MINUTES - TILLAMOOK COUNTY BOARD OF COMMISSIONERS• MEETING
Wednesday, October 31, 2001
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COMMISSIONERS PRESENT: Paul A. Hanneman, Chairperson
Charles J. Hurliman, Vice Chairperson
Tim Josi, Commissioner

STAFF PRESENT: William K. Sargent, County Counsel
Paul Levesque, Management Analyst

STAFF PRESENT FOR PORTIONS OF MEETING: Sheriff Todd Anderson; Karen Richards, Treasurer; Tim Lutz, Assessor/Tax Collector; Craig Schwinck, Human Resources & Information Services Director; Aaron Suko, Public Works Director;

GUESTS: Eleanor Dye, Nestucca Valley Sanitary Service; Virgil & Mary Clark; Betty Greenwood; Ed Sullivan; Andy Stricker; Thad & Virginia Fair; Sherry Newman; Ken Bell

CALL TO ORDER: By Chair Hanneman at 9:02 a.m. in the Commissioners• Meeting Room.

ITEM NO. 1: WELCOME TO ELECTED OFFICIALS: The Chair welcomed Sheriff Todd Anderson, Karen Richards, Treasurer, and Tim Lutz, Assessor/Tax Collector.

ITEM NO. 2: PUBLIC COMMENT - NON-AGENDA ITEMS & REQUEST TO SIGN GUEST LIST: a. Discussion Concerning Safety Issues & Bioterrorism: Sheriff Anderson indicated that Tillamook County was prepared locally for bioterrorism. He was in daily contact with an FBI agent. The local law enforcement group would be meeting with the FBI during the current week. His office has had training on handling incoming mail. Undersheriff Huntsman was working with Clatsop County Sheriff’s Office on joint responses. Mr. Manning also provided an update on Emergency Management’s preparedness.

Sheriff Anderson provided an update on the Acey Line Thin timber sale and summarized the hours law enforcement would be at the site. Five County vehicles have had their tires flattened.

b. Consideration of FY 2000 Local Law Enforcement Grant Award Agreement with Oregon Department of State Police, Criminal Justice Services Division: Sheriff Anderson said this was a continuing block grant. The Board had signed the application several months previously.

Commissioner Josi moved to authorize the Chair to sign the agreement, Commissioner Hurliman seconded, passed with three aye votes.

The Chair signed the agreement.

c. Consideration of Resolution Declaring November 14, 2001 as Geographic Information
System Day 2001 in Tillamook County: Mr. Schwinck said November was Geographic Month. He described the GIS program, which the public was invited to see on November 14.

Commissioner Hurliman moved to sign the resolution, Commissioner Josi seconded, passed with three aye votes.

The Commissioners signed Resolution #R-01-23.

ITEM NO. 3: CONSENT CALENDAR:
Commission Proceedings for August and September, 2001; Board of Commissioners• Meeting Minutes for September 12, 17, 19, 26, October 1, 3, 10, & 15, 2001: Chair Hanneman read the items in the calendar.

Commissioner Hurliman moved to approve the items, Commissioner Josi seconded, passed with three aye votes.

[The items were signed later in the day.]

ITEM NO. 4: CONSIDERATION OF AGREEMENT WITH TILLAMOOK COUNTY EMERGENCY COMMUNICATIONS DISTRICT FOR VICTIMS• ASSISTANCE PROGRAM: Mr. Levesque summarized the lease.

Commissioner Josi moved to sign the lease agreement, Commissioner Hurliman seconded, passed with three aye votes.

The Commissioners signed the lease agreement.

ITEM NO. 5: CONSIDERATION OF ORDER RENEWING THE FRANCHISE AGREEMENT WITH NESTUCCA VALLEY RECYCLING & GARBAGE SERVICE INC., DBA NESTUCCA VALLEY SANITARY SERVICE, FOR OPERATION OF TRANSFER STATION & RECYCLING CENTER IN PACIFIC CITY: Mr. Suko said Board action was needed on the renewal of this franchise agreement. Ms. Dye was present to represent NVS. The agreement was for operating the Pacific City transfer station for an additional five years. The franchise agreements contained provisions for automatic renewal under certain conditions. Counsel had reviewed it.

Commissioner Hurliman moved to approve the order, Commissioner Josi seconded, passed with three aye votes.

The Commissioner signed Order #01-153. Ms. Dye signed the agreement.

ITEM NO. 6: BOARD CONCERNS - NON-AGENDA ITEMS: There was none.
ITEM NO. 7: PUBLIC COMMENT: There was none.

The Chair recessed the meeting at 9:29 a.m. and reconvened at 9:45 a.m.

This portion of the minutes RESPECTFULLY submitted this _____ day of ________________, 2001.

Mary Wujcik, Recording Secretary
& Special Deputy

[The minutes for the following portion of the minutes were taken by the Community Development Department Secretary.]

ITEM NO. 8: (Continued from 10-24-01) PUBLIC HEARING: ZC-01-02: ZONE CHANGE REQUEST: A QUASI-JUDICIAL ACTION TO ADOPT A ZONING MAP CHANGE TO REZONE 1.2 ACRES CURRENTLY ZONED RURAL RESIDENTIAL (RR) AND NEIGHBORHOOD COMMERCIAL (C1) TO LOW DENSITY RESIDENTIAL URBAN (R-1) ZONE. THE REQUEST AREA IS DESIGNATED AS TAX LOTS 201 & T\202, IN SECTION 17CD, TOWNSHIP 1 NORTH, RANGE 10 WEST OF THE WILLAMETTE MERIDIAN, TILLAMOOK COUNTY, OREGON, LOCATED ON THE EAST SIDE OF THE HIGHWAY 101 THE BARVIEW AREA. ANDY STRICKER/APPLICANT; THADDEUS FAIR/OWNER: Chair Hanneman asked if there had been any ex parte contact from the time of the last hearing that should be declared. All Commissioners replied that there had not been any ex parte contact.

Chair Hanneman explained why the meeting was continuing today. He stated that there was a notification issue and at that time the Board did invite the public to make comment only to the extent of notification, not to debate the pros and cons or the merits of whether the zone change should occur.

Chair Hanneman reintroduced Nadine Smith, Planning Manager, who then gave the presentation for the proposal of the rezone for ZC-01-02.

Ms. Smith said the property is located in the Barview/Watseco area. Ms. Smith showed the Commissioners where this property was specifically located on a geographical map. She said the property consists of (RR), (R1), and (C1).

Commissioner Josi asked how large the commercially zoned portion of the property is.
Ms. Smith replied that it is approximately a 30-foot strip by 109 feet. Ms. Smith said the application meets the criteria for rezoning, adding that the property is within a community development boundary and is fully serviced. Ms. Smith added that the entire property was previously zoned R-1 and because of its configuration the C-1 property is basically unusable.

Commissioner Josi confirmed that the entire parcel was previously zoned R-1. Ms. Smith said that was correct.

Commissioner Josi asked when it was changed. Ms. Smith said there was a countywide rezoning in 1982.

Ms. Smith said that based on these findings, Staff feels that the rezoning of this property is appropriate. She continued by stating that this is an application for rezoning, not for development. If the property is to be developed, there would be other steps for that process: a major land partition, a conditional use permit and perhaps a variance due to the steep slopes of the property. Ms. Smith also wanted to note that a geological hazard report has been done on this property, and there are some perimeters on how it can be developed, but it can be developed.

Ms. Smith asked the Board if they had any questions.

Commissioner Josi wanted to know if the Geo-hazard Report was Exhibit Five. The Geo-hazard Report was Exhibit Number Five and Ms. Smith said that in addition she received a letter to be admitted as public testimony.

Chair Hanneman said the letter was dated October 25, 2001 and signed G. Brown. The Commissioners noted the letter.

Commissioner Josi wanted to clarify that their consideration today is not of any potential uses, but to determine whether or not the R-1 zone for the entire area is appropriate based upon the criteria in their land use ordinance applications. Additionally, Commissioner Josi wanted to know what the potential uses were in an R-1 zone.

Ms. Smith said that what differentiates a RR zone from an R-1 zone is that an R-1 zone allows for a greater density of residential use.

Commissioner Josi asked what the level of density was. Staff said it was 20,000 to 7,500 square feet. A single family is an outright use and a two family dwelling is a conditional use.

Commissioner Josi asked if Staff was going to discuss the Geo-Hazard Report. Ms. Smith said Mr. Stricker was in attendance and could address any questions the Board may have.

After confirming with the applicants that they had had the time to review the letter that had been
submitted, Chair Hanneman said the letter would be passed through the audience shortly.

There was a question from the audience as to when public testimony would begin.

Chair Hanneman explained to the audience how the hearing was set up. He stated that first the Commission members review Staffs’ remarks. Second, the Commission members hear from the applicants and their presentation. Then there is public testimony. After public testimony there are rebuttals. Finally, there are further comments from Staff at the end.

A woman in the audience said she did not understand what the zoning classifications were.

To avoid the interchange at that moment, Chair Hanneman asked Staff the question for the woman in the audience.

Ms. Smith said under the RR zoning the minimum lot size is 20,000 square feet. In the R-1 zone, single dwelling units require a minimum of 7,500 square feet. In the C-1 zone, commercial uses could be allowed.

Chair Hanneman said that when the meeting is opened up for public comment, Staff would answer any question the public may have on this issue.

Ms. Smith added that this is a request for a rezoning, not for a particular use or development. When a development is proposed, Ms. Smith said there would be further public hearings and public notice on those issues. She said the public would be notified.

Chair Hanneman asked if the Commission members had any more questions for Staff. Since there were none, Chair Hanneman opened the meeting to the applicants.

Mr. Andy Stricker, Engineer and represent applicant for Brad and Virginia Fair, stated for the record that he resides at 14500 Old Condor Bridge Road in Cloverdale, Oregon.

Mr. Ed Sullivan, Attorney for Brad and Virginia Fair, also stated for the record that he resides at 222 S.W. Columbia Avenue in Portland, Oregon.

Mr. Sullivan said he had a copy of the ordinance and all of the various zones if the Board wished to see what uses were allowed.

Chair Hanneman said Commissioner Hurliman had that information and was sharing it with the Board.

Mr. Sullivan said his party supports Staff’s report and asks the Board for it’s favorable consideration of this rezoning.
Mr. Sullivan felt the 1982 Countywide rezoning that affected this area was a mistake and said the property should be rezoned to its previous classification.

Mr. Sullivan also stressed that there are no developmental plans at this point. He continued by saying that if and when there is that kind of development, there will be another application that will go through the public notice and hearing procedure.

Mr. Sullivan continued that this is an "urbanizable area" that has all of the urban services and was planned by the County years ago to provide an alternative to the farm and forest zoning that surrounds it. Mr. Sullivan said this property was acknowledged for that purpose and for those who wish to conserve farm and forest land but still accommodate growth.

Mr. Sullivan added that half of the site is already zoned R-1 and said he is asking the Board to correct this mistake and rezone the property to be entirely R-1.

Mr. Sullivan said his party accepts all of the conditions proposed under Staff’s report.

Mr. Sullivan reintroduced Mr. Stricker, Engineer, asking him to briefly touch upon the report he had prepared for the Board and to respond to any questions the Board may have regarding the geo-physical issues.

Mr. Stricker told the Board that studies have been performed on this site for possible uses and a complete geological hazard report with soil drillings, samplings, and tests has been prepared so that the applicants would know early on if it would be feasible to develop the lot. Mr. Stricker said the stability is apparent from the report and that the foundations for the buildings would be on pilings, which is part of the condition. Mr. Stricker added that all of the buildings would be on pilings, exceeding the required number of buildings Staff’s condition had required to be on pilings.

Mr. Stricker continued, saying the roads have also been studied to make sure there is access. He said the C-1 zoned portion of the property would be the access to the site since it is much too small for any other use. Mr. Stricker added that the size of the C-1 zone is actually about 40 feet by 80 feet and considering the slope, it does not really have a commercial use.

Mr. Stricker ended by explaining to the Board the different studies he has performed on the developed area to the north of this property where the buildings are also on pilings. He reiterated that the area is stable and there is backing of what he has said today in his studies found in the report.

Commissioner Josi wanted to know if Mr. Stricker was the applicant. Mr. Stricker said he was the applicant.
Commissioner Josi asked if he had conducted the Geological Hazard report. Mr. Stricker said H.G. Schlicker and Associates had conducted the report. Mr. Sullivan said Schlicker is a specialist on geo-physical issues.

Chair Hanneman asked if the Board had any more questions.

Chair Hanneman asked Mr. Sullivan if the zone change he referred to as a mistake was the zoning change in the 1980s. Mr. Sullivan said that was correct.

Chair Hanneman wanted to know why he considered that to be a mistake. Mr. Sullivan said what he understood was that the entire property was zoned R-1 until 1982. Because of the way the properties were all aligned at the time, the portion of the property was then mistakenly excluded from the R-1 zoning during the Countywide rezoning.

Ms. Smith added that on the old zoning maps, parcelization was different at that time and what happened was that, after the zoning was in place, the compliance changed on the parcels thus creating a parcel with a split zone.

Chair Hanneman felt that the only question before the Board was the zoning issue, stating that was his reasoning for his last question.

Ms. Smith also noted that another requirement of the zone change criteria is to address what the property had been historically zoned.

Chair Hanneman asked if the C-1 zoned portion was in existence prior to the 1980s. Ms. Smith said she was not sure, explaining that the shape of the C-1 zoned portion makes it difficult to tell whether or not the property was zoned R-1 or C-1.

Mr. Sullivan also wanted to add that the applicants had no objection of going from a C-1 classification to an R-1 zone classification.

As there were no other questions from the Board, Chair Hanneman opened the meeting for public comment.

Ms. Sherry Newman, 14960 Hwy 101 N. in Barview, spoke first. She said her main concern is that a multiple housing dwelling could be constructed if the proposed zone change is approved.

Another concern of Ms. Newman’s is the traffic safety of the area. Currently, she said she sees approximately four to six accidents per year in this area.

Concerning the slides, Ms. Newman said there is a retaining wall one block down the road that is
already bulging after a couple years since construction. She said that Fisherman’s Point is very similar to where they are now and she is concerned about the conditions of driving on and off the easement if a multiple dwelling is constructed on that property.

Mrs. Betty Greenwood, 14945 Hwy 101 N. in Barview, was next to speak. Mrs. Greenwood said that if the duplex were constructed where it was proposed, the duplex would be in her backyard where springs of water are still running. She continued saying that she has a ditch behind her house that is full of water constantly. She stressed the importance of keeping the ditch open because the water has to drain into the swampland that is close by.

Mrs. Greenwood said she does not think the ground is stable for development because the springs keep coming up through the ground. (Mrs. Greenwood gave the example of another party constructing a road by her property that is unstable because the springs keep coming up through the ground, making the road unstable.)

Mrs. Greenwood said the whole hillside would come down if further development continues.

Chair Hanneman asked Mrs. Greenwood if she has lived there for a long period of time and asked if there have been many slides in the area.

Mrs. Greenwood said she has seen many slides in the area.

Chair Hanneman thanked Mrs. Greenwood for coming and asked if anyone else had any other remarks from the audience.

There were no further comments from the public. Chair Hanneman addressed the applicants for rebuttals.

Mr. Sullivan said that when and if there is a subdivision on this property, the applicants will be back to the county to go through the application process and the county will have the opportunity to evaluate this issue.

He added that the dense use of this property is a duplex, which does not undermined the minimum lot size.

Regarding traffic, Mr. Sullivan said he was told by ODOT that the area was fine.

The only thing before the Board at this time, Mr. Sullivan continued, was the zone change that Staff has recommended.

Chair Hanneman asked for any final comments from Mr. Sullivan or Mr. Stricker.
Mr. Sullivan said the applicants would waive their seven-day right to written comment.

Chair Hanneman asked if there were any further comments from Staff at this time.

Ms. Smith said she had no further comments but would answer any additional questions the Board may have remaining on this issue.

Chair Hanneman asked for clarification that if a request were submitted for multiple dwellings, a conditional use permit would be required.

Ms. Smith said that was correct. If the property were entirely zone R-1 and there was a request for a multiple dwelling unit, that party would have to apply for a conditional use permit.

Chair Hanneman also confirmed with Ms. Smith that in an R-1 zone, single dwelling units would not need to go through additional public hearings or applications to be placed on the property.

Commissioner Hurliman wanted to know if the applicants would have to obtain a geological hazard report or comply with the requirements of the existing geological hazard report in order to construct a single dwelling unit on the property.

Ms. Smith said that was also correct and if they were proposing to subdivide the property there would be an additional application process the applicant would have to go through.

Since there were no additional questions for Staff from the Board, the Chair closed the public hearing at 10:20 a.m.

The issue was now before the County Commissioners.

Chair Hanneman asked if there was any discussion from the Commissioners.

Commissioner Hurliman felt that the geological hazard report will restrict what will be built on the property and therefore sees no problems with the zone change as it is. Additionally, the Planning Commission unanimously approved this, as well as Staff, and he sees no reason to countermand their decisions.

Commissioner Josi agreed with Commissioner Hurliman regarding the geological hazard concerns, stating that it would be an impediment and further analysis would be required.

Commissioner Josi said that the low density residential urban R-1 zone request is warranted and he did not feel it could be used as applicable criteria because how does one know if that was a mistake or not at the time the property was rezoned in 1982.
However, Commissioner Josi added, the criteria asks that public sewer services and all public utility services are available and that is correct.

Also, Commissioner Josi noted that this would increase the density to an urban rather than rural standard. Additionally the parcel is able to accommodate eight units and meet setback standards and the proposed lot size would not be inconsistent with surrounding parcel sizes. Therefore, any discussion about any conditional use permits for potential uses would come at a later time. He concluded, saying that looking strictly at the criteria the area is justified changing in its entirety.

Chair Hanneman said he also has confidence in a geological hazard report as it comes before the Planning Commission in the future and that the decision rightfully belongs there as to what type of dwellings would be constructed.

Chair Hanneman added that he is comfortable on making a decision regarding the zone change based upon what should be a Planning Commission decision; on the number of structures, if any, in the future.

Chair Hanneman concluded that the question before the Board then is strictly about the zone change.

Chair Hanneman briefly spoke about the importance of a geological hazard report when applying for land development stating his concern about the stability of the terrain. Additionally, he said that access to the highway should be considered for safety features and that the access should be reviewed.

In conclusion, Chair Hanneman said he agreed with Commissioners Josi and Hurliman regarding approving the zone change.

Commissioner Josi moved for approval of ZC-01-02.

Commissioner Hurliman seconded.

The motion carried unanimously.

The meeting was adjourned at 10:26.

This portion of the minutes RESPECTFULLY submitted this _____ day of ______________, 2001.

County Clerk: Tassi O’Neil
Sarah S. Miller, Recording Secretary

APPROVED BY:

__________________________  ______________________  ____________________
Chairperson                   Vice Chairperson             Commissioner