supporting data to justify the proposed commercial development in an area not so zoned, she noted that his answer was that there was very little economic and supporting data available in the Pacific City-Woods community and that the applicant completed his own survey which indicated a strong need for the proposed commercial development. Anne then asked John to elaborate on this survey and to explain what means he used. John stated that he had done the survey himself and he used local real estate agencies, and tried to find commercial facilities that were currently available for lease. The only available building he could find was recently vacated by Bay Shore Medical, and he believed it was still vacant. He mentioned that there are areas in downtown Pacific City, but one of the problems that he' s run into was that it sits in the floodplain which makes it harder to obtain building permits and insurance. This makes it harder to get a business going. He noted that there is one building and possibly two more, but most of the businesses in the downtown area are viable and operating. He mentioned that he tried to show that economic data is hard to obtain in the Pacific City-Woods area due to it being an unincorporated community. As far as he understood, there is no data available in this form from the county.

Anne asked him if he was largely looking at commercial properties available and John stated that was correct.

Anne then asked if the Commission was only approving the Planned Development Overlay and not the overall plan. John responded that the approval was for the planned development overlay.

Anne then made a comment that she felt may not be necessary but wanted to make it anyway. She referred to item 7 in the same section about the proposed development being compatible with the surrounding development in close proximity, and referenced that his drawings seem much denser than Shorepine Village. She mentioned the open space between buildings was smaller and that the plans didn' t seem consistent. John stated that he does not know what density to develop to and the density in the plans was based on the concept of commercial lots and a residential portion of development and that the rest will be left as common area. He brought to attention the fact that Shorepine Village is zoned R2 and that this lot is zoned R3, which is a higher density. Anne said that answered her question. Lynne stated that one thing about Shorepine Village was that the lots were smaller but they had greater open areas. John mentioned that the planned development for this lot would be the same as Shorepine Village, however his underlying development for this lot was different. Anne thanked him for his comments.

Gale asked if there were any more questions or clarifications. There were no further questions. She opened the hearing to public comment. There was no public comment. She then asked if there were any further questions of staff. There were no further questions. She asked staff if they had any further comments for the Planning Commission.

Lynne reiterated that this hearing is only for the Planned Development Overlay. She mentioned that there will be additional steps in incorporating a master plan and a tentative subdivision. She again stated that this was only a recommendation to the Board of Commissioners.

Gale stated that if there were no further questions or comments that the hearing was closed to public testimony. The issue was opened for discussion.

Anne had some concerns. Her concerns were that approving this Plan Development allowed for a portion of the tax lot to be commercial. She questioned if there was a need for more commercial development in the Pacific City-Woods area. She didn't feel John' s survey was a sufficient process to satisfy her as a Pacific City resident that there was a need for further commercial development. She read from the Pacific City-Woods Community Plan and was surprised he didn' t use that when doing his research on the needs of additional commercial uses. She referred to a Questionnaire from 1996 and to some questions and answers in the survey. The first question was "I like to live in Pacific City because it..." and the answers she referenced were ones people agreed with most. These included "uncrowded, has enough commercial services, is quiet, and is small". The survey was done on a 1-5-point scale. 1 being strongly disagree and 5 being strongly agree. The next question she read was "In the future, I would like to see Pacific City have..." The answers that fell between 3-1 points were "inexpensive homes, planned developments, tourists, industry, hotels, restaurants and more business services". She noted that when Lynne mentioned that there was a variety of housing listed as part of John' s plan, it wasn' t a goal of the Pacific City residents, according to the survey. As far as the planned development goes, it could be that the residents understood that it would allow for further commercial development. She mentions that she could be speculating on that comment. Since this survey was completed there has been considerable commercial expansion. She stated that she did understand that the current commercial properties are located in the floodplain and that she understood the problems that presents. She went on to comment that, nonetheless, there were existing buildings that were not being used. These could be raised or removed then rebuilt, or possibly modified. She commented that to her, allowing further expansion and commercial development is unnecessary. The next question she addressed out of the

survey was "Pacific City should..." She stated that there was very strong agreement that there should be a Planning Advisory Committee to make recommendations to the Tillamook County Planning Division on land use applications. Currently, no such committee exists. Her opinion of the community's feelings at the time of the survey was that there should be a community based effort on the justification of these kinds of changes and she didn't see that in this application at all. She thought that one of the problems in unincorporated communities was that they have no local government, and so their local government for better or worse turns out to be the Chamber of Commerce. She felt that the goals of the Chamber of Commerce differ from those of the residents. She had serious concerns about this.

Bruce asked a procedural question about information being placed on the record. His understanding was that the Commission was able to discuss the information placed on record, and he felt that it was unfair to not hear a rebuttal on this survey. He would like to have that discussion and hear the rebuttal on the survey. He wondered if this was considered in the planning staff's decision to support this application.

Lynne stated that the community plan was referred to. She did go back and look further in different minutes and that this was discussed at different levels of development. She stated that the plan was referred to in the report. She commented that this is basically to get the Planned Development into effect and then the applicant would have a chance to take into account what the Planning Commission has said and look at the file and make decisions. She brought up the fact that the reason it was not reviewed was because there is currently no panel in Pacific City. She stated that the plan was looked at, and as Ms. Price mentioned most of the existing commercial property is in the floodplain. This was specifically looked at because this plan creates an area for commercial development outside the floodplain.

Bruce asked that if approval was given, did it grant approval for commercial use within this property. Lynne stated that the planned development gave the applicant the ability to pull from various zone uses in developing the master plan. She commented that the applicant can't go out tomorrow and begin building. The applicant would need to go through a master plan process and in that master plan they must state what zone uses they will be using and in what areas and for what purpose. The plan must also meet the density requirements. Bruce asked if this Commission would be seeing the development proposal. Lynne stated that the Commission would be in the position to approve or deny additional proposals at a future time.

Anne stated that it might help if she read from the plan itself. She noted that her earlier comments only came from the survey, which were individual resident' s responses. She referenced the plan and the part that mentioned the commercial development being clustered into three main areas. The plan listed Cape Kiwanda and what is located there, the four-way intersection at the center of town, which has historically been the commercial area, and the third area which is located North of that intersection along Brooten Rd, and mentioned how commercial development here was interspersed with new and old homes. She commented that people in Pacific City do not want to see a strip type commercial density connecting those three areas. She stated that allowing this plan development would then allow for commercial businesses to creep in. She brought up the Cape Kiwanda commercial area, the Shorepine Village Plan Development, which allows for commercial, and this proposed plan development across the street. She then stated how the commercial areas north and south of the four-way intersection were slowly starting to connect and one thing that the Pacific City residents don' t want to see is a strip type commercial development. She stated that this is not strip-malls but commercially zoned property from Cape Kiwanda creeping down toward the bridge, across the intersection and back up the north side. She commented that she felt this was exactly what Pacific City residents don' t want to see happen. She commented that in the plan it is very clear that Pacific City wanted to be a residential community, not a commercial center. She has no objections to the residential part of the proposed plan, but giving the opportunity to allow for further commercial development concerned her.

Gale addressed Bruce' s procedural question and asked Bill Campbell for some advice. Bill stated that the Commission should move to reopen the hearing for additional public testimony.

Bruce made the motion to reopen the hearing for public comment and with Anne seconding, the motion was approved 4-1. (Charlie opposed)

John commented that he was not aware of the survey, but was aware of the community plan. He stated that no one he spoke with mentioned the survey. He commented that the survey was done back in 1996 and there' s been a lot of residential development since that time. He stated that most of the folks he talked with in town indicated a strong need for commercial development. He indicated that some people saw the need for commercial development, but were not necessarily in favor of it. One thing brought to attention from PCJWSA was citizen' s showing an interest in having a car wash or similar business and its impact. One of the agreements with them was not proposing any development of that kind. He stated that he appreciated all the comments and that the planned development overlay does not approve the plan. He commented that all of

the surrounding developments were created from planned developments and he would just like to be offered the same opportunity. He specifically referenced Shorepine Village, Kiwanda Shores and Nestucca Ridge. He stated that the reason for the commercial portion is due to Shorepine Village having ½ acre and ¾ acre parcels zoned commercial located right at their entrance. He was proposing accesses at the southerly intersection directly across from Shorepine Village. He also mentioned that he had the burden of being backed up to the sewage treatment plant and would like to place commercial lots there rather than placing the residential portion in this area. He felt that people didn't want their backyards next to the sewage treatment facility. He again stated that all of this will be looked at on a later date and that tonight is only for consideration of the Planned Development Overlay.

Gale asked if there were any further questions. Anne asked John if anyone he spoke with ever mentioned the community plan. John stated that no one ever mentioned the survey. Anne asked John if he read the community plan. John stated that no, he had not read it, but he knew there was one. Anne stated that she wanted to know how he determined the great need for commercial development. John stated that he's addressed the items required to be addressed in the zoning ordinance. He commented that in his discussion with the community leaders, he was never asked to consider the survey. Anne commented that she imagined that they didn't.

Gale again closed the hearing to public testimony. She asked if there was any further discussion among the Commission.

Bruce commented that it seemed to him that the staff has recommended approval and that an approval was not supporting commercial development. He stated that he was sensitive to the Commissioners' views on what the community wants relative to commercial development. But it seemed to him that the Commission wasn't determining the uses involved with the property and that this will be a later decision at which point we can raise those concerns.

Gale asked Lynne if the other planned developments in the neighborhood had provisions for commercial development. Lynne stated that all planned developments have the option of commercial if they've adopted it into their master plan.

Anne stated that her concern was that this allows it. She was not concerned at this point about the scale because the master plan has not been developed, but she was concerned that the plan development opens the door to further commercial development in a community that she feels doesn't want it.

Gale asked if there was any further discussion. There was no further discussion. She then stated that she was ready to entertain a motion.

Anne made a motion to deny zone change request ZC-02-02 based on her concerns that it' s not consistent with the community plan in regards to the potential development of commercial property. The motion died due to lack of a second.

Charlie made a motion that the Commission approve the Planned Development Overlay on this property based on the staff report. He stated that he believed in Planned Developments because you can take a property and come closer to what it really should be used for, and you have less raping of the land. He also mentioned that he would feel bad if we discriminated against one property when we' ve had the chance for public input. Bruce seconded this motion. Motion was approved 4-1 with Anne opposing.

Meeting was recessed at 7:43 and reconvened at 7:51.

Gale announced that the next order of business is an appeal to GH-02-17. This is an appeal to the Planning Director's Approval of a Dune Hazard Report review for a single-family dwelling. Subject parcel is located on Netarts Rd, designated as Tax Lot 800, Section 5BC, Township 2 South, Range 10 West of the Willamette Meridian, Tillamook County Oregon. Appellants are Ray and Therese L'Hommedieu and the property owner and applicant is Michael Cham. She announced that the sign up sheet was being circulated.

Gale read aloud the public hearing procedures. There were no challenges, conflicts or personal biases declared by any Commission member.

Staff report was given by Lisa Phipps who handed out the criteria. She provided the Commission members with tax lot maps and a plot plan for the proposed dwelling. She handed out information from Addendum #3 for the Dune Hazard Report. HLB & Associates had requested that this be given to the appellants and so she also gave copies to the Commission members. She also stated that she had received some letters of comment and handed those out. Letters of comment were submitted by John & Janet Stahl and William and Terri Frohnmayer.

There was a request for the Commission members to identify themselves, which they did.

Lisa read aloud a letter of comment submitted by Fred Graves, at the request of the Commission members. Lisa stated that tonight was to discuss the appeal of Dune Hazard Report Review GH-02-17. She stated that the staff made an administrative decision to approve this Dune Hazard Report. She mentioned that this had been a long process for the applicant. Lisa pointed out the size of the tax lot on the tax lot map, and points of reference to show its location. She stated that the proposal first came before staff in 1999, and was denied due to lack of completeness and concerns about the geologic description of the site. Several addendum's have since been submitted, and Addendum #3 is the one that this Dune Hazard Report's approval was based on. She went on to explain how the plans have changed from a 1600 sq. ft home with a very invasive process and traditional foundation to a structure that will be just over 800 sq. ft using micro piles that will be auger driven. The dune is classified as an open sand conditionally stable dune, and notes that this classification does have some limitations in the ordinance. She then went on to talk about the process that is used when these applications are submitted. She mentioned how Wes Greenwood reviews the report from a geologic perspective and how she checks for the applications completeness and compliance with the ordinances. She stated that the decisions are based upon compliance with the ordinance. She stated that she was willing to answer any questions the Commission might have.

Gale asked if there were any questions of staff. Bruce asked about the micro piles, and if the Commission will be hearing testimony from staff on their effectiveness and how they will be anchored. Lisa's response was that her understanding is that they are auger driven, so they are screwed into the ground, and it seems to be a less invasive process than many other methods of putting in a foundation. She mentioned that the engineers that proposed this method would be speaking in more detail about the technique. Bruce asked about the site's physical characteristics. Lisa stated that the lot rises up from the road, levels off into a bench and goes up the hillside towards further development. Bruce asked what the ultimate footprint would look like in terms of excavation. Lisa stated that one of the conditions is that no excavation is to take place. Bruce asked if the house would sit on pilings like on Happy Camp Road. Lisa said yes.

There were no further questions of staff so Gale explained that the appellants' presentation would be first, and also explained that all reference items or exhibits become part of the record.

Ray L'Hommedieu presented first, explaining where his property sits in comparison to the property in question. He and his wife are appealing GH-02-17 with the help of a lawyer and independent Geologist, in conjunction with his neighbors. He stated that it is not his intent to deny Mr. Cham the

enjoyment of this property, but to protect his own property. They felt that GH-02-17 does not satisfy the Land Use Ordinance, Section 3.085. He referred to Section B; Paragraph 3, letter C. He felt this was not adequately addressed. He stated that there were unanswered issues of safety and design in the micro pile construction listed in Addendum #3. He stated that he has a fair amount of construction experience and that he looks from the bottom up in construction and commented that he doesn't feel that this was done. He went on to talk about a tree that was cut down on his property and how he cleared the ground and trimmed some blackberries and other vegetation back. When he went back up to that same area approximately a year and a half or so later, he found the area devastated from doing that work. He discovered bare spots where beach grass had once been. He stated that this is only 30 feet from the Northwest corner of the Cham's property. It brought to mind, for him, how fragile the vegetation and stability of this dune is. He mentioned a strong crest in the dune that differentiates from a fairly sturdy and vegetated west slope to an east slope that is devastated from southerly winds and buried plant life. He was alarmed when he saw the approval of this project and began doing research. He researched the micro pile device that was to be used and found they are primarily used for holding towers. He spoke with Earth Anchors in Portland, a distributor and certified installer of the micro piles, and spoke with people in Missouri. He stated that he took the information he found and composed a drawing, which he proceeded to explain to the Commission. He stated that there was a lot of information omitted. He explained that the layerings on this drawing are represented by different colors. He also explained how the micro piles are driven into the ground and his concerns regarding this technique. He questioned if there is any tidal effect on this property, because land at the same level only 40 to 50 feet away at the boat basin, is normally under water. He went into detail about the process of the micro pile installation, as explained to him by Earth Anchors. Apparently they are auger driven, and the company uses a backhoe to screw them into place. The company stated that the reach of their machinery was 15 feet. He stated that this will not reach to the back of the property, so they hand install the micro piles with a torque rod to keep the hydraulic head from turning and then guide it at slow rpm's to get it started again. He explains that he considered his little project and the impact that had, and thinks of the traumatic impact of this project and realizes that it will be devastating to the vegetation on the property. He states that he only had brief conversations with these people. He also addressed another concern after speaking with Don Bobbitt from AV Chance, the company that manufactures the micro piles or "pull-down anchors". He explained that Mr. Bobbitt brought up the fact that sometimes water has a tendency to follow these anchors down for the first 18 feet or so. He stated that Mr. Bobbitt explained that this is due to the fact that in softer ground, the micro pile and auger can create a larger hole than is needed. When he

added up the additional space it comes out the size of a sink drain. One of his concerns is that the Geologic Hazard Report doesn't give any definitions as to the porosity of the subsurface layers. He addressed his concerns about drainage and previous problems with the existing culvert. He stated that new disturbances in the drainage patterns could create further problems and pressures on the culvert. He commented that he has many questions and concerns and doesn't feel that the Geologic Hazard Report fully addressed the simple issue of building the proposed structure from the bottom up. He felt that for this reason, it should be denied. He felt that this site should be thoroughly researched geologically. He also feels that we should enjoy a sand dune for what it's meant to be used for, a giant slide. He is concerned about his property as well as the King's property, which is to the NW of this lot, and the drainage issues that would arise if this construction took place. He stated that the proposed placement of this dwelling would fall into the natural drainage area.

Anne asked what caused the culvert to clog. Ray stated that it is usually debris and at high tide. Anne asked what type of debris and Ray stated that it was driftwood type debris as well as vegetation and such coming off the hill that gets piled up against the culvert.

Charlie asked if he was concerned about the house staying based on engineering or if he was concerned with his house falling down the hill. Ray stated that they were concerned about the hill coming down. This could undermine the bedding that the sand is piled on and provide new directions for the water. He mentioned that there are seeps and springs on this hill and that there's no underground picture to show if this would open a new source and cause further erosion.

Bruce asked what elevation Ray's house was at on the drawing. Ray stated that his house is essentially 12 feet in elevation with some low spots in the front yard.

The next person to present on behalf of the appellants was Cheryl Burgermeister. She stated that she is an adjacent property owner to the Cham's at the top of the property. She passed out two photographs taken approximately thirty years ago. She explained they were taken at a southerly exposure and that the subject property is not shown. The pictures showed the lack of vegetation at that time. She referenced the Frohnmayer's letter and explained that Mr. Frohnmayer has many years of experience in property development. Her main concern was item two in Mr. Frohnmayer's letter. She explained that any destabilization of the dune would effect her property, and would continue down the street.

Bruce asked if she had any photos showing the subject property. Cheryl answered no that these photos are of the dune. Bruce stated that he

would like to see where her house is located and how this would effect her property or the hillside. He stated that she obviously built on the dune and asked if her house has been moving or if she's had any problems associated with the location. Cheryl stated that she's located at the top of the dune where it's flat and more stabilized, rather than just open sand. She stated that she's had no problems. Bruce asked what street she was on and Cheryl gave her address.

The following person to present in the appellants favor was Mr. Roger Redfern, the Consulting Geologist retained by the L'Hommedieu's. He passed out copies of his resume and a letter he wrote to the L'Hommedieu's explaining his findings about the site.

Bruce asked if he was a Professional Engineer and Roger responded that he is a Registered Geologist and Certified Engineering Geologist in the State of Oregon. He then went on to explain where the Burgermeister's property is located and submitted two photos. The first is dated 1939 and was taken by the Corps of Engineers. It is a vertical aerial photo of the mouth of Netarts Bay, downtown Netarts, and the dune hill. He pointed out the diamond, which is the slide area on the hill. He stated that he conducted an independent investigation of the site, including a background review of publications and maps relevant to the site. He looked at the photos stereoscopically. The second photo was dated 1989. He went on to explain the geology of the site and surrounding areas, referencing documents from the State Department of Geology and Mineral Industries specifically for Clatsop and Tillamook Counties. He explained that it is a remnant dune field that stretched well offshore probably during the last ice age or around this time. He explained that in the photographs you can see that the dune has been stable, vegetation and landslide wise, yet this one area has remained open. He also explained different deposits and layers that surround the subject property and that are found on it. He went on to explain that the bedrock in the subsurface layers is most likely from the Astoria formation. He stated that he's submitting the 1939 photo to show more history to add to the 1953 photos from the previous reports. He stated that the 1939 photo doesn't show failure on this site. He doesn't know when the initial failure of the site happened or what caused it to happen because there's no photographic evidence. He stated that the site has remained an open sand area for an unusually long period of time. He went into detail about the introduction of European beach grass that was introduced in the late 1800's and early 1900's. He explained how it spread up and down the coast and by the 1930's and 1940's the coastline was well vegetated with this alien species. He noted the re-vegetation of the site in the 1970's. He commented on the fact that the sides seemed to have stabilized but the center remained open sand. He stated that even though the site is moderately well vegetated today, we still don't know what the original

cause was to make the site remain open for such a long time. He listed what he felt could have been contributing factors. These factors included wind erosion, which he found evidence of at the top of the hill, human excavation, of which he found no evidence, and wave erosion, which he feels eroded the underlying layers. Then, he considered landslide, which he stated that the evidence found supported this more than any other theory. He went into detail about the G2 & Associates boring report and comments on the single drill hole, no listing of equipment used, and the non-retrieval of samples. He stated that what they found could have been fill material due to the fact that in the 1960's and 1970's the road and marina were put in. He commented that the problem with a single drill hole is that we don't know what we're looking at or dealing with. He says the mention of angular basalt interests him because the only other area of basalt is in Oceanside and it's fragmental. It seems to him it should have been brought by ocean and stream and should be more rounded. He mentioned that his point is the lack of information. He went into detail stating that the G2 & Associates findings support a landslide theory as the initial cause for failure more than anything else. He felt that G2 & Associates combined the groundwater issue at the base of the slope with the findings to come up with the inclination of the layers. He explained the Liquefaction theory and how the inclination of the materials leads more toward that failure. He mentioned a report done by the State Department of Geology in 1974 stating that they had found clues of the Astoria formation being subject to landslides. He stated that in the previous reports, as well as this current report, landslides are not only listed among the potential hazards but are the key hazard. He commented that the other consultants couldn't adequately characterize the hazard or explain it to the County's satisfaction, therefore the previous application was denied.

Lisa passed out copies of the internal reviews that were done for each report. Roger went on to comment on the cover letter of the February 9, 1999 report, which identified landslides as a particular concern. He spoke to the rest of that report, focusing on 3.085 the Beach & Dune Overlay Zone. He referenced Part A, Section number three, Section A, number one and two. He then pointed out how the G2 & Associates report virtually ignores the possibilities of landslides on the subject property. He also stated that the addendum's from HLB & Associates don't address the issue either. He felt that the initial cause of the long-term instability at this site has not been addressed. He proceeded to make personal comments on The Capes landslide.

Bruce said that you can't draw parallels between The Capes landslide and this property because the factors for The Capes landslide included a variety of causes including wave action. Bruce felt that trying to make a parallel was very unfortunate. Rogers rebuttal was more comments on

The Capes landslide and contributing factors. Bruce asked if this whole hillside was called a complex dune and if there were slides occurring around the toe of the dune itself and in other locations. Roger replied that it's hard to call a dune complex and stated that there have been no slides of significance that he knows of. Bruce then stated that he considers a hill on the North side of Netarts at Happy Camp the same dune. Roger replied that it's not the same dune but can see where Bruce draws the comparisons. He explained that this dune would be remnants of Oceanside, but that occasionally dunes do merge on shorelines.

Bruce stated that Roger pointed out lack of sufficient information. He asked if this was his main criticism. He asked Roger if he has developed a conclusion based on construction occurring at this site causing continued sloughing or problems with the home, or is it a lack of information and he needed to obtain additional information from the other party. Bruce wanted to know what it is that Roger is looking for. Roger's comment was that he needed proof that the case satisfies the County's requirements of fully disclosing and identifying the potential hazards. Roger commented that the hazard all along has been landslides and he felt that it wasn't even looked at this time. He felt that certain issues have not been adequately addressed.

The next presentation for the appellants was their attorney, Corinne Sherton. She passed out exhibits and stated that she represents the L'Hommedieu's and the Burgermeisters. The first exhibit is what she believed to be a complete record of GH-99-01. The second exhibit was a letter she prepared for this hearing. She addressed the legal standards in the ordinance, referring to the Detailed Site Investigation. She stated that her clients were concerned this has not been met. She referred to Landslide Policy A, which states that development shall not be allowed in areas of active sliding. She commented that the word "shall" is used and how strong of a statement this was. Her clients were asking that this be denied because they feel the standards have not been met. She stated that they have included, in the letter she prepared, comments and conditions on how this situation could be improved if the Commission decided to approve over their objection. She stated that they are not forgoing their argument that this be denied, but simply providing a list to be considered if approved. She stated that in 1999 there was a great concern over landslide activity. She referred to Mr. Redfern's testimony. She quoted from the denial of GH-99-01 that "we found that the building site is located at the toe of a historically unstable area as shown in..." and mentions the photos included in the packet. "... the nature of this instability, including it's cause is not explained by either report..." and referenced and referred to the two reports in the Geologic Hazard Report, one being an engineering report and one being a job site report. She then stated that in this denial there was mention of the definition of an active

landslide and that the comment was made that the building site appears to be at the toe of an active landslide. This is a fact she felt was ignored in both the reports. She referenced many things found and commented on in GH-99-01 including the subsurface conditions, conclusion and reason for denial. She commented on the G2 & Associates report as well as the three addendums submitted by HLB & Associates. She referred to Mr. Redfern's testimony on the boring and drill site comments. She stated that HLB has modified the method of construction of the series of addendums to make construction less invasive, but brought up the fact that unless we know what the subsurface conditions are we can't be sure of what method of construction is appropriate. She felt nothing had been done to establish if this was indeed an active landslide. She referenced Mr. Redfern's testimony on the micro piles and his beliefs on why it remained open sand for so long. She and her clients felt that unless additional information was developed on the subsurface conditions of this property, the requirements of this Ordinance cannot be met. She again stated that her clients were asking that this be denied and referenced pages 5 through 10 in her letter, which addressed the reasons for denial and comments and conditions for approval, if approved. She again referenced Mr. Frohnmayer's letter and experience. She and her clients felt that the application should be denied because the site is too risky to build on. She would like to leave the burden on the applicant's shoulders to prove that they have met all requirements, provide necessary assurances of construction and meet all ordinance requirements.

Meeting was recessed at 9:17 and reconvened at 9:36.

Gale opened the hearing to public comment. She asked that people limit their comment to three minutes and to not be redundant in their testimony. She commented that if they submit something to be read that it does not need to be read to them. She also reminded the audience that anything referred to or displayed would become property of the county. She asked for any public comment pertaining to the appellants.

Shannon Brosseau who resides at 1705 Vista View Dr in Netarts spoke. She had a few points she wanted everyone to be aware of. She felt that placing micro piles at the toe of the dune would disturb the dune. She referenced the HLB & Associates report from August 26, 2002 and specifically comments on the sand removal process noted in the report. She felt that the backhoe in the same area would disturb the toe of this dune. She also referenced Wes Greenwood's report dated September 9, 2002. She felt that since these two things are not going to maintain the integrity of the slope and will result in the slope's failure, that this Geologic Hazard Report be denied.

Geraldine Smith resides at 2340 Wilson Beach Loop in Netarts and is not an adjacent property owner to the Cham's, but does live on a small hill. She is dealing with soil erosion constantly. She explains her constant battle of retaining walls and planting to stabilize the bank behind her house and the street side yard. She explained that since she put the house in she has had to add retaining walls and replace the street side yard. She stated that the soil in Netarts does move and would invite anyone to come and look at what she's dealing with.

Gale stated that since there was no further public comment on the appellants side that they would now move onto the applicants presentation.

Ron Larson of HLB & Associates presented for the applicants. He is a Professional Engineer and a Professional Land Surveyor practicing in Tillamook County for over 26 years. He stated that in this time his firm has worked on over 880 Geologic Hazard Reports and Geologic Reports since 1980. He requested a continuance on behalf of the applicants. He felt that there was a lot of material to go through and there were many questions that needed to be answered. He was not prepared to put the Commission on the spot because he had not received Rogers report. He commented on the materials received from the appellant's side. He noted that the points addressed in Corrine's paperwork state that if approved there would be CC&R's, a list of conditions of approval, and a specific site plan. He stated that there is a lot of language cleanup that needs to be done by all parties involved to make it clear now as well as to future property owners what can be done with this property. He referred to technical issues that Mr. Redfern brought up and states that he spoke with Mr. Redfern on Tuesday and Mr. Graves on Wednesday. He felt it would be foolish to try to explain five pages of questions given the hour that is approaching. It was almost 10 p.m. He felt it would be wise to answer questions at a later date. He would like to go over the past document history because he felt it was incomplete. He stated that there have been several submittals. The first being a Geologic Report done by Mr. Johnson in 1998. Then Mr. Gitschlag's engineering report in 1999. These documents along with the original application were denied by staff in June 1999. He stated that the Cham's then contacted his firm, HLB & Associates, and he then contacted G2 & Associates. He stated that drilling was done in December 1999. He felt it was indeed unfortunate that they only had one boring hole, they had intended to have more but it just didn't happen. The G2 & Associates Geologic Report was done May of 2000. There was a huge change in the site plan from 1999 to now. They submitted what is now called addendum #1 in January 2001. He stated that he submitted the addendums in a numeric order because he felt it was important in this process to show what was done previously. He stated that Wes Greenwood's initial review of the HLB plan was January

10, 2001. He stated that they met with Wes and went over details and clarifications and submitted addendum #2 in June of 2001. Staff approval was given on July 24, 2001. The Deadline for appeals was August 6, 2001. He stated that a meeting was held August 6, 2001, which he attended by telephone conference, with the applicants, citizens, people here tonight and staff. He stated that at that time, he and the applicants decided to withdraw their application. He stated that they resubmitted on August 26, 2002. He stated that there was again a reduction in building size, it was approved, then appealed and here we are. He did make a statement about Rogers testimony. He stated that this dune was used as an active pit by humans and trucks for sand removal, and he knew there were people in the audience who can testify to that. He also commented on Mr. L'Hommedieu's conversations with Earth Anchors and stated that he too spoke with them and got a little bit more detailed answers with more specific questions. He specifically commented on the questions regarding the backhoe and Ron found out that the company could attach their equipment to another contractors larger backhoe. He also stated that the micro piles do screw into the ground, but then a disc is sent down on the pilings and grout follows it down to make the cement casing. He stated that there is no open hole for water to follow the anchors down. He feels that there is a lot more information that can be provided. He stated that he and the applicant were willing to work with the appellants and thought they had been, but unfortunately it had to come to this. He stated that he and the applicant's are committed to solving problems and working with the community and adjoining property owners.

Mike Cham, the property owner, stated that he has lived in Netarts for 34 years. He commented that this property is located on the east side of the hill. He brought up the point that where he currently lives, he has had a clump of houses built behind him and watched as thousands of yards of sand were removed to build these new homes. He stated that he purchased the subject property in 1968 and that he contacted the Soil Conservation Department to get help in receiving beach grass, which he proceeded to plant himself. He also planted the grass and trees. He stated that what we see today is what he's done. He talked about the road on the property which he deeded so it could be used as a road and talks of neighbors and such using the road to access the ocean and how he's never complained about this. He stated he's just tried to be a good neighbor. He went on to explain how he owns the entire hillside, and what tax lots it's composed of. He stated that he's paid \$7,197.37 dollars in taxes in 6 years on a buildable lot that he can't build on. He wants to be a good neighbor and build a nice house on a nice lot.

Bruce asked what his assessed value is and Mike stated it's in the neighborhood of \$160,000.00. Charlie commented that Mike could appeal

this with the Assessor's office and Mike explained how he'd tried that before.

Mr. Cham then went on to explain how he's walked all over this hill in the 34 years he's lived here and has never seen evidence of landslides or water against it. He felt it was stable.

Corrine stated that she and her clients have no objections to a continuance. She would like to see more information on this project, specifically on the subsurface geology. She commented that she and her clients were concerned about leaving the continuance open-ended. She would like to work out an agreement with the applicants about any new materials that will be submitted be exchanged thirty days prior to the new hearing so that both parties have time to review to avoid another continuance.

John Cham, Mike Cham's son, stated that he has been in construction for 22 flawless years and that he wouldn't risk his reputation on this project if he wasn't absolutely sure that it wasn't going to endanger other people's properties. He stated that he would be very thorough in adhering to the counties and engineers requirements. He stated that this spring he put his own money down to enhance the bare spots by planting native species on the hillside and lot.

Gale asked if there were any other comments and Bruce commented on Mr. Larson's empathy toward the Commission members. Bruce asked that the commission get information 10 days ahead of the hearing, due to the volume of reports handed in tonight. He also commented that he wouldn't mind seeing photographs of the site and Roger stated that he would provide those.

Gale asked if there were any further comments from staff and Lisa stated that they need the 150-day waiver signed. Lisa felt that the continuance is a good thing due to the volume of information. She hoped that before the next meeting both sides would share information and have time to review.

Anne asked how the Commission could go about setting up a timeframe for parties to provide information to each other. She then asked if the Commission should put this into the continuance or leave it up to them. Lisa stated that the Commission could do that but she felt it would be more effective if the parties handled it themselves. Lisa then commented that the Commission could provide set a date for the hearing and a date which the parties must have information to each other by.

Ron stated that he and the applicants would like to try to work this out. He stated that it might be easier for the applicants and appellants to meet in a different environment to work all of this out.

Gale asked if there were any further comments, and Bill Campbell stated that he was appreciative of the parties willingness to work this out. However, he mentioned the fact that any materials shared between the two parties must be submitted to the County as well because this is a public hearing and public record. Bruce asked Bill if exparte contact applies during this time. Bill's response was yes, that exparte contact always applies. He stated that anything the board hears is critical.

Gale again asked if there were any further comments. Charlie commented on the material, stating that he felt it took too long to say. He stated his own feelings on being given material to read and then having it read to him, and about making the photographs better quality and making enough of them. He felt that the photographs should have shown the lot in question.

Gale asked if there was any further public comment. There was no further public comment so she asked the Commission if there was any discussion.

Anne made the motion to continue the hearing to a time and date certain by notice. Charlie seconded this motion. Motion approved 5-0.

Meeting was called back to order at 9:57.

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

Anne made the motion and Scott seconded.  
Motion approved 5-0.

**VI. DISCUSSION ITEMS:**

**ADMINISTRATIVE DECISIONS:**

AR-02-15, CU-02-20-A, ET-02-28 and MP-02-02.  
There were no questions or comments.

**VII. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT**

Bill Campbell provided the department report. He stated that this was just a summary of what the department has been dealing with. He stated that after the Commission had their public meeting regarding the Periodic Review that the Board of Commissioners held their hearing. He referred to item one of the Department of Community Development Report handout. He then stated that there had been four administrative reviews, noted above. He proceeded to speak about the Transportation System Plan, item three on his report. He also spoke of the Technical Assistance Grant for On-Site Sanitary System Surveys, item four on his report. He mentioned that concurrent with this will be another program through D.E.Q. to provide low-cost loans for property owners with failing systems who need financial assistance. He spoke of the grant received to assist with G.I.S., item five on his report. He stated that G.I.S. would become part of the Department of Community Development effective January 1, 2003.

Gale asked if there were any long term goals to combine tax lot maps with topography. She asked how close we were to achieving this.

Bill stated that we were working on establishing the controls to combine tax lots with topography. G.I.S. is the tool that will combine those. The current projects were taking some time, but hopefully we can push through and reach completion. The G.I.S. program will help the Department of Transportation and Dispatch (9-1-1). Bill then went on to talk about the work being done on the riparian ordinance, explained in item six on his report.

Bruce asked what part the Planning Commission plays in this. Gale stated that it would be a recommendation.

Bill went on to speak of the Work Plans being developed for project focus teams, explained in item seven on his report. He spoke of working with Department of Transportation and incorporated cities on standards for the sign ordinance.

Anne asked if these would include beach access signs and it was found it wouldn't, that those are a public works issue.

Bill stated that if any Planning Commission members would like to serve on these focus teams, to let him know. Bruce showed interest in the utility overlay zone and asked Bill of the time commitment. Bill explained that they would most likely be afternoon meetings with material to review but that it wouldn't be drawn out and that they would move quickly through the material.

Bill brought to everyone's attention that this was Anne's last Planning Commission meeting, and proceeded to give her nameplate to her. Anne mentioned that this has been a great experience and that she appreciated everyone. She stated that she's going to be concentrating on things closer to home.

Bill then asked if the Commission members had any questions of staff. Charlie asked if they need to notify anyone or organize a group to visit the Cham's property. Bill and Lynne both commented that they could go on their own or in a group. Lynne stated that they could go in groups, no larger than three, otherwise it would be considered a quorum and then they must do a public notice. Bill stated that if they do visit the site, then at the hearing for the case they state the date and time they visited the property. Lynne also mentioned that if the Commission members go in groups to the site that they are not to have any conversations amongst each other regarding the site or issue.

Bruce asked what the full membership of the Commission is and Bill explained that there are seven members and that Anne's replacement will be chosen by the January meeting.

Charlie asked what the agenda for January would be, and he explained he may have possible scheduling conflicts. Lynne stated that the agenda was not yet ready.

Gale asked if there were any announcements and there were none.

## **VIII. ADJOURNMENT**

There being no further business, Gale adjourned the meeting at 10:27 p.m.

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Gale Ousele, Chair

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Chenoa Descloux, Recording Secretary

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Date