

WASCO COUNTY PLANNING COMMISSION

July 5, 2011

Meeting begins at 3:00p.m.

Columbia Gorge Discovery Center

Boardroom

5000 Discovery Drive

The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Ron Archer
Jill Amery
Chip Wood

COMMISSIONERS ABSENT

Mike Omeg
Russ Hargrave

STAFF PRESENT

John Roberts, Planning Director
Jeanette Montour, Senior Planner
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, limited to items not being heard or discussed elsewhere on the agenda.

None

III. APPROVAL OF PAST MINUTES-

IV. QUASIJUDICIAL HEARING: File # File #PLAQJR-11-04-0001. Request by Columbia Land Trust for an Open Space tax assessment to be applied to a 46.46 acre parcel in the F-F(10)/EPD-8, Forest Farm/Sensitive Wildlife Habitat Overlay zone in Wasco County; a portion is also zoned A-2(20), Small Scale Agriculture in the National Scenic Area. The subject property is located approximately 800' east Cherry Heights Road, on an easement road located approximately 4/10 mile south of the intersection of Cherry Heights Road/Lutz Lane, approximately 2½ miles southwest of The Dalles, Oregon. Review Authority: Chapter 2, Section 2.060.B.1. of the Wasco County Land Use and Development Ordinance. Review Criteria: Oregon Revised Statute (ORS) 308A, Sections 308A.300-308A.330.

Chair Hoffman opened the hearing as follows:

The procedure the procedure for the hearing is as follows:

- a. Establishment of Party Status
- b. Reading of the Rules of Evidence
- c. Disclosure of Ex Parte Contact
- d. Planning Department Report
- e. Applicant's testimony
- f. Those who wish to speak in favor of the proposal

- g. Those who wish to speak in opposition of the proposal
- h. Applicant's rebuttal
- i. Close the hearing for questions, deliberation, and the decision

1. Party Recognition

Anyone can speak for or against the proposal. However, only those who have party status will be able to appeal a decision reached by this Commission.

A party is defined in Section 1.090 as

- a. The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.
- b. All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.
- c. A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.
- d. Any affected unit of local government or public district or state or federal agency.
- e. Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)

4. The Rules of Evidence are as follows:

- a. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- b. Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- c. Testimony and evidence must be directed toward the criteria applicable to the subject hearing.
- d. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties an opportunity to respond to the issue precludes further appeal based on that issue.
- e. Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Wasco County to respond to the issue precludes an action for damages in circuit court.
- f. Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing.

5. Disclosure of Interest of Ex Parte Contact:

- a. Does any Planning Commission member wish to disqualify themselves for any personal or financial interest in this matter?
None.
- b. Does any Planning Commission member wish to report any significant ex parte or pre-hearing contacts?
None.
- c. Does any member of the audience wish to challenge the right of any Planning Commission to hear this matter?
None.
- d. Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?
None.

Chair Hoffman called for the staff report.

Jeanette Montour, Wasco County Senior Planner

Ms. Montour presented the staff report as follows: Request: As the Chairman indicated, today we will be discussing an open space tax assessment request by Columbia Land Trust. There is no proposed development associated with this request.

1. Location: The property is located approximately 800' east of Cherry Heights Road, on an easement road located approximately 0.3 mile south of the intersection of Cherry Heights Road/Patton Drive, approximately 2.6 miles southwest of the Dalles, Oregon.
2. Staff Recommendation: The full Staff Recommendation was mailed in the Planning Commission's agenda packets. It was available for review at the counter one week prior to this hearing, and it is considered a part of the record.
3. Why the Request is Before the Planning Commission:

State law requires an Open Space Tax Assessment to be treated in the same manner as a Comprehensive Plan Amendment, which requires the Planning Commission to make a recommendation to the Board of Commissioners, who will make the final decision.

Chapter 2, Section 2.060.B.1. of the Wasco County Land Use & Development Ordinance requires the Planning Commission to hear Quasi-Judicial Plan Amendments and make a recommendation to the Board of County Commissioners.

4. Stage in the Process: This application was submitted to the Planning Department on April 21, 2011, and the request was found to be complete on May 20, 2011, and was scheduled for this public hearing. All required public notice has been given. The Staff Recommendation, with findings and conclusions, was issued on June 27, 2011. The Staff Recommendation and Summary were provided to the Planning Commission. If the Planning Commission feels they have all the necessary information to make a decision, they will vote to do so today.
5. Criteria: The criteria used to evaluate this request include:

A. WASCO COUNTY LAND USE & DEVELOPMENT ORDINANCE (LUDO)

Chapter 2 – Development Approval Procedures

Section 2.060.B.1. (Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment – Comprehensive Plan)

Section 2.080.A (Notice)

Section 2.090 (Contents of Notice)

B. WASCO COUNTY COLUMBIA RIVER GORGE NATIONAL SCENIC AREA LAND USE & DEVELOPMENT ORDINANCE (NSA-LUDO)

Chapter 2 – Development Approval Procedures

Section 2.050.B.10. (Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment)

Section 2.100 (Notice Requirements)

C. COMPREHENSIVE PLAN

1. Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources, Policy 9 - Fish and Wildlife
2. Goal 6 – Air, Water and Land Resources Quality, Policy 1
3. Goal 8 – Recreational Needs, Policy 2

B. OREGON REVISED STATUTE (ORS)

Chapter 308A — Land Special Assessments

Section 308A.300 (Definitions for ORS 308A.300 to 308A.330)

Section 308A.303 (Policy)

Section 308A.306 (Application for open space use assessment; contents of application; filing; reapplication)

Section 308A.309 (Submission of application for approval of local granting authority; grounds for denial; approval; application withdrawal)

Section 308A.312 (Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial)

Section 308A.315 (Determination of maximum assessed value and assessed value of open space lands; rules)

Firstly, I'd like to note that a Clarification to Zoning Regulations was made to the Staff Report and Notice of Decision that was sent out to you. The zoning designations on the properties in question are: F-F (10) and A- 2 (20) on a 43.82 acre parcel.

In reviewing the applicable criteria, staff found that the request was consistent with all County and State requirements for an Open Space Tax Assessment.

The subject property, which is a vacant, or undeveloped parcel, contains slopes that are predominantly greater than 33% slope which makes residential development, including construction of the road and buildings, and placement of a septic system very difficult without large quantities of cut and fill.

According to Jeremy Thompson, District Wildlife Biologist, Mid-Columbia District, Oregon Department of Fish & Wildlife, this site provides the opportunity to protect an intact Oregon White Oak stand. This stand falls within the Wasco Oaks strategy habitat type within the East Slope Cascade Ecoregion, as defined within the Oregon Conservation Strategy.

This site is located in an area that provides a transition between the lower elevation developed suburbs surrounding the community of The Dalles, and high elevation timber lands. These intact oak stands between development and wild lands provide critical wintering habitat for a wide variety of wildlife species. These stands are also in peril of development as the local community continues to expand. This site also enables restoration to take place, increasing the biodiversity potential.

In addition to the wildlife value, staff notes that Columbia Land Trust is a non-profit organization that has the right to request an exemption from ALL property taxes, but has requested approval of an Open Space Tax Assessment that will require them to pay some taxes rather than none.

Also, approval for open space tax assessment does NOT change the zoning status of a parcel. Therefore, in this case, the parcel will remain both F-F (10), County Zoning, and A-2 (20) Scenic Area Zoning.

Finally, staff inquired with the Wasco County Assessor's Department on the subject Open Space Tax Assessment and future development of a parcel assessed for Open Space. The Assessor's Department staff stated that if development were to occur on a parcel assessed for Open Space was for a 'common use' purpose or not attempting to earn a profit from the development, then the Open Space Assessment would not change (examples of this type of development used in this discussion were bathrooms or parking lots). However, if a residential or otherwise commercial structure were placed on a parcel assessed for Open Space, then the parcel would be subject to penalties associated with the change in use. The applicants have been made aware of the Oregon Revised Statutes that are used to define these rules.

The options of the Planning Commission are to:

- a. Approve the request with the findings and conclusions recommended by Planning Staff; or
- b. Approve the with amended findings and conclusions provided by the Planning Commission; or
- c. Deny the request with amended findings and conclusions provided by the Planning Commission; or

- d. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

Staff believes that the Planning Commission has sufficient information to make a decision on this request, and recommend Option A.

Chair Hoffman called for questions from the Commission.

Vice Chair Ashley asked if there would be limited use restrictions so that there could not be motorized vehicle use such as 4 wheelers. She feels the use of motorized vehicles would put additional burden on police and fire services. Ms. Montour replied that the request is just for the tax assessment, no land use review has been requested at this time.

Commissioner Amery asked if the tax assessment would go with the property if sold. Ms. Montour replied that the owners could sell the property with the open space tax assessment.

Director Roberts stated that if the owners partition the property, for example, and sell, then the Assessor would collect back taxes on that portion of the property.

Chair Hoffman asked if the property is subject to a conservation easement. Ms. Montour replied that as far as the Planning Department is aware, it is not subject to a conservation easement.

Chair Hoffman called for testimony from the applicant.

Virginia Bowers, Columbia Land Trust

Ms. Bowers testified that the Columbia Land Trust purchased the subject property in December 2010. The Land Trust wishes to conserve the property for primarily wildlife habitat. She also stated that the property will be used for open space, no recreational vehicles will be allowed. Currently the Land Trust has tours of the property during the spring for their donors, but are looking to possibly create a trail in the future. Ms. Bowers stated that the Columbia Land Trust usually applies for tax exemption on its property, but they were hoping to receive grants on this property and would like to have Wasco County support for the grants. Therefore, the Land Trust chose to pay taxes, but at the Open Space tax rate. She also stated that the Columbia Land Trust agrees and supports the staff conclusions in the staff report.

Commissioner Archer asked for clarification on the type of activities which would be occurring on the property. Ms. Bowers replied that if the property were opened to the public it would only be for passive recreation.

Commissioner Archer asked if hunting would be allowed. Ms. Bowers replied that she was unsure, some Columbia Land Trust allows hunting, but she did not know if it would be allowed on this one.

Chair Hoffman called for additional questions from the Commission.
None.

Chair Hoffman called for additional testimony.
None.

Chair Hoffman closed the hearing for deliberation.

Commissioner Archer stated that he had concerns that there was no requirement to show that there is a need for the uses. He has concern with removing currently taxed property from the tax rolls.

Commissioner Amery stated that she had no questions or concerns.

Vice Chair Ashley stated that she didn't agree with pulling the property off the tax rolls.

Commissioner Wood stated that approval would not be taking the property off the tax roll, just reducing the amount of the tax. He then asked for clarification on what the change to the taxes would be. Ms. Montour stated that the difference would be approximately \$800.

Chair Hoffman stated that the County has open space goals. He also pointed out that the subject property isn't particularly suited for development, stating that the NSA portion of the property probably isn't buildable. He stated that he was in support of the request.

Commissioner Wood moved to recommend approval of the request for open space tax assessment as presented by Staff.

Commissioner Amery seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was approved 4 to 1, 2 absent (Commissioner Omeg and Hargrave). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – absent

Commissioner Wood – yes

Commissioner Omeg – absent

Commissioner Archer – no

Commissioner Amery – yes

Commissioner Archer stated that he voted against for reasons stated during deliberation.

V. FUTURE AGENDA ITEMS:

Ensley Appeal

Quasi-judicial Variance

VI. Other business

Wasco County Planning Director John Roberts officially introduced himself to the Planning Commission. He then gave a brief summary of his experience. He also expressed his hopes for the future of the Planning Office and stated that he was looking forward to working with the Planning Commission.

Director Roberts lead a discussion on available training for the Planning Commissioners.

Training suggestions

-process (especially for new commissioners)

-Commissioners expressed that they would not like to attend OPI (Oregon Planners Institute)

Senior Planner Jeanette Montour gave the Commission a brief update on the status of the Hearing for the Energy Updates.

The Commission directed Staff to mail out the Agenda Packets earlier. The Commission would like to receipt the packet a minimum of 7 days prior to hearing, rather than having them mailed 7 days prior to hearing.

VII. ADJOURNMENT

Adjourned at 4:10 pm

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning & Development