

TILLAMOOK COUNTY
PLANNING COMMISSION MEETING
APRIL 8, 2004
MINUTES

I. CALL TO ORDER

Chair Heckerth called the meeting to order at 7:00 p.m. Other Commission Members present were Gale Ousele, Bruce Lovelin, Joan Marti, Charlie Swan, Terry Jones and Merrienne Hoffman.

Staff present were Lynne Krueger, Tim Franz and Bill Campbell.

II. APPROVAL OF MINUTES

There were no minutes to approve at this time. Commissioner Lovelin made a motion to postpone the approval of the minutes of January 8, 2004 until the next regular meeting on May 13. Commissioner Ousele seconded. The motion was carried 7 – 0.

III. OLD BUSINESS

There was no old business.

IV. NEW BUSINESS

ZC-04-01: A request for a Zone Change to rezone 59.87 acres currently zoned Farm (F-1) to Forest (F). The request area is designated as Tax Lot 400, Section 30, Township 3 South, Range 8 West of the Willamette Meridian, Tillamook County, Oregon. Dennis R. Sheldon, applicant and property owner. Tim Franz, Associate Planner.

Chair Heckerth announced that applicable criteria was being passed to everyone in the audience. He read aloud the Quasi-Judicial statement for public hearing according to ORS 197.763.

There was no challenge to the Tillamook County Planning Commission hearing this matter.

Regarding conflict of interest or personal bias, Commissioner Jones stated that he had prepared the lot line adjustment for the applicant, but he has no financial interest in the outcome of the decision.

There was no exparte contact declared by any member of the Commission.

STAFF REPORT:

Tim entered into the record the staff report, findings and conclusions for ZC-04-01. Tim then outlined the four Zone Change criteria, 9.020: Map Amendment Procedure, for the benefit of all present. He stated that the applicant had complied with all criteria.

Tim went on to say that the property is located east of Beaver near Blaine and identified the site on the display map. He added that there are no residential dwellings or sites adjacent or near the subject site. The property had been zoned Forest prior to 1982, changed to Farm after 1982, and has been associated with Forest practices all along. Tim said this zone change would reestablish the original Forest Zone. He then showed photos of the subject site on the easel board.

Tim added that there is no exception involved. The Oregon Department of Forestry is in agreement with the Zone Change because the property owner meets and exceeds the current Forest Management Practices. He said the owner has planted over 20,000 new trees in the last few years and plans to continue that practice and that the owner does not have irrigation rights. Tim indicated on the display map the approximate area where an adjacent property owner may raise cattle, as well as the location of a cemetery. He said there will be no adverse impacts on adjacent property owners because forest practices are already in operation on the site.

In conclusion, Tim noted that the owner is currently receiving forest tax deferrals on 36 acres with the rest of the property receiving farm deferrals. However, he said, the property is best suited for forest use.

Commissioner Swan asked if the owner could still grow trees if the property remained within the Farm Zone. Tim answered that he could, but that the Forest Practices are more suited for property that is being used for forestry production than they are for property that is zoned Farm.

Chair Heckerorth asked if the situation was reversed, could the owner graze cattle or use it for farm use on forest zoned land. Tim said he was not sure, but he felt it would be up to the Tax Assessor to determine what the best use of the area would be.

Commissioner Marti asked if there was a dwelling on the property. Tim answered that there was not, and if the owner decided to build one, he would have to go through a series of processes under either of the current or proposed zoning.

Chair Heckerorth expressed interest in one of the property lines, and Tim indicated on the easel map where a lot line adjustment had taken place that took care of any

easement issues. He indicated that the new property followed the natural contour of the land.

APPLICANTS TESTIMONY:

Dennis Sheldon, 31650 Blaine Road, Beaver, applicant and property owner gave a handout containing seven photos and two maps to the members as well as staff. The photos included scenes of the subject site, surrounding properties and the array of timber. Mr. Sheldon said he had attempted over the years to lease the property to the adjacent farm land owner, but he has been able to use it for only about 30 days a year about this time of year. He said there has been no water for irrigation the rest of the year, so it has not been farm friendly.

Mr. Sheldon went on to say that the lot line adjustment process took all of the useable farm land and he hoped the photos would reflect that. He said he bought the land in 1995 and it had been logged at least twice before the purchase, and has been logged since. Mr. Sheldon said he realized it could not be productive farm land and opted for a zone change request.

Mr. Sheldon then identified the photos in his handout as well as the maps. The photos included the approach to the site, the lot line adjustment line, the adjacent farm land and the existing timber. One of the maps was an assessors map of the area between Beaver and the location of the subject site on Blaine Road. The second map was a topography map of the more immediate area of the site.

Commissioner Lovelin asked if the photo of the timber was recent. He was told it was and Mr. Sheldon said he was disappointed because the photo does not show the young trees that have been planted. Tim interjected that the GIS map in the packet was made in 2001.

Chair Heckerth asked if Mr. Sheldon owned the property before the last zone change. Mr. Sheldon answered that he did not, and added that the previous property owner had owned it for approximately 46 years.

There were no more questions of Mr. Sheldon by the members. There was no more testimony from the audience.

Chair Heckerth closed the hearing to public testimony.

Chair Heckerth said he had seen the property and he felt it was much more suitable for forest uses than farm uses, and he could not understand why it was changed to the Farm zone when it was originally zoned Forest.

Commissioner Hoffman made a motion to recommend approval to the Board of Commissioners, Zone Change Request ZC-04-01, based on the staff report and public testimony received.

The motion was seconded by Commissioner Swan and carried 7 – 0.

CU-04-03: A Conditional Use request to allow the expansion of the existing Bay Shore Recreational Vehicle Park by adding Tax Lot 3204 of Section 5DB, Township 2 South, Range 10 West of the Willamette Meridian in the Community of Netarts and zoned Netarts Residential Manufactured Dwelling (NT-RMD). The current recreational vehicle park located on property between Old Netarts Road and highway 131 along Bilyeu in the rural community of Netarts. This property is designated as Tax Lot 2000 of Section 5AC, Township 2 South, Range 10 West of the Willamette Meridian, and Tax Lots 2700, 3300 of Section 5DB, Township 2 South, Range 10 West of the Willamette Meridian Tillamook, Oregon. Lighthouse Investments, applicant and Jack Clevinger, property owner.

Chair Heckerth read aloud the Quasi-Judicial statement for public hearing according to ORS 197.763. He announced that applicable criteria, Section 6.040, Conditional Use Criteria, was being handed out to the audience.

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

STAFF REPORT:

Lynne displayed a map on the easel board for the benefit of all present. She also gave a copy of the map to the Commission members. She then read through the six Conditional Use Criteria for the benefit of all present.

Lynne said the application is a request to bring the subject lot into an existing recreational vehicle park which is located on parcels she indicated on the display map and described above. The park was approved and allowed signs years ago and the neighbors took the decision to LUBA which was remanded back to the county. Therefore, she said, the use of this piece of property, if approved, would be to place the sign and allow some day parking.

Lynne then gave a brief background of the creation of the park, its RV sites, tent sites and additional site approvals. She noted that some conditions of approval had not been met on the 1979 Conditional Use approval. If this application is approved, those conditions of approval would have to be met and she reviewed them with the members. They included enclosing a parking area with no increase of signage, neither number or size.

Continuing on, Lynne said that a Netarts RV Park Master Plan had been accepted in 1986. The Master Plan came with a stipulation that a letter would be issued for the plan. They needed to have the plan by December 31, 1986 because that is

when licensing of RV Parks changed from the state's jurisdiction to the county's jurisdiction. Lynne said the letter in question was to be kept by the owner of the RV Park. The letters to Tillamook County RV Parks authorizing their continued operation and approval plans cannot be found.

In checking with the Health Department, Lynne said she found that the park in question has been licensed for 53 spaces since 1993, but cannot find records that support that number of spaces.

Indicating the subject site on the display map, Lynne said it has been used for signage and for day use parking only. She said the applicant wanted only these two uses to be part of the Conditions of Approval. Referring to the sign again, Lynne said the neighbors were not comfortable with it and the applicants are now proposing a sign that is essentially at ground level, and will not be lit as it was before.

Lynne wanted to make it clear that the application, with the exception of the Conditions of Approval mentioned earlier, is regarding this parcel only, which will be included in the Park, if approved.

There was a short discussion regarding signs and Lynne indicated that sign total can be no more than 200 square feet for the Park. The proposed sign is 144 square feet. Lynne said the lot in question would become part of the Master Plan for the RV park.

Commissioner Jones asked that if the application is approved and the lot becomes part of the Master Plan, could limits be put on its use. Lynne indicated that they could.

Commissioner Lovelin asked if the application was not approved, would the storage lot still need to be enclosed. Lynne said with the Planning Commission acting on the application, it will be allowed to be enclosed. She added that the current owner was not aware of any conditions at the time of purchase.

Chair Heckerorth had a question concerning lot 3502. Lynne said that it was tax lot 3500 at one time, but because of various land divisions it was changed to 3502 and is proposed for storage use. Chair Heckerorth then expressed concern about pedestrian crossings. Lynne said that had not been addressed and Public Works did not show any concern. Chair Heckerorth wondered if pedestrian crossing could be part of the Conditions of Approval. Lynne answered that staff could not list a condition that required Public Works to do something, but she thought the applicant would be willing to address the issue with Public Works.

Chair Heckerorth then asked if improvements were planned for the subject site. Lynne said it would not be improved, but would be formalized as part of the Park

itself. She added that it is in a flood zone and therefore the applicant had 6 inches of fill under previous approval.

Commissioner Lovelin asked why LUBA remanded the appeal of the sign placement back to the county. Lynne said LUBA concluded the county approved the sign on an area that was not approved through the land use process. Commissioner Lovelin then asked about the 1979 Conditional Use permit which stated that no additional signage would be allowed in the park, and he wondered what that meant. Lynne said she believed it meant that they could not increase the number of signs that were there in 1979, and had nothing to do with replacing them. She added that she did not know how many signs were in the park in 1979.

More discussion followed pertaining to signs allowed by the county and ODOT, with the consensus being that ODOT is more restrictive than the county. Commissioner Swan gave a negative scenario of what could happen if signs were not allowed to be replaced if they fell down or were removed. Lynne noted that it is ODOT's rule that signs cannot be replaced, and the county allows replacement.

Lynne then noted that the sign on the subject parcel was approximately 4 feet high and 8 feet wide when the county approved a request to replace the sign. This is the request and approval that was subsequently appealed to LUBA, and mentioned earlier in the hearing. Lynne added that this request is one way to remedy the situation.

Lynne went on to say that the Master Plan mentioned signs, but it was not specific. She said she had gone to Netarts and the sign was very visible from the direction she went. She then visualized the sign as if it were lowered and next to the ground, and the impact appeared significantly different.

Lynne was asked what the fee was for this request and she said it was \$1,040.00. Again Lynne was asked why LUBA remanded the appeal back to the county. She answered that because the lot upon which the sign was situated was not part of the park, the request to replace the sign required a land use approval. Lynne was asked if all the conditions listed on page 2 of her staff report pertaining to the 1979 conditional use had been met. She said they were considered met because it was not known how many advertising signs the park had in 1979. The accesses and approaches had been approved by Public Works at that time, she said.

Lynne said a conditional use permit was issued in 1986 to dredge the marina and they were given permission to put dredge spoils on another portion of the property. She said that when they needed to dredge the marina a couple years ago they requested to take the dredge materials to the new area. When they requested to move it they were told but it could, but could not exceed the 6 inches allowed by the flood zone and ordinance.

Commissioner Hoffman asked if notices for the hearing had been mailed out in the allotted amount of time. Lynne answered that they are required to have 10 days notice, but the notice was sent to property owners 20 days before the hearing.

There was some discussion of the number of tent spaces and Lynne said tent spaces are not regulated the same way RV spaces are. She added that the current park has 53 spaces with no tent spaces designated in the approved site plan. There was discussion regarding the requirements that are in place now that were not significant at the time of the original spaces were approved. Lynne explained that those requirements included the size of RVs now compared to the size of the RVs years ago and that new spaces cannot be added because of the layout of the park.

Lynne reiterated that there were 56 spaces outlined in the Master Plan in 1986, the Planning Commission approved 50 spaces in 1988, and the county Health Department licensed the park for 53 spaces in 1993.

There were no more questions of staff.

APPLICANT'S TESTIMONY:

Ty Wyman, Attorney, 851 S.W. Sixth Avenue Suite 1500, Portland, OR., identified himself as representing the applicants, Mark and Lori Roan.

Mr. Wyman reminded everyone that a RV Park is allowed with a Conditional Use approval in the NT-RMD zone. He went on to say that the park is an example of a successful small business and this application is simply a part of the growth process for the park.

Mark Roan, Lighthouse Investments, P.O. Box 20128, Portland, OR., identified himself as the applicant and owner of the Netarts Bay R.V. Park. He noted that it was formally known as Bay Shore RV Park. The site in question is owned by Jack Clevenger and leased by Mr. Roan.

Mr. Roan agreed with Mr. Wyman in that the park is a small business in which he and his wife invested in 2000. He said the park has expanded over the years as well as the size of the RVs that vacationers are driving, therefore demanding changes in the park.

Mr. Roan went on to say that one of the problems is the fact that Netarts is not on Highway 101 and if this park is to be found, there has to be advertisement. He said that when they bought the park, it was an investment and his plans were to make Netarts Bay RV Park the choice for RV'ers. Mr. Roan added that his mission is to provide a clean, comfortable, safe and friendly environment to enhance the RV experience.

Mr. Roan said the problem seems to be that people do not know the park is there and that means that signage is an issue. He added that he wanted to replace the sign whose front had blown off, as well as improve the sign at the entrance of the park. Mr. Roan said many people have missed the entrance to the park because of the signage. He said he thought this would be just one more step in improving the park. He added that he did not see this as an expansion of the park because the subject site has been used for over-flow parking for the park from at least 1971. There has also been a sign on this parcel, he said, and this approval will just be a formalization of the existing use. In conclusion, Mr. Roan said they are not asking for anything more than what has already been permitted on the site.

Commissioner Lovelin commented that he is impressed with what Mr. and Mrs. Roan have done with the park and he thought they were good neighbors. He suggested that Mr. Roan make a stronger case for the size of the sign because directions to the park are not very good.

Mr. Roan agreed and said that many people do not know the park is there. He added that the sign also advertises boat rentals, crabbing, clamming and marine use and the business is more than an RV Park. He said the present sign is 17 feet 6 inches tall and 10 feet wide, and the new sign will be lower to the ground by eliminating the lower panels. The advertisement on the lower panels will then be included in the upper structure, and he noted that the new sign will be in the same location.

Mr. Roan stated that there are a number of signs in Netarts that are more than 10 feet high. He again said the lot has been used for overflow parking and signage and he is not asking for anything else.

Commissioner Ousele asked Mr. Roan if he would be willing to put up a screen to block off the area. He answered that his intent is to formalize the use that has been in existence for over 30 years, and up until the issue of the sign, the use of the lot has never been an issue and the possibility of a screen has never been raised. He added that he did not think it was something to which he would agree.

Commissioner Jones asked if there was a screen, would the lower sign be visible. Mr. Roan answered, 'no'.

Chair Heckerth asked what size vehicles would be using the overflow day use parking lot. Mr. Roan answered that he suspected they would be motor coaches, boats or boat trailers or ATVs.

There were no more questions from the Commission.

Chair Heckerth recessed the hearing at 8:35 PM and reconvened at 8:42 PM.

Before the break, Chair Heckerth cautioned the audience not to approach any of the Commission members for discussion of the request during the break.

Chair Heckerth opened the meeting to public comment and asked those giving testimony to stay focused and address the criteria. A list of the criteria was on the podium in order to help those giving testimony. He limited the testimony to five minutes each.

PUBLIC TESTIMONY:

Charleen Frymark, 2335 Bolton Avenue West, Tillamook, stated her main concern was the sign and the overflow parking. She said she did not believe the lack of a large sign prevented the owners from having business because the park seemed to be full. Ms. Frymark said the sign was lit up all the time and when it is on a person cannot see anything in the bay because it is too bright. Regarding the signs in Netarts that Mr. Roan mentioned, Ms. Frymark said they were not along the bay, but on the main highway. She did not want the overflow parking to be used for motor homes and did not want to see it as a campground and wants the area to stay as natural as possible.

Commissioner Lovelin reminded everyone that Mr. Roan had said that there would be no overnight parking at the site and the sign would not be lit.

Ms. Frymark said as long as the sign is not lit, she would accept a small sign.

Andrew Stamp, 888 S.W. Fifth Ave. Suite 900, Portland, OR., identified himself as a land use attorney representing Brinker et al. Mr. Stamp submitted written material to the members for their review. He said it has been a year and a half since his clients first told the county it had erred by not going through a land use hearing on this matter. He noted that it has taken a great deal of money in attorney's fees, paid by his clients, to continue with this process, and he did not feel a good neighbor, such as Mr. Roan claimed to be, would allow this to happen.

Mr. Stamp reviewed the number of lots that have been approved through the years and indicated the park has not been functioning according to the law. He gave as other examples of this was having a problem with the Development Permit for fill, setback requirements, a sign on the highway, and restoration of vegetation.

At this time, Chair Heckerth cautioned Mr. Stamp to address the criteria.

Mr. Stamp then referred to the criteria and said the list before him was incomplete because there are other approval standards outlined in his submitted letter that need to be addressed. These include the clear vision area, off street parking and preparation of campground standards. Mr. Stamp went on to discuss other issues including the fact that the subject site is not adjacent, contiguous or abutting the

park itself, and therefore an additional campground cannot be approved on this lot.

Mr. Stamp noted that the owner of the campground is not the owner of the subject site. He also stated that because there is no documentation of how many signs the campground had before Mr. Roan bought it, the county does not seem to be able to enforce the Conditions of Approval regarding the signs. He added that this is not the way Conditions of Approval are enforced, and he felt that there should be someone who can verify the number of original allowed signs. In the absence of that, he said, more signs cannot be approved.

At this time, Chair Heckerroth asked how many in the audience were willing to give up their speaking time in order for Mr. Stamp to continue. Nine hands were raised and Mr. Stamp continued.

Returning to the subject of the Conditions of Approval, Mr. Stamp went on to say 1979 conditions were still binding and the only way to get rid of it would be to go through this Conditional Use process. If this is done, he said, the current RV park standards will have to be complied with. Again, Mr. Stamp mentioned, clear vision area, off street parking, setbacks and the ODOT signage issue.

Mr. Stamp stated that all his clients wanted was a smaller or similar sized sign and he did not think the applicant was being a good neighbor by 'forcing' the community to pay \$40,000 to \$50,000 on this case. He added that, in fact, the applicant filed a motion for attorney's fees against his clients in the amount of \$5,000.

When asked, Mr. Stamp said he thought a good neighbor would be one who would meet with the local residents and let them know what the plan was for the parcel and ask approval or input. He added that he would consider attitude to be a good neighbor policy. Mr. Stamp went on to say that the applicant had asked the residents to pay for half the cost of changing the sign.

Mr. Stamp noted that LUBA had remanded the appeal back to the county because the county did not go through the land use process and added that everything he has said was correct and everything staff has said has been incorrect.

Commissioner Lovelin asked Mr. Stamp why the 17 page brief he had submitted to the members could not have been submitted earlier so they would have had a chance to review it. He went on to say that he felt it was somewhat of a trick to submit such a large amount of material at the time of the hearing. Commissioner Lovelin said that if the members made a decision this evening, they would be setting themselves up for appeal.

Mr. Stamp said he wanted to submit the material last week, but he had comments to add and had to change the content to respond to the staff report before giving it to the Commission.

Chair Heckerth referred to review criteria (4) and said Mr. Stamp should be considering whether the proposed use would not alter the character of the surrounding area. Mr. Stamp responded by saying the typical criteria is Netarts Residential Manufactured Dwelling zone, Section 3.344 which references the Conditional Use process. Then when going to the CU section, it says all supplemental standards have to be complied with, and he listed them for the benefit of all present.

Commissioner Swan stated that the members could not possibly consider 14 pages of added material that had just been received this evening, and he asked Mr. Stamp how he felt it was a reasonable assumption that the members do so. Mr. Stamp suggested the record be kept open in order to give the members time to digest and consider the added material. They could then make a decision at a later hearing date. He added that a continuance could be requested.

There were no more questions or comments from the members.

David Brinker, 2045 N.W. 135th. Ave. Portland, OR., said he owns property at 2365 Wilson Beach Road. Mr. Brinker said that the application implies that the sign will improve tourism if approved, and that it is misleading. He went on to say one of the problems with the sign is the proposed size, and unfortunately, the Netarts Ordinance does not address sign sizes. The Oceanside Ordinance does address it, however, and the maximum size is 4 X 8 feet. Mr. Brinker said the second sign problem concerns the location which is right on the bay front. This, he said, takes away the scenic and natural beauty of the bay area. He wanted the natural assets to be preserved because they are the real tourist attraction. Mr. Brinker said he thought there should be a 4-way sign and a way of advertising what services are available at the park. He added that once you see the existing sign, you are already at the park.

Mary Ellen Smith, 2295 Bilyeu Avenue West, Tillamook, across from the Netarts RV Park, stated that she and her husband have lived at that residence for 6 years. Mrs. Smith wanted to object to the afore mentioned sign. She read from a prepared statement which was made a part of the record. Mrs. Smith made her point clear that the concerns dealt with the size of the sign and the lighting of the sign. She asked that the applicant consider choosing a sign the size of the one at the entrance of the park, which is right across the street from her home. Mrs. Smith stated that she thought Netarts Bay Park was the nicest and prettiest one in Tillamook County.

Bernard Wolff, 2270 Fleming West, Tillamook, told the members that his written statement had been included in the staff report, but he said he wanted to make a

few more comments. He stated that Mr. Roan met with some members of the Netarts community and told them that if he got some financial reimbursement, he would remove the sign. Mr. Wolff wondered why Mr. Roan would not remove the sign now if he felt it was alright to remove it at the time he met with the Netarts community. He referred to Section 6.0408 (1), page 2, of the Land Use Ordinance and said he did not believe the permit speaks to the need for a sign because there seems to be several signs indicating the location of the park and he identified the locations of such signs. In essence, Mr. Wolff felt there was plenty of advertisement for the park including a website. In conclusion, Mr. Wolff stated that according to LUO Section 6.060, the county can and should deny the placement of any sign at this location.

Jacky Carpenter, 4360 Orchard Loop, Tillamook, said she is a full time resident of Netarts. Her property is in the upper Wilson Beach area and the sign in question is in the lower Wilson Beach development. She said it has been almost 2 years that the residents of Netarts have been passing on their request in regards to the sign and the residents of the area are still trying to protect the naturalness of the bay area. Ms. Carpenter read from a prepared statement which was made a part of the record. She went on to say that the new sign would not conform to the criteria's size requirements of the Comprehensive Plan of maintaining the natural qualities of the area. She added that it does not conform to the average size of signage in the area and gave comparisons of other signs in the area to the one in question. In conclusion, Ms. Carpenter said the request submitted by the Park owners is in violation of the spirit of the original document.

Russell Simonis, Box 24, 2335 Oregon St. West, Tillamook, told the members he lives about 150 feet from the sign in question. He noted that he cannot see any of the bay when the sign's light is on and it obstructs his view as well. He said he believed the park property should be zoned Commercial rather than Residential. Mr. Simonis went on to say that the natural habitat could be destroyed. He felt that tax lot 3402 should be used for overflow parking only, but it has been used for overnight camping in the past. His recommendation was that the sign should be as it was in the beginning rather than the big monstrosity it is now.

Jeannette Brinker, 2045 N.W. 135th. Avenue, Portland, OR., stated that she owns property on Wilson Beach Road. She noted that she had provided written testimony before, and it has been a made a part of the staff report. Ms. Brinker wanted the commission members to be aware of the fact that off site signs are not allowed in the NTRMD zone and have never been approved. However, she added, on site signs are allowed. Ms. Brinker said it was an incorrect assumption that this was just a conditional use to bring the existing situation into compliance. She said she and other members of the community objected to the 18-foot sign that was approved in 2002 and she had done some extensive research on the decision that allowed the approval. Mr. Brinker went on to say that she did not believe the subject parcel had ever been any part of the existing park; that public input is essential in cases like this; that these difficult decisions are on the

Commission members shoulders; that she had attended the LUBA hearing; her concern that this request will get 'rubber stamped'; that 130 people expressed their objection to the request; the fact that there are plenty of signs in the area advertising the park; and that if there has to be a sign, it should be smaller. In conclusion, she asked the members to carefully weigh all public testimony on what uses are necessary and desirable to enhance the economic vitality of the area as well as scenic adhancement.

Ray L'Hommedieu, 2070 Pearl Street West, Tillamook, said he felt LUBA has reset the clock on this issue in remanding it back to the county, and he believed the decision made by the Commission is going to be set as policy. He said the beauty of Netarts Bay must be retained and that is why the people in the community love it. Mr. L'Hommedieu went on to say that the Netarts plan of 1994 was indicative of the spirit of the people in Netarts. He said there has always been a problem with parking and storage in the area and he wondered where the line is to be drawn. He expressed concern regarding safety on the corner in question because of non-clear vision, nor did he believe a sign is needed.

Commissioner Swan asked Mr. L'Hommedieu to identify on the display map the location of the no clear vision corner. Mr. L'Hommedieu indicated the area.

J.N. Kennedy, 2315 Oregon Street, had submitted his suggestions of conditions of approval in a written statement. He stated that he is all for small businesses, but he did want to see Oregon Street used as an access or egress because it is so narrow, only 20 feet wide. His suggestion was to access off Bilyeu Avenue if the request was approved.

Commissioner Jones asked Mr. Kennedy if he had a problem with visitor parking. Mr. Kennedy answered that he had no problem with vehicle parking as long as they were not motor homes or high visibility vehicles. And Mr. Kennedy did not want overnight storage on the lot except perhaps boat trailers that would not fit on the campsite.

Ben Hathaway, Box 635, Tillamook, spoke in favor of the Conditional Use request. He referred to statements made regarding the fact the area was not zoned for Recreational Management. He said Vic Affoler, previous DCD Director had supposedly sent a letter to the state indicating RM was in place, but a copy of the letter cannot be found, and he felt it was a ruse or scam. Mr. Hathaway went on to say that he referred hundreds of people to the RV park in the summer months and had to ultimately give directions for people to find it, hence a sign is needed. At this time, Mr. Hathaway turned to Mr. Stamp in the audience and asked whose money it was that was spent; money to which Mr. Stamp referred earlier in the hearing. He said he was hoping it was not his money, and if it was there would be action taken against Mr. Stamp.

Chair Heckerth cautioned Mr. Hathaway to stay on course.

Mr. Hathaway continued by saying this CU request was a legal situation where the people went before appropriate commissions, applications were paid for and permits were given for a sign that is needed. He said he believed advertisement was necessary because it is hard enough to make money in Oregon. He went on to say he could not see how the local people could be against the sign and that they all had time to complain before the situation came this far.

At this time, Mr. Stamp asked Chair Heckerth why he was allowing Mr. Hathaway to go on and on about nonsense when he had cautioned Mr. Stamp to address the criteria. Mr. Hathaway remarked to Mr. Stamp that he (Mr. Stamp) would have his chance to do the same.

Using his gavel, Chair Heckerth agreed with Mr. Stamp's concern and again told Mr. Hathaway to stick to the criteria.

Mr. Hathaway said the criteria was that the sign is not offensive advertising, but is appropriate for a person to have a sign indicating his wares, services and location. He again elaborated on the fact the sign was approved, paid for, built by Ramsey Signs, and installed.

Chair Heckerth told Mr. Hathaway he was repeating himself and asked him to close his testimony.

When Mr. Hathaway continued about the need for a sign, Chair Heckerth again used his gavel. However, Mr. Hathaway went on to say the sign was needed and began discussing the shortage of funds for certain entities in the state.

Chair Heckerth again used his gavel to close Mr. Hathaway's testimony.

There were no questions of Mr. Hathaway.

There was no more testimony from the audience.

STAFF'S REBUTTAL:

Lynne stated that the members had copies of the LUBA record that she had not mentioned earlier in the hearing. Regarding the lighting of the sign, she said it will not be lit and has not been lit since the LUBA decision was made. She noted that the previous owners had some problems with complaints of long-term parking. She said their concern was that it could be seen as storage rather than overflow parking for the RV Park.

Lynne continued by saying that in 1979 the C.U. recognized the original 27 lots that were approved in 1969 and then approved 19 additional that brought it to 46. Then in 1988 there were four more spaces approved which brought the total to 50.

She added that Mr. Roan did meet with neighbors at various times, but she was not in attendance. Speaking of the sign, Lynne said that legally, a sign could be placed in the Park with no problem, whether or not this C.U. request is approved, and it may be lit, she added.

Lynne said that it was incorrect that Netarts does not have a sign ordinance and Oceanside does. Netarts has the same sign ordinance as the rest of the county, and that ordinance allows an RV Park to have a total of 200 square feet of sign useage.

Chair Heckerorth asked if the sign sits on a parcel that is not part of the Park. Lynne answered that it has been used in conjunction with the park since 1972, and wanted to make it clear that the county never said it was a 'right', but a continuation of the prior use.

Lynne went on to explain that the original owners, Mr. Clevenger, owned the subject lot and the Park at one time, and have since sold the Park to Lighthouse Investments. He did not sell this parcel, and therefore, Mr. Roan leased the parcel for the existing use.

A question arose from the audience regarding the member's and staff's position on bias. This came into question because of Lynne's responses to previously made statements, Lynne explained that she is responding to what she considered inaccurate testimony that was given.

Lynne was then asked how the number of spaces became 27 when Mr. Clevenger stated in 1969 that there would be only 24 spaces used for travel trailers.

Chair Heckerorth announced that he would rather not let these questions get out of line because they were hard to control. He said he wanted staff to complete its comments first.

Lynne went on to say again that the sign is a replacement of an existing sign, which means it is not a 'right'. She said she thought it was important to remember that the applicant has applied for an extension of the park to include this parcel as an accessory use. A sign for parking can be applied to that space, but the bottom line for the purpose of the application is for the expansion of the Park to include 3402. Lynne added that the applicant has indicated the uses he will employ, and they are accessory uses to the RV Park.

Commissioner Marti asked how the parcel can be used as part of the park if the park owner does not own it, but just leases it. Lynne answered that the parcel is leased for the purpose of using it in conjunction with the Park. The applicant realized they needed the parcel for the same purpose for which Mr. Clevenger had used it, and it was leased for the same purpose. Lynne said that if the lease were to end and the application was approved, a Conditional of Approval could be that

the approval end as well and it would no longer be part of the Park. In other words, if Mr. Clevenger sold the parcel to someone else, the use by the park would end. She added that in signing the CU application, Mr. Clevenger has agreed to the proposal.

Commissioner Jones asked the size of the proposed sign and Lynne answered that it will be approximately 8 X 10 feet, low to the ground and without the space between the ground and the bottom of the sign.

A gentleman from the audience asked if the owner could put up a sign wherever he wants to. Lynne answered that he could and would have to go through a process to do it.

A series of comments came from the audience and Chair Heckerth used his gavel to maintain order.

Commissioner Jones asked what the applicant would have to do to get it ready for day parking. Lynne answered that he would have to do nothing.

Commissioner Ousele asked if by leasing the lot and bringing it into the Park, does that address the no off-site signage issue even though it is not single ownership. Lynne answered that the applicant is the agent for that property as long as he holds the lease and he also has the right to sign building permits and agreements dealing with that lot.

Bill Campbell stated that the applicant is leasing the property for specific purposes and is in control and in charge of that property. He said staff looks at it that the owner of the property has consented to the use of the property in conjunction with the Park. The owner of the Park has requested that the property in question be allowed within the Master Plan and for the uses to be signage and overflow parking. Mr. Campbell added that this is consistent with the prior use, although prior use did not have the needed underlying land use authority.

Commissioner Ousele said she understood that permission was given by the owner, but she did not understand if there is a requirement of a single owner to make it on-site or does the leaseholder qualify as a single owner. Mr. Campbell answered that he did not believe there was a requirement that it has to be under single ownership. He added that the applicant has leased the property for uses that were pre-existing, and he believed Mr. Roan entered into that lease when he acquired the property (Park) and Mr. Roan believed the activity would continue on this lot. Mr. Campbell went on to say that this is a process to address what had not been taken care of previously through land use action.

Chair Heckerth said an issue regarding access from Oregon Street had been brought up earlier in the hearing, but he did not see anything about that in the material the members received.

Lynne said she had not heard of such a concern.

Chair Heckerth said it had also been mentioned that the CU criteria was not the only criteria or guidelines to be considered.

Lynne answered that the request is for a Conditional Use permit and the six primary criteria given to everyone this evening are the ones to be considered. She added that other standards had been addressed in the staff report such as clear vision and signage. And, she said, there are recommended Conditions of Approval regarding these issues as well as concerns of landscaping and the provision of the sign.

Chair Heckerth recessed the hearing at 10:10 PM and reconvened at 10:20 PM.

APPLICANT'S REBUTTAL

Ty Wyman stated that it seems the Commission members had received two different versions in the world of Netarts, and added that he did not envy the members in making a decision.

As far as attitude is concerned, Mr. Wyman said the applicant has made steps to compromise by agreeing to lower the sign as well as make it smaller in size.

Mr. Wyman said he and the applicant appreciated the job the staff has done, as well as the Commission members. He added that his only request was that if this request was approved with conditions, he be given the opportunity to draft findings that would supplement the staff report, and he thought staff would agree that findings are appropriate.

Commissioner Hoffman wanted to make it clear that discussion between the Commission members during the break consisted of the marina and its uses in the area.

Chair Heckerth closed the hearing to public testimony.

P C MEMBERS DISCUSSION:

Commissioner Swan said he thought he knew the area quite well, but he wanted to make a site visit before making any decision. He said he definitely was not ready to make a decision this evening.

Commissioner Lovelin wanted to add that the members had received a lot of information this evening and he wanted a chance to digest it. He felt it was a disadvantage to the members to be given so much information and be expected to

act on it this evening. He agreed with Commissioner Swan in that they were not able to make a decision this evening.

Commissioner Ousele also agreed and said there were issues on both sides that she wanted to consider before making a decision.

Chair Heckerth agreed that there was a great deal of information to take into consideration. He wondered about time constraints in continuing the hearing.

Bill Campbell said the members could continue the hearing to a date certain. He added that there is more than one option and one of those options would be to not reopen the record and go on the basis of material already presented, or when the meeting is reconvened, the record could be opened at that time.

Commissioner Lovelin wanted to know if staff would provide additional analysis based on comments presented this evening.

After a great deal of discussion it was decided to continue the hearing to May 6, 2004.

Commissioner Swan made a motion to continue the hearing to May 6, 2004 at 7:00 PM, and leave the record open for 10 working days to 5:00 p.m., May 22, 2004, for additional written submittals from the public and the continued hearing on May 6 will be for Planning Commission discussion only.

It was determined that statements by the Commission dealing with any site visit could be declared at that time. This would open the hearing for public comment to the site visit only.

The motion was seconded by Commission Lovelin and carried 7 – 0.

Chair Heckerth recessed the meeting at 10:50 PM and reconvened at 10:55 PM.

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

Commissioner Swan made a motion to for Chair to sign appropriate orders. The motion was seconded by Commissioner Ousele and carried 7 - 0.

Administrative Decisions: CU-04-01(a); DP-03-32; DP-03-35; DP-04-01; ET-04-03; GH-04-03; NCMJ-04-02 and V-04-01(a). Also included is a booklet ‘Planning Commission Training Manual’.

There was no discussion regarding the above Administrative Decisions.

VI. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT:

A. Bill Campbell said staff was sending out Measure 56 notice to the public on both the Transportation System and the Riparian Ordinance for Periodic Review. He went on to say that regarding the Riparian Ordinance, 98.5 percent of the county is in federal, state, commercial forest, and commercial agricultural lands and they are exempt from county ordinance in regards to riparian habitat. Mr. Campbell said they are subject to forest plans at the state and federal level and subject to the Oregon Forest Practices Act.

Mr. Campbell went on to say that the strategy is that safe harbor provisions will be applied to this 98.5 percent land area. He added that will go to coastal shore lands and river systems where rivers have greater than 1000 cubic feet per second flows. He added that the two rivers who have greater than 1000 cubic feet per second are the Nehalem and the Nestucca to its confluence with Three Rivers.

Mr. Campbell gave the members a schedule for providing for Measure 56 information to the Department of Administrative Services and to the public. He added that the information would also be available on the county web page.

B. Mr. Campbell said Ordinance 62 was amended which was the fee increase. It was noted that manufactured dwellings were not included in the fee increase.

II. ANNOUNCEMENTS:

None.

For The Good of the Order:

Commissioner Ousele said she was not happy with maps that showed a road that did not exist, and which was actually in the ocean. She felt that if the members had to make land use decisions, it was deceiving that the maps showed roads or lots that were not there. Mr. Campbell said we will be functioning with GIS before long and all maps should be correct.

Commissioner Ousele went on to say that it was difficult to read some of the maps that were given to the members for consideration. She said the copies were almost impossible to understand.

III. ADJOURNMENT:

The meeting adjourned at 11:08 PM.

Kurt Heckerth, Chairman

Date

Barbara Legoo, Acting Recording Secretary

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