

MINUTES SEASIDE PLANNING COMMISSION

September 6, 2011

CALL TO ORDER: Vice Chair Romine called the regular meeting of the Seaside Planning Commission to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Steve Winters, Virginia Dideum, Ray Romine, Chris Hoth, Bill Carpenter, and Dick Ridout. Tom Horning was present but did not participate in the public hearing. Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director

OPENING REMARKS & CONFLICT OF INTEREST/EXPARTE CONTACT: Vice Chair Romine asked if there was anyone present who felt the Commission lacked the authority to hear any of the items on the agenda. There was no response. Vice Chair Romine then asked if any of the Commissioners wished to declare a conflict of interest or exparte contact. There was no response.

APPROVAL OF MINUTES: Motion to approve the August 2, 2011 minutes;
Commissioner Carpenter made a motion to approve August 2, 2011 minutes as submitted.
Commissioner Dideum seconded the motion was carried unanimously.

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Vice Chair Romine:

1. The applicable substantive criteria for the hearing items are listed in the staff report(s) prepared for this hearing.
2. Testimony and evidence shall be directed toward the substantive criteria listed in the staff report(s) or other criteria in the plan or land use regulation, which you believe applies to the decision.
3. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
4. The applicant will testify first, then any opposition will testify, and then the applicant will be given time for rebuttal.

PUBLIC HEARING:

A.) Continuance 11-025MLP: A major land partition request by Rhonda Wills that will authorize dividing the subject property into two separate units of land. The subject property is located at 80 Hilltop Dr. (6 10 22BD TL: 103) and it is zoned low density residential (R-1). The proposed division will separate the existing dwelling, located on the upper level of the property adjacent to Hilltop Drive, from an accessory building located on the lower portion of the property. The proposed division will upgrade the existing driveway access from Wahanna Road (owned by Mr. Borland, 145 N Wahanna Road & zoned R-3) so it can be formally recognize as a private road for the purpose of dividing the property. A prior request was denied by the Commission based in part on the road's failure to meet street standards. This proposal is intended to correct the prior deficiencies so the road will meet required street grades and allow the accessory building to be converted into a single family dwelling.

Kevin Cupples, City Planning Director, presented a staff report, reviewing the request, decision criteria findings, conditions and conclusions.

Vice Chair Romine asked if there was anyone who would like to offer testimony in favor of the request. Dean Keranen, PO Box 309, Seaside OR 97138. At the last hearing the hazard mitigation wasn't ready and we now have that. Mr. Keranen has sent a letter in response to Mr. Peyser's letter, it is in tonight's packet. The only issue that they see with the roadway is that the City is asking for a 24 ft road-way with a 3 ft shoulder. They are asking for a 20 ft road-way with a 1 ft shoulder. Tom Horning has finished the Hazard Mitigation report. It is in tonight's packet for review.

Vice Chair Romine asked if there was anyone else who would like to offer testimony in favor of the request. Tom Horning 808 26th Ave, Seaside. Mr. Horning did a geotechnical review of the property for the purpose of widening the road. In a nutshell there may be some areas where the road is steep and there may be some compacted rock fill needed in order widen the road. There have been some

landslides in the past due to shore erosion about 4500 years ago. You have a choice of doing the road and that would be to fill material from over the bank and then compact it and build up a firm slope of rock material or you could cut into the hill on the upside of the hill and dig a cut road service into the bedrock. We are not exactly sure how resistant that material is. The surface materials tend to be crumbly and break up easily. As you get deeper into it, it tends to get harder almost to the point that you might have to blast it. There is a trade out, you need to balance the need and the economy of cutting versus filling. There are minor saturation issues from water draining of the surface of the road and if it dribbles off the road to a steep slope where the soils are relatively weak there may be some slow creek that may cause it to sag a little bit like it already has. Mr. Horning would recommend that if water cannot drain into ditches then it should have a curb along the road so that water can be directed down the slope to the area where the grades are gentler. It doesn't look like this property is having any problems with movement at this time except a little bit of crumbling that is falling off the cuts that are already there.

Vice Chair Romine had a question regarding the drainage. What happens to the excess water? Is there a catch basin or ditch? Mr. Horning stated that there are two solutions one is to infiltrate it onto the ground where there's a gentler slope and the other is to pipe it down to the swamp. Commissioner Romine asked what is the plan to deal with the excess water? Mr. Keranen stated that they will probably start at the top of the hill where there is an existing ditch and just add to that.

Commissioner Ridout asked Mr. Horning if he had indicated if the soils are suitable for road building and asked if it matters what the width of the road was? Mr. Keranen is asking for a narrower road. Mr. Horning stated that when it comes to safety if you have a narrower shoulder you are going to pay more attention to the materials compacted and that it withstand at a 45° angle. If they are loose and not compacted then it should have a broader shoulder so you won't be driving on areas that are potentially unstable. When it comes to road construction it is stipulated by the project engineer. Mr. Horning has given information about what the material slope angles can be and remain stable provided that they are compacted adequately.

Commissioner Ridout asked about the road going up to the Wills property, is that a road or a driveway? Mr. Horning stated he has only done work on the road going up to the Borland property and not the road/driveway going into the Wills property. Commissioner Ridout asked Mr. Horning if he looked at the Wills property and Mr. Horning stated no he only looked at the road going up to the Borland property because the Wills property was not included in the scope of the work.

Vice Chair Romine asked if there was anyone else who would like to offer testimony. Amanda Borland 145 N Wahanna, Seaside. Mrs. Borland asked Mr. Horning aren't we concentrating on getting the road done up to the Wills property so that they can divide their property? Mr. Horning asked if he could defer to Mr. Keranen for this? Mr Keranen stated that basically they are building the road just to the Wills property and then a driveway into the Wills property. Mrs. Borland stated that the road is 50 feet wide so there shouldn't be a problem if all they need is 20 feet. Mr. Keranen stated that the 20 feet is the driving part of the road not including shoulders. Mrs. Borland stated that if this is the only thing holding up the land division for the Wills then all she wants to do is get the road fixed up to the Wills and then they can fix the road the rest of the way up. It started out as just a little problem and now it's mushroomed. It's something so simple.

Vice Chair asked if there was anyone else who would like to offer testimony in favor.
There was no response

Vice Chair Romine asked if there was anyone else who would like to offer testimony in opposition. Kathleen Sanderson 205 N Wahanna Rd. Ms. Sanderson as a follow up to Mrs. Borland's concern is that they have agreed to work together on the road at the top of the hill. They have not yet recorded but have a surveyed area toward the top of the hill that comes just above the Wills entrance onto their property. Mr. Borland was going to do a certain scope of work and that she was going to pay for some road rock and some gravel that would make that a safe entrance and exit for themselves. She would hope that the council will take that into consideration because it could be several years before she is able to build up there. Ms. Sanderson has been in Real Estate since the early 80's and has some experience in dividing property and every time there was an improvement she had to pay for that improvement, not the old folks on top of the hill. She has a great concern about the financial burden that this could cause for the Borland's.

Vice Chair Romine asked if there was anyone else who would like to offer testimony. There was no response.

Mr. Cupples stated that there was written comments from Mr. Peyser and a response letter from Mr. Keranen that was e-mailed to the Planning Commissioners and is in tonight's packet.

Commissioner Hoth asked about the previous letters regarding the pump house, and the retaining walls. Mr. Cupples stated that those letters have been abated and taken care of.

Commissioner Carpenter asked about the 2002 Planning Commission meeting and the discussion at that meeting was of the Wills enlarging or creating this out building so that it could be used as a shop and a storage space and now it has evolved into a residence. In that discussion did the Wills not enter into an agreement with the City that they would not ask for a subdivision. Rhonda Wills stated that the minutes indicated that Mr. Cupples is the one who put together that statement and they had no objection at that time and Ms. Wills is not sure where that content came from that they agreed to never divide the property. It was just a recommendation and they had no objection. Commissioner Carpenter asked that they had no objection to what exactly. Ms. Wills stated that they had no objection of the property being combined. Commissioner Ridout stated that this was new to him, so what Ms. Wills is saying is that you purchased the lower area separately and those were separate properties and then the Wills chose to combine the properties to create one and now want to go back and divide the property again. Ms. Wills said yes, and the building was built as a shop/office area and has always been used that way, and what they are proposing is to have the property divided in order to use it as a residence and it has never been used as a residence. Commissioner Winters stated that in 2002 things have changed since then and the economy has changed since then and the way people use their property has changed also and the need to do things differently has changed. Ms. Wills stated that that is exactly what is happening.

Vice Chair Romine stated that the major partition creates a separate unit of land and the road issue becomes an access issue to that parcel of land. The road issue is, does this road meet the cities road requirements?

Commissioner Hoth asked what exactly is the process if someone were to walk into the planning department and says I'm building a road and it needs to meet the public street standards. What would they say?

Vice Chair Romine stated that he is pretty sure that that is the public works department. Mr. Cupples stated that currently it needs gutter, sidewalks and 12 foot travel lanes with a grade of no more than 12%.

Commissioner Dideum asked private road, driveway, minor street what is the difference. Mr. Cupples stated that private road can be even more of a street than a minor street. Commissioner Dideum asked what makes it a private road and not a driveway? Mr. Cupples stated that it's not accepted by the City as a street and it will not be taken over by the City. When all is said and done with a private road the private road remains in control of the people who are utilizing the road. That is why private roads have a maintenance agreement when they are ready to develop that road. If it is a public street and all the standards have been met, then the City formally accepts it. Commissioner Winters stated that this road then will be a private road. Mr. Cupples stated that is what is being proposed. Commissioner Dideum stated then this does not have to meet the road requirements. Mr. Cupples also stated that in section 18 it allows deviation in certain cases and also in the land division ordinance that allows variances for justifications such as steep slopes and extra deep lots. Based on what the applicant has submitted their basic thing is saying that this is a limited access road and there are topographic issues involved. Commissioner Hoth asked if this road exceeds 12% at any point. Mr. Cupples stated yes it does if you take the road above the Wills driveway. Commissioner Hoth stated that then there would only be 10 foot travel lanes without gutters. Mr. Cupples stated that he believes that is correct. Commissioner Hoth asked is part of the approval going to include how this road is going to be maintained by the various parties? Mr. Cupples stated at this time he doesn't think there is one. Mrs. Wills stated that currently they have an agreement with the Borlands and it is recorded and is public record. Mr. Keranen stated that they have to do a new easement anyway and they can record it at that time. Mrs. Wills stated that they will need to revise the one they have once this is approved. Commissioner Hoth asked how that would work, are the Wills only responsible for the section of the road up to their driveway and then the Borlands responsible for the road up to their property? Mr. Cupples stated that that would be the nature of the agreement. Mr. Cupples also stated that the lower property is 25,000 sq. ft. and could be divided

further depending on the location of the current building. The minimum lot size in that zone is 10,000 sq. ft.

Commissioner Ridout stated that he feels something needs to be approved that develops a private road that will allow future development to the Borland property and currently the partition is to the Wills property the only question is how much are we going to require and then with the city and their recent changes. He is not sure on just how far we need to or should go to set a road requirement.

Commissioner Winters mentioned that CKI has already spelled out what they plan on doing.

Mr. Cupples stated that in the last staff report he was looking at considering nothing past the Wills property and if the Borlands wanted to go further then that is up to them. The Borlands property is in an R-3 zone so there is potential for different types of development so to put road requirements past the subject property now may not be such a good idea because we are not sure what will be going up there in the future.

Vice Chair Romine mentioned that the road going to the Wills property could eventually be the feeder to the development at the top of the hill. Mr. Cupples stated yes that is true.

Commissioner Carpenter stated that from his understanding of the way the discussion is going is that the Commission is only really approving up to the junction of the Wills driveway. Mr. Cupples stated that that is something that staff had put in the original staff report and from the testimony tonight that sounded like maybe that was the case and that that is not what is in the applicants proposal. The applicant is proposing a road that goes all the way to the top of the hill. Commissioner Carpenter stated that that is not required for this land partition. Mr. Cupples stated yes that is if the applicant can get fire code authorization with whatever sprinkler system they have in the building to say yes they are going to meet fire code in order to convert an accessory building into a dwelling. The Wills will have to document they meet fire code restrictions and the land division, this is a package deal. Commissioner Ridout asked how much of this was discussed two years ago for example the fire access. Mr. Cupples stated that the last time this was discussed with the fire department as far as do they have adequate access the fire department said they would fight the fire from Broadway regardless.

Vice Chair Romine asked if the fire life and safety of the building had been addresses by the building official for this to be a dwelling instead of an accessory building. Mr. Cupples stated that he thinks that the Building Official has not gone back to the property and changed the occupancy to a dwelling from an accessory building. Vice Chair Romine asked if the Building Official would need to go back through and change this to a dwelling. Mr. Cupples stated that that would be one of the conditions placed on the land partition. Commissioner Winters stated that since this building was built in 2002 a lot of the building codes have changed and now they will have to meet these new code requirements. Ms. Wills stated that the building already has a sprinkler system. Commissioner Carpenter still has some questions on exactly what they are going to be voting on. Does the private road have to go all the way up to the Borland property or just to the new land division? Commissioner Carpenter asked if they are approving the residence on the land? Mr. Cupples stated that you are not approving the residence on the land. You are only approving the land partition. The Wills will have to deal with that in the next step, they will need to pay system development fees that were not paid or dealt with in the beginning because it was not a residence it was an accessory building. Vice Chair Romine stated that the major land partition and the access road is what they are dealing with. Mr. Cupples stated that the building official will be looking at whether it can be utilized as a separate dwelling on an individual unit of land. They will not get the land division approved based on the conditions that were on the staff report that is something that would need to be done as a condition of doing the partition itself. The Commission is not approving the dwelling they are saying that the dwelling will need to be approved by the Building Official. Vice Chair Romine asked if it would be appropriate for the Commission to review all of the conditions at the next works session. Mr. Cupples stated that he would suggest that based on the comments from Mr. Peyser, leave the written record open for an additional 7 days and then review the comments and then the applicant has time to addresses any additional items. At that point you have time to review all comments. Then staff can organize all the comments/documents and give you a run down on what's been done. Then the decision can be made at that time, you would be in a decision making mode instead of still taking testimony. Kind of like the TSP.

Vice Chair Romine closed the public hearing except for written testimony for another 7 days.

Mr. Cupples stated that Mr. Peyser still needs time to be able to respond to the new documents that have come in. He doesn't want someone to appeal based on a procedural matter he would rather they appeal because they feel the Commission didn't make the right decision.

Commissioner Ridout asked Mr. Keranen about the road service, is the applicant requesting a 20 foot roadway and is that on each side and is that looking at going all the way up the hill or just going to the

Wills property? Mr. Keranen stated that was going all the way up the hill. Basically to address what is existing. Commissioner Ridout asked if that was needed basically for the hill structure rather than the structure down below. Mr. Keranen stated that is was for the whole thing because there is a wetland down below and then it gets steep right beyond the wetland crossing. Basically the width is based on fire code.

Vice Chair Romine asked if there were any more comments or questions. Commissioner Winters would like it stated on the record that Mr. Keranen (CKI) has answered all the questions that Mr. Peyser has brought up.

Commissioner Dideum made a motion to move this discussion to the next work session on September 20 and leave written notice from the public for another 7 days. Commissioner Ridout seconded and the motion was carried with one no vote. Commissioner Winters voted no.

Mr. Cupples stated that this agenda item will be scheduled for continuance on September 20th at 7pm at City Hall in the council chambers.

Amanda Borland wanted to let the commission know that they wanted the road to go all the way up to the top, but if this is holding up the land division Mr. Borland can fix the rest of the road at a later date. Mrs. Borland asked the population of Seaside. Mr. Cupples stated that it is around 6500. Mrs. Borland stated that if one person can stop the development of someone else's property there is something wrong with this city and she loves Seaside.

ORDINANCE ADMINISTRATION: None

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION/STAFF: None

ADJOURNMENT: Adjourned at 8:00 pm.

Tom Horning, Chairperson

Debbie Kenyon, Admin. Assistant