

TILLAMOOK COUNTY PLANNING COMMISSION

October 9, 2008 – Beginning at 7:00 pm

KIAWANDA COMMUNITY CENTER
34700 CAPE KIAWANDA DRIVE
PACIFIC CITY, OR

- I. **CALL TO ORDER:** Chair Heckeroth called the meeting to order at 7:07 pm.
- II. **ROLE CALL:** Kurt Mizze, Terry Jones, Bruce Lovelin, Kurt Heckeroth, and Merrienne Hoffman.
- III. **APPROVAL OF MINUTES:** August 14, 2008

Commissioner Mizze moved to approve the minutes for August 14, 2008. Commissioner Hoffman seconded the motion. The motion passed 4:1. Commissioner Lovelin abstained.

IV. **OLD BUSINESS**

- A. **OA-08-02, continued:** Request is for a Post Acknowledgement Plan Amendment (PAPA) to the Tillamook County Comprehensive Plan, Ordinance No. 32, to identify a corridor for construction of a new primary access road to serve a 53-acre tract of land, located within the Pacific City-Woods Unincorporated Community Growth Boundary, that is zoned Pacific City/Woods Medium Density Residential (PCW-R2). The majority of the proposed road corridor would cross property zoned Small Farm and Woodlot (SFW-20), identified on the Tillamook County Assessor's map as Tax Lots 200 & 700 in Township 4S, R 10W, Section 29, The SFW-20 zone is currently subject to the provisions of Division 6, Goal 4 Forest Lands, of the Oregon Administrative Rules (ORA 660-006-0000). The applicant is requesting a Goal 4 exception pursuant to OAR 660 Division 12, Transportation Planning to allow creation of a road corridor and transportation improvements on designated resource land. The proposed road corridor is generally located north of Brooten Mountain Road and southwest of Resort Drive within Tillamook County. The applicant/property owner is Aspen

Pacific City, LLC, c/o Kerr Contractors. **(Planning Commission deliberation only, no additional testimony will be taken).**

Commissioner Heckerroth read the request. He said the Planning Commission held a public hearing on August 28 where a motion was passed to close the hearing but hold the record open for written testimony. Commissioner Heckerroth informed the public that this meeting was closed to public comment and no additional testimony would be taken. He then stated that the Planning Commission will be deliberating for a recommendation to the Board of County Commissioners and he invited the public to attend the Board of County Commissioners meeting to provide further testimony.

Valerie Soilihi gave the presentation. Ms. Soilihi went through the additional testimony that was received and the applicant's rebuttal. She then read the six primary issues related to this project that was identified. She stated that in the rebuttal, the applicant addressed other methods of access and the reason why they will not work. The first staff report goes through these other accesses. Ms. Soilihi went on to say that although the pond in question is less than 1-acre, there are no applicable regulations in the Land Use Ordinance that pertain to it; however, the applicant proposes to provide a vegetated buffer to protect the pond. She said that the applicant is willing to provide the Killam's with a new driveway off the proposed road free of charge. The impacts to the intersection of Resort Dr. will need to be addressed. Public Works said that a turn lane would probably be needed. Staff met with ODOT after the last meeting to discuss safety issues. ODOT proposed redoing the intersection at Resort Dr. and HWY 101. It is possible that improvements will be needed to portions of Resort Drive to address safety issues identified during the subdivision review process. Another mitigation proposal is for the Portwood subdivision. The residents are concerned traffic from the future subdivision going through their subdivision would affect the livability of their neighborhood. She then addressed the issue of future up-zoning issue, which would require another goal exception. The most it could be up-zoned would be Rural Residential with a ten-acre minimum lot size. Any more than that would need an expansion of the Community Growth Boundary which must show a need due to lack of buildable land. The Kowalski case was the only similar request for a Goal 4 exception to allow a road to cross SFW-20 land in the last eight years. Ms. Soilihi said that each application is judged on its own merits and the approval of that application did not result in subsequent up-zoning. Mary Jones and Jeff Schons suggested in their written submittal that any secondary access through Pacific Seawatch or the Caine property be for emergency vehicles only and that it be gated. Staff concurs that with the policies on the books this proposal is reasonable. Staff does not agree that this is the appropriate time to impose this condition. Based on the mitigation measures suggested by the applicant staff recommends the four mitigation measures be added to the staff recommendation that was in the first staff report. Lovelin asked

if it was appropriate to put conditions on this and that if this is approved, does the Planning Commission approve the mitigation measure? Ms. Soilihi said that since these measures were brought up by the applicant in their rebuttal she feels it is appropriate to include them.

Commissioner Heckerath asked if the Planning Commission could recommend that the Board of County Commissioners use these as part of the conditions.

Heckerath asked about page 8 #5 of the original staff report. He feels there needs to be a demonstration that the other sites are not reasonable. Commissioner Heckerath said that there is a possibility that there are other access points like the Caine property. He asked how staff felt that the other access options were unreasonable. Ms. Soilihi said that the Caine property is not in the applicants control at this time and she has not received any information contrary to this, so to her it is not available.

Commissioner Lovelin asked if the applicant does not approach these people then it meets the standards. Heckerath does not like this idea. Ms. Soilihi said that at the time staff met with the applicant they had had discussions, but not reached an agreement with the owners of the Caine property or Pacific Seawatch.

Commissioner Jones understands that there is a County requirement to provide a new access to Resort Drive and by going through the Caine property; it would be putting more burdens on Fisher Road.

Commissioner Jones thinks that it is feasible that if this road is approved the future development on the Caine property would use it as the main access. Ms. Soilihi said it is possible.

Commissioner Heckerath asked if a SFW-20 land was changed to RR-10 zone would that require a zone change. Ms. Soilihi said yes, and would require another goal exception.

Commissioner Lovelin asked what the lot size for the Killam property was. The answer was that the property is 2.2 acres. What concerns Commissioner Lovelin is that the Killam's have built a home next to forestland and now the Planning Commission could allow a road to be built within twenty feet of their home. Ms. Soilihi stated that the Killam's do not abut resource land.

Commissioner Heckeroth stated that in the SFW-20 zone they could log the area. Commissioner Heckeroth then asked if the proposed road would be built to a higher standard than a logging road. The answer was that it would be built to Tillamook County Public Work standards.

Commissioner Lovelin said the road would be a different kind of impact with a 110 home Subdivision and that kind of traffic is bad twenty feet from someone's home let alone five feet. He felt that some kind of mitigation is called for. Commissioner Heckeroth said that it could be much worse; they could build it right up to the property line.

Commissioner Hoffman said the Planning Commission should keep this in mind. She is shocked with the photos of the Killam property. She would like more info on what the applicant and property owner agree to.

Ms. Soilihi said that during Killam attorney's testimony at the August 28th Hearing, Mr. Hill, the attorney, was amenable to the idea that the applicant would provide a new driveway.

Commissioner Heckeroth asked about the width of the corridor. Ms. Soilihi said that on average it is 200 feet or more.

Ms. Soilihi said that Public Works reviewed the plans for all alternatives and that staff relied on their comments. She stated that Public Works said the preferred alternative was a suitable alignment.

Commissioner Jones asked about the SFW-20 in today's standards, could it be made smaller. Ms. Soilihi answered no; the minimum lot size is 80-acres.

Commissioner Heckeroth asked if the primary access was off Resort Dr., would the secondary access have to be only for emergency use. Ms. Soilihi said it could be, but not necessarily. Commissioner Heckeroth asked what process would decide this. Ms. Soilihi said it would be during the Subdivision process.

Commissioner Lovelin read the top of page two of exhibit one from the Killam's attorney. He then asked if there was sufficient detail in this application. Ms. Soilihi

said that she had addressed this in the original staff report and felt that there was adequate detail. She stated that this would be a local, two lane, access road and the design would be reviewed at the Major Partition stage.

Commissioner Heckerath asked if it was a private or county road. Ms. Soilihi said the Public Works Director has not yet made a decision.

Commissioner Jones asked whether a road is an outright use in a RR zone. Ms. Soilihi said it is not listed as an outright use in the RR zone, but roads are not listed as a use in any county zone. The difference is what you can do in a Forest zone. A road is allowed for forest type uses, and cannot be built to serve an urban type use. Commissioner Jones stated that it is just implied that if a road is needed then you can have one.

Commissioner Heckerath opened the table for further discussion at 7:55 pm.

Commissioner Jones discussed the ladder photo. He felt that the ground was sloping away from building. Commissioner Lovelin felt it was a minor slope away from the building and wanted to know what this meant for a drainage issue. Commissioner Jones said that if the road were elevated then there would be a drainage issue. Commissioner Lovelin asked if the vegetation beyond the end of the ladder would be removed and the road would be elevated. His point being that it is a clear impact on this home and he has concerns about this. Commissioner Jones said it is part of the proposed mitigation to provide a better vegetation barrier than what is there. Commissioner Heckerath wants to tie this to the new driveway. Commissioner Hoffman made the comment that the Applicant stated in their rebuttal that they would provide a new drive way, storm drainage, screening and safety measure and is Commissioner Lovelin considering this during his discussion?

Commissioner Heckerath asked if they have addressed all the concerns. Commissioner Lovelin said that there is still one issue. He said this is a land locked parcel and the only way in and out would be the proposed road. In addition, that if we grant this request we would be placing a vast impact on this one homeowner. If we assume all alternative have been looked at and this is the only option do we approve the applicants request or deny it and make the applicant go back and relook at other options.

Commissioner Hoffman said no matter where the access is the neighbors will be impacted. What we have to do is make sure the neighbors' concerns are

addressed. The Planning Commission went through the other alternatives and why they were not acceptable.

Commissioner Lovelin asked what if we decide that there is no access to this property no matter what. Commissioner Hoffman said it was identified in the Pacific City/Woods Community plan as buildable land. Commissioner Jones said the Planning Commission needs to find another route other than through Pacific City Heights. Commissioner Lovelin said that if the Community Plan provides for development of this land they need to provide the access.

Commissioner Jones said he did not remember any testimony about resource land. Commissioner Lovelin said there was some and it had to do with wildlife.

Commissioner Hoffman said that if the Department of Land Conservation advised the applicant that if a goal exception can be applied for; there is a way that provides for access on resource land. We have to make sure the requirements of that law are met.

Commissioner Jones said that this route affects one person. The Sutton Way route, there were four homes impacted. The Developer has ruled out the other options and what the Planning Commission has to decide is if this is the best option. Commissioner Lovelin said that staff feels that this is the more reasonable option.

Commissioner Mizze said the traffic safety does not affect many people. Commissioner Lovelin said we are hearing there are no other options. Commissioner Mizze said that if it goes through the Caine property it adds to the safety issue.

Commissioner Hoffman said what we need to determine is if this is the one. Staff concurs that this is the one. All others were ruled out for whatever reason. We are looking at a goal exception.

Commissioner Lovelin asked the Planning Commission if they agree. All were in favor.

Commissioner Lovelin said there was other information provided but this is the only option. Commissioner Heckerth is not convinced that the applicant cannot

negotiate with the owners of the Caine property. Ms. Soilihi asked if the County can reasonably make someone negotiate in a private real-estate transaction.

Commissioner Lovelin asked where the burden is. What he is hearing from staff is that they listened to testimony and that there is no other reasonable option. Ms. Soilihi said that this is the most reasonable option. Ms. Soilihi questioned whether a local government has the authority to intervene in private real-estate transactions for someone to gain access to a piece of property.

Commissioner Hoffman felt that if the Planning Commission were to deny this, the developer would come up with a different proposal. In addition, if it fails they will go back to the drawing board and find other access.

Commissioner Heckerath said that if he could get past the “reasonable” language he does not have a problem with the resource land.

Commissioner Lovelin felt that Nestucca Ridge created a barrier and that the owners of the Caine property remain open to discuss the sale of the property. Commissioner Hoffman said that they also propose limited use and are not proposing it as primary access. Commissioner Heckerath asked if it was reasonable to require the applicant to purchase a large piece of property to access their property. Commissioner Jones said even if they purchased the property the existing roads in Pacific City Heights are not designed to handle this much traffic.

Commissioner Mizze said it is not reasonable to send traffic that way.

Commissioner Heckerath agrees with this also.

Commissioner Heckerath asked if the Commission felt that all of the mitigation measures are possible. Commissioner Lovelin mentioned the Resort Drive safety issues, concerned that there has to be a Nexus, as mentioned in the staff report. He feels it is a hollow mitigation measure. Commissioner Hoffman said this is not the point in the process that we talk about the improvements to Resort Drive.

Commissioner Jones then talked about the first two mitigation ideas.

Commissioner Heckerath asked if there was a way to strengthen the Resort Drive language.

Ms. Soilihi suggested adding to second line “to Resort Drive based on nexus and impacts of 53 acre subdivision as much as possible”.

Commissioner Jones moved in the matter of OA-08-02 based on finding of fact, public testimony, staff report, supplemental staff report, testimony received at the August 28, 2008 hearing, and discussion this evening to recommend to the Tillamook County Board of Commissioners recommendation of OA-08-02 with the four mitigation measures listed.

Commissioner Lovelin seconded the motion. The motion passed 5:0.

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

Commissioner Lovelin moved to authorize Chair to sign appropriate orders. Commissioner Hoffman seconded the motion. The motion passed 5:0.

VI. ADMINISTRATIVE DECISIONS: DP-07-19, NCMN-08-02, NCMN-08-03, EX-08-02, and DP-08-10.

Commissioner Jones stated that that OA-08-02 will not facilitate zone changes on resource land. The Commission as a whole would be very cautious in doing that. We are not suggesting that tonight.

VII. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT:

Butch Parker, Director Department of Community Development said there is nothing outstanding. Still getting lots of applications, building permits. Lisa Phipps is working on changing the Goal 1 and should be done by Thanksgiving. Ms. Soilihi spoke about the Cloverdale CPAC. Nothing scheduled for the twenty-third Planning Commission hearing. .

VIII. ADJOURNMENT: There being no further business Chair Heckerth closed the meeting at 8:50pm

Kurt Heckerth Chair

Kara Graves, Recording Secretary

Date