

Cheryl Lund

From: Gail Henrikson
Sent: Friday, August 31, 2018 12:18 PM
To: 'Cheryl Lund'
Cc: Carole Connell
Subject: RE: File #18-005ZMA

Carole:

I looked through the proposal and have a few concerns:

1. The unincorporated area across McCormick Gardens Rd is zoned Lake and Wetland and RA-1, with comp plan map designations of Conservation – Other Resources and Rural Lanes, respectively. The existing City designation is a lower density classification that is intended to be a buffer between higher density to the west and the lower density unincorporated lands to the east. I don't see how the proposal is consistent with that intent.
2. What steps might the City require to limit the total amount of development on the 27-acres to 25-42 units?

Thanks for your consideration.

Gail

From: Cheryl Lund [mailto:planning@ci.gearhart.or.us]
Sent: Tuesday, August 21, 2018 11:40 AM
To: Gail Henrikson
Cc: Carole Connell
Subject: RE: File #18-005ZMA

Here you go Gail. I am including Carole Connell our planner on this email she will be able to answer your technical questions.

In addition to the narrative there are multiple attachments – wetland delineation, wetland determination data sheets, site photos, wetland methodology and references, FEMA Firm 2018, traffic impact analysis, sim traffic report, Geotech report, DEQ NFA, septic evaluation, and plan sheets.

If you are interested in any of the other documents let me know and I will send them to you

Cheryl
planning@cityofgearhart.com

From: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Sent: Monday, August 20, 2018 4:57 PM
To: 'Cheryl Lund' <planning@cityofgearhart.com>
Subject: File #18-005ZMA

Hi, Cheryl.

We received your notice today for this case. Would it be possible for you to scan and email their narrative, please? I looked on the website but couldn't find the materials. What will be the increase in density if the amendment is approved? I ask more for curiosity's sake, than any other reason. I know that area is close to wetlands and the floodplain and am just trying to assess possible impacts.

Thanks.

Gail Henrikson, AICP, Director
Clatsop County Community Development
800 Exchange Street, Suite 100
Astoria, OR 97103
503.325.8611
503.338.3666 Fax
ghenrikson@co.clatsop.or.us
www.co.clatsop.or.us

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Cheryl Lund

From: Carole Connell
Sent: Tuesday, September 04, 2018 10:41 AM
To: 'Cheryl Lund'
Subject: FW: Gearhart - Subdivision - Palmberg (CHAMPS 45025)
Attachments: Gearhart Land Use Notice.pdf

Importance: High

Cheryl,
Below are the ODOT comments for Palmberg.
CC

From: CASWELL Matthew C [mailto:Matthew.C.CASWELL@odot.state.or.us]
Sent: Tuesday, September 04, 2018 8:52 AM
To: 'Li.Alligood@otak.com'
Cc: KEARNS Richard A; connellpc@comcast.net
Subject: Gearhart - Subdivision - Palmberg (CHAMPS 45025)
Importance: High

Li,
The proposed path and fire access to US 101 will require easements, a road approach application, and permit from ODOT. Please work with Richard Kearns for the application and processing for a road approach permit for the fire access.

Matt Caswell, P.E.

Oregon Department of Transportation
Development Review Coordinator
Region 2, 455 Airport Rd SE, Bldg. B
Salem, OR 97301-5395
503.986.2849 (Office)
503.986.2630 (FAX)
e-mail: matthew.c.caswell@odot.state.or.us





September 12, 2018

City of Gearhart Planning Commission
698 Pacific Way
Gearhart, OR 97138

Re: City File #18-005ZMA

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you may know, all amendments to the Comprehensive Plan Map and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). Although the staff report references the Comprehensive Plan and it looks as if changing the zone designation from Rural Agricultural (RA) to Medium Density Residential (R2) will add needed housing on the parcel in question, there is no reference the Goal 10 findings. No reference is made to the impact of the amendment in context of the City's Buildable Lands Inventory or Housing Needs Analysis.

When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis and Buildable Land Inventory (BLI) to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change.

Even when a proposal increases the residential land supply, the City must show that it is adding needed residential zones. The City must demonstrate that its actions do not leave it with less than adequate residential land supplies in the types, locations, and affordability ranges affected. *See Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for



industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations). Only with a complete analysis showing any gain in needed housing as compared to the BLI can housing advocates and planners understand whether the City is achieving its goals through code amendments. The findings at page 7 of the staff report are a start, but the City should examine its HNA and BLI to make adequate Goal 10 findings.

HLA and FHCO urge the Commission to defer adoption of the proposed amendment until adequate Goal 10 findings can be made. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

A handwritten signature in cursive script that reads "Jennifer Bragar".

Jennifer Bragar
President
Housing Land Advocates

cc: Gordon Howard (gordon.howard@state.or.us)

Cheryl Lund

From: Jennifer Bragar <jbragar@tomasilegal.com>
Sent: Thursday, October 04, 2018 9:49 AM
To: Li Alligood; ldix@fhco.org
Cc: connellpc@comcast.net
Subject: RE: Gearhart zone change - draft Goal 10 findings for your review

Dear Li and Carol,

HLA and FHCO have reviewed your memorandum with draft Goal 10 findings. Thank you for your effort, your review of the out-of-date HNA and bringing the discussion up to date with reference to the soon-to-occur County-wide Goal 10 planning efforts. These are the kind of Goal 10 findings that will allow planners to measure whether housing goals will be reached in the long term. As your caveat at the end suggests – there is no guarantee that affordable housing or dense housing will be built at this site – but with these findings, the problem is identified and the City is taking steps to try to alleviate some of the concerns.

Hopefully, more findings like this will inspire the City and County-wide planning effort to consider additional tools to help alleviate the affordable housing crisis – minimum densities, additional density bonuses for providing permanently affordable housing in the mix, and other types of incentives, as well as allowing cottage type development that helps focus on design and density at the same time.

We appreciate that the City and applicant took our concerns seriously – if the density does materialize, it will be a lasting legacy for the property owner to provide housing in his community for generations to come.

Jennifer Bragar | jbragar@tomasilegal.com

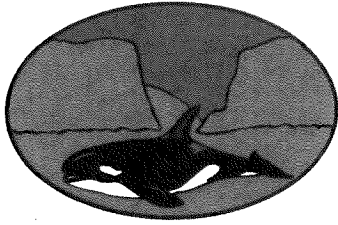
Tomasi Salyer Martin | 121 SW Morrison Street, Suite 1850 | Portland, Oregon 97204

Tel: 503-894-9900 | Fax: 971-544-7236 | <http://www.tomasilegal.com>



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ORCA: Oregon Coast Alliance
Protecting the Oregon Coast

P.O. Box 857, Astoria OR 97103
(503) 391-0210
www.oregoncoastalliance.org

Sept. 13, 2018

Planning Commission
City of Gearhart
698 Pacific Way
P.O. Box 2510
Gearhart, OR 97138

Via email: planning@cityofgearhart.com

Re: File #18-005ZMA, Palmberg Rezone of 27 acres from RA, Rural Agricultural to R2, Medium Density Residential

Dear Members of the Gearhart Planning Commission,

Please accept these comments by Oregon Coast Alliance on the proposed Palmberg rezone for 27 acres from Residential Agriculture to Medium Density Residential. The rezone would in practice allow a maximum 45 units, given the wetland and other constraints on the site. ORCA is an Oregon nonprofit corporation whose mission is protection and restoration of coastal natural resources, and working with coastal residents for community livability.

This proposed rezone is very troubling, for several reasons. Briefly, we note the following:

- (a) The Department of Environmental Quality letter of October 2007 notes that “There are localized areas of residual 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.” If this property is contaminated enough that the soils transported offsite need to be managed according to regulations for contaminated soils, this is no area for a development project of any kind.
- (b) Clatsop County noted that the existing Residential Agriculture zone is intended as a buffer between higher density zoning to the west and lower density (principally RA-1, including conservation and rural land designations) on unincorporated lands to the east. This proposal is not consistent with that intent.

(See Staff Report, page 3). Even the ultimate design allowing a maximum of 47 attached dwelling units, or perhaps 25 single family units, is too much and too urban in character, for this area. There is no compelling need for housing or further development to change the zoning on this property to an urban residential zone.

- (c) Though the Staff Report (p. 6) discusses the residential Comprehensive Plan policies, the conclusion is remiss. The most relevant policy, #3, says the city “shall allow for needed housing types such as manufactured dwellings, duplexes, multi-family dwellings and residential care facilities and residential homes.” The Staff Report says in several places (e.g., pp. 7-8) that this zone change proposal “provides an opportunity” for development of more affordable housing units. But this is not the applicant’s intent. The conceptual plan shows fairly large lot single-family dwellings. The Sept. 11, 2018 article in the *Daily Astorian* quotes the applicant’s real estate broker as saying that this development fills a “need” for homes in the \$300,000 range. Single-family homes in that price range are not by any stretch of the imagination “affordable housing.” ORCA notes that the applicant’s narrative carefully mentions only the *opportunity* for affordable housing, not any commitment or interest in providing it. This appears to be yet another development in which “affordable housing” is used as the buzzword to gain decision-maker concurrence, with no intent to do other than provide upper range single-family houses as usual.

Conclusion

Given the past uses of this land for a gravel and paving operation, and the presence of contamination as well as extensive wetlands, the best course of action for Gearhart would be to deny this rezone request and enter negotiations with the owners for purchase of the entire 27 acres as a regional park. That would protect the wetlands, prevent any further spread of contaminated soils, buffer the low-density zoning on county-zoned lands to the east, and protect Gearhart’s integrity by not allowing yet more unnecessary high-end housing at the edge of town.

Thank you for the opportunity to testify. Please enter this letter into the record for this matter.

Sincerely,

/s/ Cameron La Follette

Cameron La Follette
Executive Director

Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-G
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

October 11, 2018

Via Email

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

Re: Oregon Coast Alliance (ORCA) testimony re 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. For the reasons below, the application must be denied.

I. 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 effect 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. 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.

II. The application has not demonstrated that the amendment will meet a land use 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 shown that the proposed houses are any more affordable than those that already exist in Gearhart. Moreover, there is no housing need in Gearhart unless it is demonstrated how much residentially-zoned land is currently available. Beyond those basic issues, it is unclear how much residentially-zoned land is available that is not afflicted by contaminated soils and would also adversely affect wetlands by residential development. Considering all of these issues, there is simply no need for a residential development amidst contaminated soils that would 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.

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 contaminated soils and 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 entail the 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

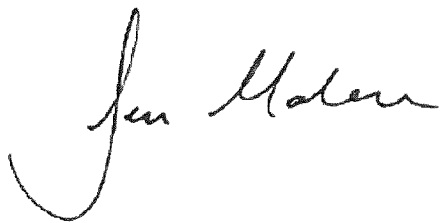
was required for tax lot 1000. Thus, there still remains areas that are a significant threat to human health or the environment, and proposal to put residences in this area is unconscionable. Clearly, residential uses should not be permitted on contaminated soils, where grading will occur, unearthing those 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. Conclusion

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

Sincerely,

A handwritten signature in black ink, appearing to read "Sean T. Malone". The signature is fluid and cursive, with a large initial "S" and "M".

Sean T. Malone
Attorney for ORCA

Cc:
Client

R 10/10/2018

October 6, 2018

Gearhart City Council,

I live on McCormick Gardens Rd. and my house is probably the one closest to the street of all of them. My husband and I have lived on the road for almost 40 years, and until recently didn't see many changes. When the housing development on Hillila Rd. and Highway 101 went in, traffic noticeably increased on McCormick Gardens. This is because many of the people in those homes drive up and down McCormick Gardens to use the light on Pacific Way. Getting out onto 101 from Hillila, even turning right, and especially in the summer, is very dangerous. This is to say nothing of turning left off 101 onto Hillila which at the best of times is a hazard. Speeding on our road has become a huge problem with this increase of traffic, as it is a straight stretch until the two 90* turns on the north and south ends.

About the 90* turns at both ends of the road; if traffic from the proposed Palmberg development is routed onto McCormick Gardens as proposed, I can foresee head on collisions. People coming around those corners cut into the wrong lane and go too fast. An increase in 2 or 3 car homes at the south end will increase this risk. Also, the light onto Highway 101 is a very dangerous one. Hardly a month goes by when someone either going north or south doesn't run that light or turn left in front of an oncoming car. Not to mention how many times I've almost been hit by someone blindly backing out of the Dairy Queen parking lot onto Pacific Way. There are often parked cars in the road or cars backing out from Terry Bacon's shop and Gearhart Ironwerks too, and the blind hill heading up and down off Railroad Ave. is another place where cars often drive on the wrong side of the road and with too much speed. Having more and more people using the Pacific Way light from the east will not be a good thing.

McCormick Gardens Rd. is a country road. Every day there are dog walkers, older people out for exercise, bicyclists, skate boarders, joggers, families pushing baby strollers, and of course, elk, deer, squirrels, great blue herons and bitterns in the ditches, ducks and geese crossing with babies, and birds flying back and forth across the road. We don't need more cars! Please think about the impact another housing development will have on the people and the wildlife that live "on the wrong side of the tracks" where it has mostly been peaceful and quiet for all these years.

Thank you.
Jan Wieting

88189 McCormick Gardens Rd
Gearhart OR 97138

Julie Nichols
4835 High Ridge Road
Gearhart, Oregon 97138
503-819-5581

October 23, 2018

Chad Sweet
City Administrator
City of Gearhart
698 Pacific Way
Gearhart, Oregon 97138

Dear Mr. Sweet,
Please let it be noted we oppose the proposed R2 development east of Hwy 101. We do not oppose R1 designation.

I spent time two weeks ago sitting and observing the intersection and lights at the corner of Pacific Way and Hwy 101. Should any development be approved the intersection should be reconfigured for pedestrian and bicyclist safety.

Thank you,

A handwritten signature in black ink that reads "Julie Nichols". The signature is written in a cursive, flowing style.

Julie Nichols
Wer5cents@aol.com

October 30, 2018

Gearhart City Council,

We who live on McCormick Gardens Rd., Hillila Rd., and East Pacific Way could all be negatively impacted in some way if the proposed housing development is allowed to go in on the Palmberg site. Many of us spoke or wrote letters to the Gearhart Planning Commission stating our opposition. We were pleased and relieved when the vote was unanimous not to grant the rezoning for this project. We hope you also will take into careful consideration the fears we have if this development is allowed to take place:

- First and foremost, McCormick Gardens Rd. is a quiet country road with people jogging, walking dogs, pushing strollers, riding bikes, and elderly people out for exercise.
- There is a bounty of wildlife back here: elk, deer, squirrels, ducks and geese with babies, herons and bitterns in the ditches, and birds flying back and forth across the street.
- The area in question is on “mucky peat” which is what most of the homes on McCormick Gardens deal with. The water table is very high, and flooding of the road and homes east of the road happens periodically. Historically, the drainage ditches on our road were maintained to alleviate flooding, but that is no longer the case. Beaver dams that used to be taken out, no longer are. Thus, the water level continues to rise, both on the east and west sides of the road. Filling land on the south end could impact all of us even further.
- New houses built here would be in the tsunami zone and most likely also be prone to liquefaction in a strong earthquake.
- Concerns were raised about contamination of the grounds on the Palmberg site as it was once industrial. If a lot of excavation needed to be done, where does this fill go? Would the resulting land be safe for habitation, and is the lake clean? It was mentioned that in the winter there are oil sheens in the puddles on the paths there.
- Traffic issues are a major concern. The north and south ends of McCormick Gardens are 90* turns and people come around them on the wrong side of the street. With increased traffic of possibly 100 or so cars, the danger of collisions would increase. The increased traffic would have a negative impact on all the homes along the street, especially those very close to the road.
- The stoplight on Highway 101 is a dangerous one. People run the red

light coming from the north and south frequently. Having more cars entering from the east off Pacific Way onto the highway would increase that already congested intersection. The Dairy Queen parking lot is also an issue with people blindly backing onto Pacific Way into oncoming traffic.

- The entrance to McCormick Gardens Rd. from the north is a very dangerous left turn onto Hillila Rd. This is a hazard at the best of times, and especially in the summer.
- It was stated that McCormick Gardens Rd. would need to be widened to accommodate added traffic. The road is lined with wetlands and ditches full of water and some of our yards go right to the road.
- Who would be responsible for paying for this widening if it happened? The road is half county and half Gearhart's.
- The truck and building traffic would be a nightmare while the development was getting built.
- Is there enough police and fire protection for an additional large development in Gearhart?
- What about sewage? There would have to be above ground systems put in for each home. These would raise the ground level even more.
- Does Gearhart have an adequate water system to accommodate a new housing development?
- The planning commission stated that there are 700 building sites available in Gearhart to satisfy the need over the next 20 years. The argument that this new development is needed for that reason doesn't appear to be valid.
- The idea that these new homes would be "affordable" came into question, as it would be up to the developers to decide if apartments or million dollar homes would ultimately go in. The planning commission was concerned that once the zoning changed, it would be out of Gearhart's hands what got built.

Our area east of the highway, is a long established neighborhood. Those of us who live here do so because we like the rural atmosphere. The Gearhart charter states, "The city will maintain the present residential density levels in established neighborhoods" and "will preserve the low density, semi rural character of Gearhart."

Jan A. Weeting
Signatures attached

1. Jan Wieting
88189 McCormick Gardens Rd.
Gearhart
2. SUSAN Hinton
33723 Postlewaite Lane
Gearhart
3. Philip S. Hinton
33723 Postlewaite Lane
Gearhart, OR 97138
4. Jane Newhouse
1614 McCormick Gardens Rd
Gearhart, OR, 97138
5. Kathleen Hebert
710 McCormick Gardens Rd.
Gearhart, Oregon 97138
6. Gerald W. Hebert
710 McCormick Gardens Road
Gearhart, OR. 97138
7. ORVIS D. Odegard
1116 MCCORMICK Gd Rd
GEARHART OR. 97138

1. Kevin Schubert
1801 Pacific Way
Beavertown OR. 97138

2. BRAND DICTER
88189 MCCORMICK GARDEN RD.
BEAVERTOWN