

Chairperson Cary T. Johnson called the January 13, 2009, Clatsop County Planning Commission meeting to order at 10:00 a.m. Planning Commissioners (PC) present: Mike Autio, Christine Bridgens, Marcia Harper-Vellutini, Cary T. Johnson, Brian Pogue, and Clarke W. Powers.

Staff present: Blair Henningsgaard, County Counsel; and Michael Weston II and Jennifer Bunch, Planners, Transportation and Development Services.

### **Business from the Public**

No one asked to speak.

### **Public Hearings**

#### **Variance Request by John Whistler on Behalf of Astoria Golf and Country Club**

There were no conflicts of interest, *ex parte* contacts, or objections to the planning commission's jurisdiction to hear the matter.

Chairperson Johnson opened the quasi-judicial hearing, regarding John Whistler's request for a 90-foot variance to a 100-foot riparian setback adjacent to the Skip anon Slough, east of the current clubhouse and directly north of the current golf cart housing facility on property owned by Astoria Golf and Country Club and zoned OPR (Open Space, Parks, and Recreation).

Planner Michael Weston II provided his staff report, explaining the request and saying the OPR zone requires a 100-foot setback from perennial streams, lakes and other water bodies. He noted the current golf cart storage facilities already have impacted the tributary that crosses the property. Mr. Weston said because the area is paved and built so near the creek, the site floods, and seasonal flooding often spreads to the parking lot as well. He displayed Map B, A-1013, a map of the wetlands and entered it into the record as Exhibit A.

Mr. Weston saw potential for pollutants from the parking lot entering the slough, noting the impacts had been there for decades. He recommended backing the new structure into line with the other structures, moving it 30 feet.

In response to a question from PC Powers, Mr. Weston explained moving the building and associated activities would reduce run off from the parking lot, so fewer pollutants would enter the watershed. He said the 100-acre-site had many places where the facility could be placed, but it was most efficient and accessible where it is being proposed. He said if there were a hardship to be considered, it might be the historic nature of the nearly 100-year-old, nationally recognized course.

Chairperson Johnson opened public testimony and asked if any representatives of public agencies wished to speak.

Jim Scheller, 32607 Turlay Lane, Warrenton, representing the Skipanon Water Control District, stated the applicant had attended one of the district's meetings to discuss the proposal and the

1 district's board of directors, while not opposing the project, wanted to be on record that the  
2 project would be constructed in a flood plain and that it would be considered a flood hazard.

3  
4 Mr. Scheller added he also represents the Skipanon Watershed Council, and that body has  
5 concerns with the biology associated with the project and the permanent loss of riparian area.  
6 Mr. Scheller noted the applicant intends to mitigate the riparian losses and the plan seems to  
7 satisfy concerns. Mr. Scheller said the country club has always been very gracious and has  
8 worked on water quality projects in the past with the agencies he represents.

9  
10 Applicant Johns Whistler, Astoria Golf and County Club Superintendent, 33445 Sunset Beach  
11 Lane, Astoria, spoke on behalf of the project, saying it would be a "net plus" and using a smaller  
12 structure farther away from the water was acceptable. He spoke about the unique nature of the  
13 course and its historic nature. He said the county club was interested in working with all the  
14 appropriate agencies. Mr. Whistler presented an oversized aerial photograph of the site and  
15 pointed out what would and what would not be removed, the general layout, and access roads.

16  
17 Mr. Whistler reviewed the options the county club had investigated before determining this was  
18 the best course to pursue.

19  
20 In response to a question from PC Autio, Mr. Whistler said he was not sure when the current  
21 structure was built. In response to a question from PC Pogue, Mr. Whistler said the parking lot  
22 is asphalt.

23  
24 As there were no further comments from proponents, opponents, public agencies or staff,  
25 Chairperson Johnson closed public testimony and opened discussion among planning  
26 commissioners.

27  
28 In response to questions from PC Pogue, Mr. Weston stated the county club had been working  
29 with him on the project and he was happy with what they had worked out. Mr. Scheller stated  
30 he stood on his earlier comments, which he simply wanted on the record.

31  
32 **PC Harper-Vellutini moved and PC Bridgens seconded to approve the**  
33 **application with the modifications agreed upon. Motion approved**  
34 **unanimously.**

35  
36 **Request by Mark Barnes on Behalf of James Smejkal for Zone Change on 17.57 Acres**  
37 **East of Arcadia Wayside**

38  
39 There were no conflicts of interest, *ex parte* contacts, or objections to the planning commission's  
40 jurisdiction to hear the matter.

41  
42 Chairperson Johnson opened the quasi-judicial hearing, regarding Mr. Barnes' applications for a  
43 comprehensive plan text amendment, zoning map amendment and associated exceptions for  
44 17.57 acres located east of Highway 101 and approximately one half mile south of the Cannon  
45 Beach city limits. Mr. Barnes' client, James Smejkal, proposes to change the property's zoning  
46 from Agricultural Forestry, 80-acre minimum, and Recreation Management, to Residential  
47 Agriculture 2, two-acre minimum. Mr. Barnes also seeks for his client a Comprehensive Plan  
48 Text Amendment and exceptions to Statewide Planning Goals 3 (Agriculture), 4 (Forestry), and  
49 14 (Urbanization), pursuant to Oregon Administrative Rules (OAR) Chapter 600 Division 4 and  
50 Oregon Revised Statute (ORS) 197.732.

51  
52 Mr. Weston walked through the zone change criteria, highlighting what was and what was not  
53 consistent with the statewide planning goals, explaining how Mr. Smejkal came to own the  
54 property that had been traded to him by the Oregon Parks and Recreation Department in 2002

1 in land trade initiated by the state. Mr. Weston entered into the record Exhibit A, a staff report  
2 supplement of comments received since the planning commission packet was distributed; and  
3 Exhibit B, a hand out of a PowerPoint presentation.  
4

5 Overall, Mr. Weston stated, this application did not satisfy the criteria for the goal exceptions  
6 and zone changes. He and Planner Jennifer Bunch, using a PowerPoint slide presentation,  
7 outlined their analyses and findings. For brevity, only the findings of inconsistency are detailed  
8 below:

- 9 • Zone Change Criterion 2, Consistency with Statewide Planning Goals, currently  
10 inconsistent, could be satisfied with Goal Exceptions.
- 11 • Zone Change Criterion 5, consideration to character of the area, compatibility with  
12 zoning pattern, was deemed inconsistent because the applicant's analysis was  
13 considered incomplete.
- 14 • Zone Change Criterion 6, reasonable consideration to peculiar suitability of the property,  
15 was considered inconsistent because there was no demonstration of why the current  
16 designation and zoning were unsuitable.
- 17 • Zone Change Criterion 7, change would encourage the most appropriate use of the land,  
18 was considered inconsistent because several viable uses exist under the current zoning  
19 and the applicant failed to demonstrate why the Rural Lands designation is the most  
20 appropriate use of the property.
- 21 • Goal Exceptions to Statewide Planning Goals 3, 4, and 14 remain unsatisfied:
  - 22 ○ Water quality impacts for neighbors accessing water rights from the stream were  
23 not addressed.
  - 24 ○ The proposal would impact marbled murrelet habitat.
  - 25 ○ The applicant has demonstrated social impacts would be less if located in  
26 another area.
  - 27 ○ Goal Exception areas closer to urban growth boundaries and city limits would  
28 logically consume less energy than those located further away from the  
29 commercial hubs.
  - 30 ○ The proposed development is not compatible to the surrounding land uses,  
31 forestry, open spaces and parks, to the north, east, south and west.
  - 32 ○ Adjacent areas for which goal exceptions have been granted already can  
33 reasonable accommodate the use.

34  
35 Mr. Weston entered into the record Exhibit C, a color map depicting the subject property and  
36 surrounding area zoning and proposed exception areas.  
37

38 Mr. Weston and Ms. Bunch concluded by saying the application would not be able to satisfy the  
39 zone change requirements without satisfying the goal exception requirements and offered  
40 instead an alternative that would not require the goal exceptions: A change to Agriculture Forest  
41 (AF) zoning, which they suggested may have the potential to permit up to four home sites. They  
42 recommended denial of the zoning map amendment and goal exception requests and approval  
43 of the comprehensive plan text amendment.  
44

45 Planning commissioners asked several questions of staff. In response to a question from PC  
46 Pogue regarding the potential impacts of a recreational vehicle park, a permitted use in the AF  
47 zone, Mr. Weston said it would impact the marbled murrelet; however, a campground would  
48 retain more trees. In response to a question from PC Bridgens, he said the social impact would  
49 be about the same. In response to a question from PC Autio, Mr. Weston said the site's zoning  
50 did not have to be changed, but should the commission decide to rezone it, his recommendation  
51 was AF.  
52

1 Planning commissioners discussed with staff forestry issues, the impact of various types of  
2 developments on the threatened marbled murrelet, and why the proposal did not meet goal  
3 exception criteria in staff's opinions. Mr. Weston commented there were properties to the south  
4 with goal exceptions already that could easily meet any demand for housing of the type being  
5 proposed.

6  
7 Chairperson Johnson recessed the meeting at 11:22 a.m. and reconvened at 11:30 a.m.

8  
9 Chairperson Johnson opened the hearing to public testimony.

10  
11 Cullen Bangs, Engineering Coordinator, Oregon Department of Forestry (ODF), 92219 Hwy.  
12 202, Astoria, stated he had submitted a letter on behalf of ODF on January 5, 2009, and said  
13 ODF does not support the zone change request. He explained ODF's review found streams on  
14 the forested site to be vital and said the marbled murrelet had been detected below forest  
15 canopy level, behavior associated with nesting. He said his agency, working with Oregon  
16 Department of Fish and Wildlife, has established a marbled murrelet management plan. He  
17 said management includes seasonal restrictions on noise and disturbing the habitat. An  
18 increase in noise may not be acceptable, Mr. Bangs said, and he noted the increase in houses  
19 could increase the number of corvids, which are predators of murrelet nests. Mr. Bangs said  
20 ODF would request setback of 125 feet from ODF property. He noted any management of the  
21 land would have to be conducted in concert with the Forest Practices Act.

22  
23 Jerome Arnold, P.O. Box 72, Cannon Beach, speaking on behalf of the Ecola Creek Watershed  
24 Council and the North Coast Watershed Association, said all the organizations have asked the  
25 application be denied. He said he agreed with Mr. Bangs' testimony and added the soils are  
26 poor for building, for septic systems and wells commenting he was sure the land trade was not  
27 something of which the parks department was proud in retrospect.

28  
29 Mark Barnes, P.O. Box 569, Astoria, representing Mr. Smejkal, spoke in support of his client's  
30 application. Mr. Barnes agreed with Mr. Weston the land swap was not part of the application  
31 and provided a brief history of how his client obtained the property, explaining the state had  
32 approached his client about the trade.

33  
34 Mr. Barnes said he disagreed with county staff's assessment of the application and believed the  
35 criteria pass the test and the written materials demonstrate compliance. He asked if, should the  
36 commission find this exception not up to standard, what did this say about all the previously  
37 approved exceptions in the same area. Also, he asked if this was not an acceptable use for the  
38 property, what could be done with it? He indicated he was leery of proposing a campground for  
39 the site, something Mr. Weston mentioned, because of the amount of traffic turning off Highway  
40 101 and because he thought it would have a greater impact on the marbled murrelet. Also, Mr.  
41 Barnes thought the subdivision proposal was compatible with the activities on the property to  
42 the north. He acknowledged the geohazards and soils but said geologist Tom Horning had  
43 visited the property and told him he thinks properly engineered roads and building sites are  
44 quite possible. His client, he said, was aware of and okay with the 125-foot setbacks.

45  
46 Mr. Barnes pointed out a flaw in the public notice, which indicated the site was in the area of  
47 Hug Point, not Arcadia Beach. He suggested re-noticing the matter and continuing the hearing,  
48 which would permit time for rebuttal anyway.

49  
50 County Counsel Blair Henningsgaard stated it would be a waste of resources to have a case  
51 remanded by the Land Use Board of Appeals because of a minute technical issue and said Mr.  
52 Barnes' suggestion would cure the problem.

53  
54 Chairperson Johnson agreed to continue the matter and asked staff to re-notice the hearing.

1 PC Pogue expressed concern about the concept of recreational management zoning, saying  
2 people imagine trees and waterfalls and don't realize it allows development.

3  
4 Planning commissioners discussed aspects of the proposal with Mr. Barnes, who noted  
5 previous goal exceptions in the area might be considered as setting precedents and said his  
6 client believes he can address any slides and steep hillside issues.

7  
8 There were no other comments from proponents.

9  
10 Mark Ward, P.O. Box 116, Cannon Beach, spoke in opposition, saying he agreed with the staff  
11 findings. Mr. Ward said Mr. Smejkal had been compensated for his property in the trade and  
12 Mr. Ward commented he, too, was concerned about water issues in the area.

13  
14 Sarah Smyth McIntosh, 144 Laneda, #8, Manzanita, stated she is a land use attorney and  
15 developer in Olympia with a second home in Manzanita. She said she was curious in learning  
16 about the applicant and found it interesting there was not a lot of communication with county  
17 staff, given the seemingly drastic change being proposed. She said she understood the  
18 concern of "What do you do with this land?" but assumed this was a knowledgeable developer  
19 who knew what he could do when he agreed to the swap; she added comprehensive plans are  
20 in place to protect with some certainty those who have invested. She said asking what could be  
21 done with this property is a legitimate question.

22  
23 Bill Campbell, P.O. Box 843, Manzanita, called the application major and said he agreed with  
24 most of the staff findings. He disagreed, however, with the staff finding that the economic goal  
25 had been satisfied. He provided an example from Tillamook County and asserted the need for  
26 parkland in Oregon, but not for more residential land. He noted concern about soil and water  
27 issues, on-site sanitation and seasonal wetlands, noting most of the slopes exceed 30% to 60%,  
28 which he thought would be suitable for hiking and walking.

29  
30 Jim Stewart, 16315 Inglewood Place NE, Kenmore, WA, stated he owns the property to the  
31 north and came to the hearing opposed. He said he worried about water, wildlife and such  
32 issues and didn't like the idea of an RV park. He said he would like some personal time with the  
33 applicant and wanted to find the appropriate density for the site.

34  
35 Tevis Dooley, 31972 East Ocean, Arch Cape, said he was a member of the Arch Cape Water  
36 and Sewer Board, urged the planning commission to vote against the proposal, based on the  
37 work of staff.

38  
39 Pam Patrie, P.O. Box 116, Tolovana Park, said she had seen many changes in the area and  
40 said it's fragile, despite its rugged appearance. She did not believe it could support more  
41 development.

42  
43 Mike Manzulli, P.O. Box 1281, Cannon Beach, a member of the Ecola Creek Watershed  
44 Council, testified the applicant had traded resource land in Washington County for resource land  
45 in Clatsop County; RV parks are a conditional use; and the property is steep. Mr. Manzulli,  
46 commenting he didn't believe the RV park was an issue, said the applicant doesn't meet the  
47 criteria, the development would cause over intensive use and traffic and was not compatible  
48 with the pattern of development in the area. He read from a letter he had submitted into the  
49 record. Speaking of the watershed council, he asked the commission to deny the application.  
50 Chairperson Johnson recessed the meeting at 12:34 p.m. and reconvened at 12:43 p.m. PC  
51 Pogue departed the hearing during the recess because of a prior commitment.

52  
53 R.J. Turk, P.O. Box 482, Cannon Beach, spoke next, saying his property is directly to the north  
54 of the proposed development and he recalled it being in private ownership in the 1980s. Mr.

1 Turk's greatest concern, he said, is water, as the neighboring wells are shallow. He also was  
2 concerned about traffic. Mr. Turk said if the request is granted he would request a left turn lane  
3 and 125-foot setback from his south property line. He added the Oregon Department of  
4 Forestry requires there be no noise on his property during marbled murrelet nesting season and  
5 suggested the commission request testimony from the Oregon Department of Fish and Wildlife,  
6 noting he can't do what he wants on his property because of the (marbled murrelets).

7  
8 Sharon Amber, P.O. Box 101, Cannon Beach, asked how many of the commissioners had been  
9 to Arcadia Park. She stated she came to the area 25 years ago because of places like it. Ms.  
10 Amber said her business is totally dependent on visitors and she agreed with a previous  
11 speaker (Mr. Campbell) who raised the economic issues. She thought the loss of the park  
12 would impact her business.

13  
14 Jan Siebert-Wahrmund, P.O. Box 778, Cannon Beach, asked the planning commission to deny  
15 the request.

16  
17 Jeff Harrington, HLB-OTAK, 4253-A, Hwy 101 N, Gearhart, representing the Seaside Retreat,  
18 said his clients have concerns about traffic and water. His clients, the Widemans, depend on  
19 surface water, and he explained about senior water rights, saying the Widemans sometimes run  
20 out of water. Another concern, he continued, was septic failure and leaching on the beach in a  
21 very sensitive area. Mr. Harrington said the Comprehensive Plan protects the value of people's  
22 lands, and developments affect views and investments, and this zone change would affect  
23 value.

24  
25 In response to a question from PC Harper-Vellutini, Mr. Harrington explained in greater detail  
26 about water rights and about the logistics of drilling.

27  
28 Bruce Francis, P.O. Box 246, Cannon Beach, stated as a former planning commissioner, he  
29 recognized how very complex this requests was, yet he saw it quite simply. Mr. Francis said the  
30 issue is compensation, and he did not see the land as having equal potential as that for which it  
31 was traded; he guaranteed the commissioners the developer had examined the potential of  
32 development, not the current value, when negotiating with the Oregon Department of Parks and  
33 Recreation for which property the state would offer him in exchange for his in Washington  
34 County. Mr. Francis called the proposed development a "scurrilous, money-making scheme."  
35 The developer has no ties to this area and was not present today, Mr. Francis continued, while  
36 everyone in this county lost access to 17 acres of parkland. He encouraged the planning  
37 commissioners to look at the staff report when making their decision.

38  
39 Sheila Moran, 34050 Mallard Avenue, Nehalem, said as a nearby resident from Tillamook  
40 County, she felt part ownership and urged the commission to deny the request. There is  
41 tremendous need for recreational land versus developed land, she said, and she told the  
42 commissioners, "I don't think we should be held hostage" by the RV park concept being raised.  
43 She thought if the commissioners denied the request, Mr. Smejkal could sell the land to a land  
44 trust or back to the parks department. She said he got the land at a steal if he develops it as he  
45 intends.

46  
47 Peter Farrell, P.O. Box 216, Cannon Beach, expressed concern about traffic safety and said the  
48 parks department should get some land back because of the parking situation. He thought  
49 long-range planning was needed.

50  
51 John Miner, 80726 Hwy 101 S, said he owns land adjacent to the state park and said it is a  
52 beautiful place, describing a stream that enters from the state land. He said it supplied barely  
53 enough water to supply one home on weekends. Mr. Miner saw no need for more residential

1 zoning, and he said this request does not comply with the law. It should be denied on the basis  
2 of common sense, he said.

3  
4 Douglas Deur, 79811 Third Road, Arch Cape, identified himself as a long-time North Coast  
5 resident and research faculty with the University of Washington College of Forest Resources.  
6 Mr. Deur stated he had submitted a letter already but wanted to make some additional points:  
7 First, the RV park was mentioned as an obvious trade off. It's a conditional use, he said, and it  
8 would have to meet certain criteria and it's not just a "slam-dunk." Mr. Deur also corrected the  
9 original acquisition date by the park department as being 1971; he said the state made the  
10 acquisition with the idea of developing the park. He, too, noted the limitations on water and  
11 septic and the potential impacts on the beach, which he said raised serious issues about the  
12 viability of the project. The application, as presented, should not be permitted to go forward, he  
13 concluded.

14  
15 Jerome Arnold asked to speak again, saying as a resident, he was very proud in 1998 when  
16 voters approved using 15% of lottery proceeds to be divided equally between watershed  
17 councils and state parks. The Legislature implemented the approval in 1999, and funds would  
18 have become available in the 2002 biennium, he thought, adding that hundreds of millions of  
19 dollars have become available for use through this program to purchase property for parklands.  
20 He thought there should be considerable money available to purchase the land in question. Mr.  
21 Arnold thought the land trade flew in the face of what the electorate had in mind when approving  
22 the lottery funding and reiterated his contention that considerable pressure must have been  
23 exercised to transfer the property.

24  
25 Chairperson Johnson announced the hearing would be continued to Tuesday, February 10, at  
26 10 a.m., in the Judge Guy Boyington Building, Astoria.

27  
28 **PC Powers moved and PC Audio seconded to continue the matter until the**  
29 **February 10, 2009 meeting (and to keep the record open). Motion approved**  
30 **unanimously.**

31  
32 Mr. Weston said he would resend the notice to everyone and reopen public testimony.

33  
34 **Adjournment**

35  
36 Chairperson Johnson adjourned the meeting at 1:23 p.m.

37  
38 Respectfully submitted,

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40  
41  
42 \_\_\_\_\_  
43 Cary T. Johnson  
44 Chairperson, Planning Commission  
45  
46