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Via Email

Cheryl Lund  
Gearhart Planning Commission  
698 Pacific Way  
PO Box 2510  
Gearhart OR 97138  
(503) 738-5501  
[planning@cityofgearhart.com](mailto:planning@cityofgearhart.com)

Re: Oregon Coast Alliance (ORCA) testimony re Palmberg request to rezone from RA, rural Agriculture to R2, Medium Density Residential

On behalf of Oregon Coast Alliance (ORCA) please accept the following testimony in opposition to the application to rezone 27 acres from Rural Agricultural to R2, Medium Density Residential. ORCA respectfully requests that the City Council deny the application.

- I. The application has not demonstrated that the amendment will meet a land use need, and, even if the need is established, the applicant has not demonstrated that it will satisfy that need

The applicant alleges that “[l]ocal housing authorities and others have determined there is a need for more affordable housing in the north coast region.” The applicant has not demonstrated that the proposed houses will, indeed, be *affordable*. For example, the applicant has not committed itself in any discernible way to providing affordable housing and the applicant has not identified what *is* affordable housing. The applicant cannot rely on an alleged need that is undefined and for which the applicant is not committed. While the applicant may have some “intent” at this point, there is simply nothing that commits

the applicant to any particular type of development, including affordable development. Indeed, the property is not proposed for development at this time. As noted in the staff report, “the zone change may or may not result in the development of new affordable housing opportunities in Gearhart.” Therefore, there is little in the applicant’s reliance on a need of affordable housing when the applicant has not demonstrated that it will satisfy the alleged need.

The applicant has also not shown that the housing would be any more affordable than those that already exist in Gearhart. Without demonstrating how much residentially-zoned land is currently available, there is no substantial evidence to support a finding that there is a need for affordable housing. It is unclear how much residentially-zoned land is available that is not afflicted by historical contamination. It is also unclear how much residentially-zoned land is available that would not affect wetlands. Historically contaminated lands and lands where wetlands can be adversely affected should be low priority lands for residential development. Considering all of these issues, there is simply no need for a residential development amidst historical contamination that could also have an adverse effect on wetlands and waters of the United States. Indeed, the applicant has not shown that such a need exists, when considering all relevant circumstances.

II. The application is inconsistent with GZO Section 3.13 Freshwater Wetland and Lake Overlay Zone

The purpose of this zone is to conserve significant freshwater wetlands and lakes. While the proposal purports to restrict the use on identified wetlands, the applicant has not addressed that the residential development may otherwise affect wetlands, regardless of whether the development is occurring on the wetlands themselves. The allowed uses and accessory uses in the overlay zone are generally passive and beneficial to the wetlands (e.g. low intensity recreation, passive restoration measures, wetland rehabilitation activities, enhancement of native vegetation, removal and replacement of invasive non-native vegetation). The same cannot be said of significant residential development. The septic systems, roads, and other accessory uses that occur in conjunction with residential dwellings have not been fully addressed by the applicant, and, as a result, there can be no finding of consistency with GZO Section 3.13.

III. The application has not demonstrated that the uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request

Surrounding property to the north and south is Rural Agricultural and C-2 and R-2 to the west. Adjoining land outside the City and UGB is under Clatsop County

jurisdiction and is zoned RA-1 by the county with additional Conservation and Rural Land designations. There is also no sufficient demonstration that the subject property will sufficiently act as a buffer between higher density zoning to the west and lower density on unincorporated lands to the east.

IV. The application has not demonstrated that the land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations

The findings for this provision do not account for the historically contaminated soils and possibility of adverse effects to wetlands. DEQ noted that “[t]here are localized areas of residential soil contamination in the former operational areas of the site and tax lot 1000 .... soil excavated or moved on-site during development work must not be placed in proximity to wetlands.” Residential development will require the removal and transport of contaminated soils, but the applicant has not identified where such contaminated soils will be deposited or transported. At one point, DEQ noted that the majority of the site, with the exception of tax lot 1000, did not present a significant threat to human health or the environment and issued a partial no further action. DEQ subsequently determined that a No Further Action was warranted for tax lot 1000. Thus, there still remains areas that are a significant threat to human health or the environment, and proposal to put residences in this area is unconscionable. Clearly, residential uses should not be permitted on historically contaminated soils, where grading will occur, unearthing contaminated soils. The proposed findings fail to address this issue in any regard, as it relates to this provision. Moreover, the very fact that so much of the land is undevelopable indicates that the land is not physically suitable for residential development.

Even more concerning is the statement that the primary constraints on development are the “localized and unpredictable documented fills, and relatively shallow groundwater with the potential for caving sands in trench excavations.” Again, the misguided notion that this property is appropriate for residential development is alarming, especially in light of the “preliminary” and “cursory” septic review. The septic evaluation is admittedly based on a “cursory inspection,” and leaves unanswered issues of “wetlands boundaries,” “proper[] remediation to DEQ standards,” and the “type size and size of septic system that will be required for each proposed lot.” It is entirely unclear, from this incomplete and premature analysis, whether septic systems could be adequately sited on the subject property given the saturated and contaminate soils.

V. ORCA agrees with the findings of the Planning Commission in recommending denial

ORCA concurs in the Planning Commission's findings that the zone change is not compatible with the large-lot and uniquely rural agricultural residential character and development pattern of the neighborhood. The adjoining McCormick Gardens Road and Pacific Way are substandard roads that are narrow, poorly drained and often flooded. The mucky peat soil conditions and the high water table characteristics in an area where the average elevation is 15 - 20 feet creates hazardous flooding conditions and significant tsunami inundation susceptibility. The site is not suitable for high density housing development because households would be at risk. Finally, ORCA agrees with the Planning Commission's findings that there is no need for additional or increased density and that there is no guarantee that affordable housing will be constructed on the site.

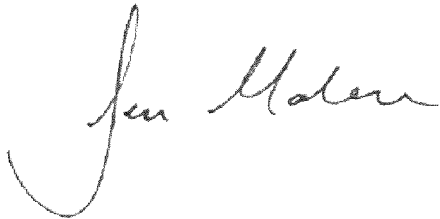
VI. Offer to write findings

I am able and willing to write findings in support of a denial of the application.

VII. Conclusion

For the reasons provided above, the application must be denied.

Sincerely,

A handwritten signature in cursive script that reads "Sean T. Malone". The signature is written in black ink and is positioned above the typed name and title.

Sean T. Malone  
Attorney for ORCA

Cc:  
Client