

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, MAY 17, 2012**

Public Services Center
1300 Franklin Street
BOCC Hearing Room, 6th Floor
Vancouver, Washington

6:30 p.m.

CALL TO ORDER

DELEISSEGUES: I'll call the Clark County Planning Commission to order for Thursday, May 17th. We'll have roll call, please.

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|---------------|--------|
| MORASCH: | ABSENT |
| BARCA: | ABSENT |
| GIZZI: | HERE |
| WRISTON: | HERE |
| USKOSKI: | HERE |
| QUTUB: | ABSENT |
| DELEISSEGUES: | HERE |

STAFF PRESENT: Oliver Orjiako, Community Planning Director; Chris Cook, Prosecuting Attorney; Jim Vandling, County Forester; Laurie Lebowsky, Planner II; Jose Alvarez, Planner II; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for May 17, 2012

DELEISSEGUES: Do we have approval for the agenda for tonight, any changes?

GIZZI: I make a **motion** to approve.

DELEISSEGUES: Great. All in favor.

EVERYBODY: AYE

B. Approval of Minutes for April, 2012

DELEISSEGUES: How about the minutes for April 19th, 2012.

GIZZI: I make a **motion** we approve the minutes.

USKOSKI: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

C. Communications from the Public

DELEISSEGUES: Any communications from anyone in the audience about anything that's not on tonight's agenda? Seeing none, we'll then return to the public hearing items for tonight. And the first one is open space and timberland applications. Mr. Jim Vandling.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. OPEN SPACE & TIMBERLAND APPLICATIONS:

Planning Commission will consider staff recommendations for approval or denial of Timberland or Open Space Applications for Current Use Assessment pursuant to Chapter 84.34 of the RCW. The criteria for Open Space or Timberland was established by Resolution No. 1977-10-32, adopted November 7, 1977 and Ordinance No. 1982-02-65 adopted March 17, 1982, and Ordinance No. 1996-02-30, adopted February 27, 1996.

Staff Contact: Jim Vandling, (360) 397-2121, Ext. 4714
Or e-mail: james.vandling@clark.wa.gov

VANDLING: Thank you, Mr. Chairman. Jim Vandling, Environmental Services. I'm here to deliver staff's recommendations to the Planning Commission for approval, denial or partial approval for the 2012 open space and timberland review.

This is the 26th year that we've been before the Commission and the number of applications has dropped slightly from the year before. We had 22 total, 17 were for timberland and 5 were for open space in this case either stream protection or soil conservation. Staff has recommended approval of all of the applications this year.

The quality of the management plans that are accompanying these applications is increasing by the year. We're having more seminars for the landowners, not only our own staff on the outreach part, but also we have the NRCS now and the Washington State Extension Forest Office is holding numerous workshops across Western Washington and a lot of our landowners and consulting foresters have had an opportunity to take part in these and I'm seeing the workshops paying off with the quality of the plans that are being turned in.

So beyond that, I suppose I can answer questions if you have any specific questions relevant to my recommendations to the Planning Commission. I'll be taking your recommendation based on the staff report to the Board of Commissioners on June 26th for the final approval so we can get the agreements recorded.

DELEISSEGUES: So, Jim, just for my education I guess, what's the difference between

a timberland application and an application for transfer from designated forest land to timberland? And I think I can figure it out, but why don't you just kind of go over that.

VANDLING: All right. Yeah, I understand what the question is. The stand-alone timberland applications are new applications, they've never been in a current use category before. The designated forest land classifications are for the larger acreages, 20 acres and over, and as soon as they decide to take an acre out for a house or split it in half or short plat it or something like that and still have the necessary acres growing timber, then they can reclassify that from designated forest land to timberland.

DELEISSEGUES: Is there any reason why we can't approve the whole bunch or do you want them approved by group?

VANDLING: You can approve the entire staff report as it is.

DELEISSEGUES: Any questions of Jim?

WRISTON: No. I'd just like to say that I've been doing this a lot of years and Jim now has too and since Jim has been on board, not to give you a big head or anything, Jim, but --

VANDLING: I've got a leaf out there in my briefcase.

WRISTON: -- you do an amazing job with working with the landowners. I hear from property owners, people that know you and you work with them, and when we used to do this years ago it was a very painful, long, sometimes late in the night, if not two-day process or two-hearing process and now you've got it down to one approval. So I just want to applaud you. That's all.

DELEISSEGUES: Well --

VANDLING: Thanks.

DELEISSEGUES: -- I'd echo what Jeff says. It's very nice to come and have everything recommended for approval. That's the way we'd like to have it on all the issues we deal with. Any other questions of Jim?

GIZZI: No, I have no questions. I'd echo what's been said already. I mean we had a chance to work together 13 years ago and it was very thorough and I appreciated it and everyone understood exactly what needed to be done, I'd expect the same as reflected here.

DELEISSEGUES: Yeah, good. I don't have anybody on the sign-up sheet, but does anybody in the audience wish to testify on this? If none, we'll return it to the Planning Commission for deliberation or a motion.

WRISTON: Unless anyone has deliberations, I would **MOVE** to approve.

USKOSKI: I'll **second**.

DELEISSEGUES: It's moved and seconded to approve Jim's recommendation --

WRISTON: Yeah, staff recommendation.

DELEISSEGUES: -- staff recommendation to the County Board of Commissioners for approval on all 22 applications. So may we have roll call, please.

ROLL CALL VOTE

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| GIZZI: | AYE |
| USKOSKI: | AYE |
| WRISTON: | AYE |
| DELEISSEGUES: | AYE |

DELEISSEGUES: Thank you, Jim.

VANDLING: Thank you.

WRISTON: Tough night. We were rough on you, weren't we?

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

B. CPZ2012- 00007: ADOPTION OF THE COUNTY'S EQUESTRIAN PLAN RECOMMENDATIONS:

This hearing item will be for the Planning Commission to make a recommendation to the Board of County Commissioners on the adoption of Equestrian Plan recommendations that will be eventually included in the County's Rural Land Update. Adoption of the Equestrian Plan will modify Title 40 of the unified development code regarding cluster development, add equestrian policies relating to the rural element of the comprehensive plan and create an Equestrian Overlay zone..

**Staff Contact: Laurie Lebowsky (360) 397-2280, Ext. 4544
or e-mail: Laurie.Lebowsky@clark.wa.gov**

DELEISSEGUES: The next item on the agenda is CPZ2012-00007, adoption of the County's equestrian plan. So I'm sure we must have a staff report.

(Commissioner Barca entered the hearing.)

LEBOWSKY: We do. Laurie Lebowsky with Community Planning. Good evening,

Commissioners. As Commissioner Deleissegues mentioned the item before you is CPZ2012-00007, the equestrian plan recommendations.

To give you a little bit of background, the Board of County Commissioners included the development of an equestrian plan in community planning's work program. Subsequently we established an equestrian advisory group. Some members of that group are here tonight. They guided the planning process and developed the plan recommendations.

The group met 12 times. The plan recommendations include three components and they are the equestrian element to be included in the rural element of the comprehensive plan which is Exhibit 1. Exhibit 2 is amending the rural cluster development to allow equestrian facilities on the remainder lot. Finally, an equestrian overlay zone to be included in the Title 40 development code which is Exhibit 3 in your packets.

We have received two comment letters. The first letter is from the Department of Fish and Wildlife. This is regarding Exhibit 2 and copies were made available to you tonight. Their comments are regarding the building envelope requirements of the cluster development standards.

If you look, Commissioners, on Page 2, what the person is referencing is Page 2, Line 27 of the information you received tonight, the revised Exhibit 2 --

DELEISSEGUES: We'll have to dig it out. Which line, 22?

WRISTON: Revised though.

DELEISSEGUES: Laurie.

LEBOWSKY: Pardon?

DELEISSEGUES: Line 22?

LEBOWSKY: Well, the revised section is Lines 38 through 45, the double underline.

DELEISSEGUES: Yeah.

LEBOWSKY: So to better protect critical areas the Department of Fish and Wildlife is recommending that the current language regarding houses on the remainder lot be applied to equestrian facilities as well. As I mentioned the underlined language is what staff drafted as a response to the letter from Fish and Wildlife.

We also received a second letter from Mary Ann Simonds which was sent to you. Basically it's a letter of support of the plan recommendations. So staff's recommendation based on the information and the findings presented in the staff report and the exhibits, we are recommending the Planning Commission forward to the Board

of Commissioners a recommendation of approval of the recommendations of the equestrian advisory group.

That concludes my presentation. And Jose and I, I should have mentioned, Jose Alvarez also worked as a staff person on this plan, and we're here to answer any questions that you have.

DELEISSEGUES: Jose, do you have anything to add?

ALVAREZ: No.

DELEISSEGUES: Good. Any questions of staff? Jim.

GIZZI: No.

DELEISSEGUES: Not yet?

GIZZI: No.

DELEISSEGUES: If there's no questions of staff, we'll go to the sign-up sheet. The first name is Lloyd Clemans, do you wish to testify?

PUBLIC TESTIMONY

CLEMANS: Pardon?

DELEISSEGUES: Do you wish to testify on this?

CLEMANS: No, sir.

DELEISSEGUES: Okay. Kathy Cannon.

CANNON: Yes. Testify, not at this time, no.

DELEISSEGUES: Thank you. And Cheryl Manford.

MANFORD: Yes.

DELEISSEGUES: Okay, great.

MANFORD: My name is Cheryl Manford and I was a member on the equestrian advisory group. One of the reasons I wanted to come tonight is that I understand primarily, obviously I support this since I was involved with the group and we basically blessed it, but I understand in your work session that you had some questions with regard to the overlay zone in particular and I was wondering if I could help you with that.

You were wondering about some of our thought process on that and from talking to Laurie it sounded like it really had to do with the fact that the way the language kind of fell out in this is that basically anyone could go out and create their own overlay zone right now in terms of creating a homeowner's association and trail systems and things such as that.

One of the issues, and I won't go through all of the items, I assume that the comp plan language that you all reviewed that as well so you've got the basic picture, one of the large things for the equestrian community is that as properties are taken into urban holding, basically all of your zoning protection just goes away and ultimately as we all know a lot of equestrian properties owners are basically forced out.

It happens all over the United States and it will happen here as well. You can't control necessarily the density and the developments that would come in up against you. So there's all sorts of urban pressures that come into play and there's a lot of pressure to get people off obviously so that higher density development can occur.

There are many, many pluses in the grand scheme of things, but I tend to be a little bit, these guys know, a little bit idealistic when it comes to the future of development and design and where we really need to be headed, and I think there is a huge benefit to equestrian developments and there would be a huge benefit and there is a huge benefit in specific urban areas around the United States.

Mary Ann Simonds has a wealth of information on that, but you can find a lot of it out on the Internet as well. There's this huge demand even with high density developments whether they're townhouses, condos with shared facilities and things like that.

So there's a huge benefit of maintaining some of that open space and that life-style even within urban areas, but there's no good way to offer those property owners protection right now because once you go into urban holding, everything falls away so all of a sudden individual property owners are then needing to negotiate one-on-one with cities or towns or whoever's getting ready to annex them in an attempt to maintain even if you have several owners in the same location, attempting to maintain that life-style and saying we don't want to be annexed.

And I think that just happened not necessarily with equestrian, but I think there were a group of people that had to do with that Cedars annexation of Battle Ground that they were left out because they all kind of got together and said we don't want to be annexed.

So what the overlay zone kind of does is hopefully it, number one, I wish the County would take a stronger lead role in this, but I understand and again I'm idealistic, and I wish the County would be like leading the builders and the developers because frankly I don't think the developers are in the pipeline as far as the niche market opportunities that exist with equestrian.

And the old development plan and the old building design development planning, that

old model, that's a paradigm that is no longer working and equestrian actually is a niche opportunity that may help salvage some future development work, but they don't know that.

Seriously. I mean I talked to a developer a couple of months ago and he was absolutely clueless as to the benefits of even equestrian cluster development until I explained to him shared trails, shared facilities, that not every individual homeowner would have to build. Oh, yeah, and the light started coming on.

So what this does, even though somebody right now could go out and do it, most people don't know that if you go out and basically create their own homeowner's association, they wouldn't have that zoning overlay designation that helps to highlight for other people who may be looking to move here, for other people who are maybe wanting to get a horse and go out in the county, all of a sudden they see that flag even on a map some place that says, oh, well, there's a little equestrian overlay zone over here, what is that, well, let's go find out, that's one benefit to it.

The other benefit it goes back to losing all of your rights basically, your zoning protection, when you go into an urban holding area what that overlay zone does and that homeowner's association or equestrian association or whatever you want to term it, what it does is it already has a nucleus, that group is already legally formed.

It already gives them some bit of weight to be able to go in, they don't have to organize to go in and talk to the City, they already have one entity that the City would come and talk to them to be able to negotiate hopefully not being annexed or maintaining the equestrian life-style once that would flow with that property after the annexation process.

So that was really the thought process was is there any way that we can afford some protection. Because if people have that protection, if they think they may long term have that protection, they might be a little more willing to purchase an equestrian property that's soon to go into urban holding or annexed.

Did I miss anything there? I'm asking these guys because we've been back and forth in our meetings on this topic many, many times and that was why I was really hoping that the County would have a stronger lead role in that, but I think what we have here is something that will help educate the public, educate the current developers and builders as to some opportunities that they may not have thought about before and in that regard I think the County can take a lead role. So does that help?

DELEISSEGUES: Yeah. Any questions?

MANFORD: I'll be glad to answer any other questions you've got about any of it.

GIZZI: Well, I think we all clearly understand the benefits and the work session was positive with regards to the equestrian overlay as a whole. All the questions were around exactly what you're talking about and maybe part of our concern is what you're

expressing.

That is that there is no protection using an overlay and the concern is that if someone were to buy an equestrian property in this overlay zone, they would believe that there were protections in place that might not yet exist and that was the question and we went back and forth on this and I don't know what the County could do to make that stronger.

I understand your concerns and why you'd like it to be that way and I don't know what it would take to make it that way, but the fact is I think from what we were talking about it's just not that way at the moment so we're concerned about sending the wrong message. In other words, having money and time spent on creating an overlay zone that leads people to believe that they have protections that they don't. So we wanted to make sure that that was clearly understood.

MANFORD: For the people who would buy.

GIZZI: Who would form this --

MANFORD: Who would form it, yes, and purchase property and whatnot. There might be a way to help resolve that. I mean I've lived in other places where there's all sorts of, you know, perhaps if someone purchases a piece of property perhaps one of the requirements the County may have is that the realtor would have to provide from the association an explicit detail layout of the fact if they are annexed into the city that the onus would be upon the property owners and the community association to negotiate with the City to maintain the rights to have equestrian usage flow with the property throughout its lifetime.

I mean that's kind of the hope is that you already have a legal entity in place that would give you some broader base to be able to negotiate that to hopefully be able to swing a little more weight with the cities to protect yourself and the properties. It would have to help in some way instead of everybody scrambling at the last minute trying to figure out how to group together.

GIZZI: Yeah, it would at least give you a unified voice I would guess.

MANFORD: Yeah, that's the right phrase, unified voice.

DELEISSEGUES: Any other questions? Ron? Valerie? Anybody?

BARCA: So I think it's fair to say that we all lean towards optimism at times and you came up here and you expressed optimism, whereas we in our work session kind of went towards pessimism.

DELEISSEGUES: Concerned, Ron, concerned.

BARCA: Concerned.

DELEISSEGUES: We were concerned.

BARCA: Oh, perhaps I misspoke.

MANFORD: Sorry, he's already on the record.

BARCA: I speak only for myself under those circumstances. I believe that this is a positive tool towards expressing the desires of the landowners and their intended right to use their property.

I'm all for that as long as we don't go in with the thought process about the way that clusters are done today and being able to drag an implied covenant forward when a municipality takes the property inside their urban growth boundary.

I think this is a very positive tool. We were just discussing as a sidebar on the thought process that it almost seems like the landowners would need to change the way that they enter into their own agreement as to link all the property together in some fashion so it's more of a undividable interest or some fashion so when your zoning changes within the municipality, it's an all or nothing proposition for the group because the pressure to subdivide and to take the profits many times are overwhelming to certain individuals and it busts the covenant.

DELEISSEGUES: Yep.

BARCA: So I think it's something for your organization to go back to and look at the idea of how to strengthen it within your own private property mechanisms. It certainly isn't going to be something that I believe the County can ensure or guarantee, but I certainly see this working as a method to in a straightforward manner express to all entities whether it be county or municipality that your intent is to use the property for a specific manner that is both your choice and life-style. So that's --

DELEISSEGUES: Is that a question?

BARCA: -- my two cents on the work session and you're coming in here and discussing it.

MANFORD: Well, I don't disagree with you, but I think that really would be up to the community, well, what did we wind up calling those, equestrian associations, basically a homeowner's association, community association. I've lived in different places and everything's called different things.

I think it depends on how that's structured and how that property is tied. I mean usually that association runs with the property so you can't necessarily just jump out of it. So I think it would depend on how they would determine at what point in time that a property, you know, like one property might be excluded from the overlay zone or the association.

But I agree with you, I think there's ways that they could strengthen it. Tying all the

properties together would be an interesting concept. There are other ways the properties would be kind of linked and that would be through the trail systems so it wouldn't make sense for certain properties to drop out of that.

BARCA: And I'm not proposing a specific method, I'm just throwing out the idea that in some fashion I think the private property ownership needs to become the strengthening component, whereas you're not going to see it any stronger than this proposed language.

DELEISSEGUES: Thank you for your testimony.

MANFORD: Okay.

DELEISSEGUES: That's the last name I have on the sign-up sheet. Does anybody else in the audience wish to testify? Chris, I think you're the only other one. Okay. Then we'll return it to the Planning Commission for deliberation and a motion. Boy, you guys are really excited here.

RETURN TO PLANNING COMMISSION

BARCA: Let's start down on the right side.

DELEISSEGUES: Yeah.

WRISTON: No, we won't, we can start on the left.

DELEISSEGUES: Are you ready, Val?

WRISTON: Let's start on the left, not on the right.

DELEISSEGUES: Do you want to bail out Jeff?

WRISTON: Yeah, bail me out.

USKOSKI: Sure, why not. I really like the idea of how this was presented, but like was stated before my biggest concern is the homeowners within this overlay that have gone to the time and expense to create this have a false sense of security and I think that's up to them to understand that it ultimately comes down to how well their legal documents are put together in forming their association to make sure there are no outs for those properties or that it's an all or nothing scenario essentially if they want to dissolve it.

But you don't have, well, this portion of the property is a trail but I'm going to opt out and develop my property to its max density and start fragmenting the area that way. But ultimately I do agree with how this is structured and I think it has potential to do a lot of good for those that are looking to maintain a life-style assuming that the legal

documents are done correctly.

DELEISSEGUES: Anything else? Ron, do you want to add to what you've said?

BARCA: No, I think I covered what I needed to.

DELEISSEGUES: Okay, thank you. Jim.

GIZZI: Well, I'm with Valerie very much. I completely agree with wanting to get your neighbors together and protect your life-style, it's the right thing to do, it's what all of us hope to do with where we live, but I guess the concern would be that somehow it's expressed explicitly that the overlay zone itself is not enough to protect the property owners upon inclusion in the urban growth boundary.

That would be my concern is that it's somehow implicit and yet not explicit and I'd hate that burden to fall on the County from a liability standpoint. I don't know if that's a concern or not. I don't know if, Chris, you could help us with that.

COOK: Good evening, Commissioners. Chris Cook, Deputy Prosecuting Attorney. I'm sorry, Commissioner, could you restate your question.

GIZZI: We had talked about concerns that creating the overlay zone would allow the property owners to feel that they were afforded protections that didn't exist if the urban growth boundary were expanded to include those properties.

My concern is is there liability on the part of the County if a property owner believes that they had those protections, the properties were annexed into the urban growth boundary and it was decided that the equestrian overlay zone was going to be done away with?

COOK: I don't believe, Commissioner, that there would be any liability to the County any more than there is now when property is zoned in a particular manner and then it is rezoned according to law either because it's brought within an urban growth area or because it's annexed or for any other reason. A zone is a zone and a property owner is responsible to know what laws that person's property might be subject to.

In this case I think that the protections that the property would be subject to would be very much the creation of the property owners. And as Commissioner Uskoski stated, it's going to depend on what kind of job they do at the outset what's going to happen later.

If they do a really good job setting it up, then presumably there will be more protection for them than if they don't. The County cannot do that for them, nor can the County guarantee that things are always going to be the way they are because they won't.

GIZZI: Okay, good. Thank you.

COOK: You're welcome.

DELEISSEGUES: Anything else, Jeff?

WRISTON: No. I just agree with what Valerie said, that the key here for the property owners will be, and we saw this recently I think, will be the strength and the CC&Rs and other documents that form the community to protect that community for years to come. I think Val said it very well.

DELEISSEGUES: The developments that are already in place right now and the people let's say in the surrounding area would get together and form one of these associations of owners.

I would think if they're not really careful about a CC&R type of approach that runs with the title of their land that they could have somebody move in, one of these owners that thought it was a wonderful idea to have horses, leaves, sells the property to somebody that doesn't think it's so neat to have horses, it seems like the trail system ought to be easements not just across private land for that reason.

Somebody could fence it off and say, well, so and so thought it was wonderful to have a trail go through their backyard but we don't think so. I think that's where the protection is as much as there's going to be and a real strong conditions, covenants, restrictions approach to just like a neighborhood association would have, a homeowner's association, that way when people buy the land they essentially are agreeing to the conditions that allow this activity to go ahead and that would even hold up inside of a city.

I mean the CC&Rs would run with the land, the City can't do much about that, that would stay. The overlay, I don't see where that helps except to encourage as you point out in your recommendations here to encourage the equestrian use on that particular property or area, then that would be the place where the people would get together to form these associations would have some protection in an overlay area.

But I think the requirements that they come up with themselves and make sure that the people, just like any other homeowner's association, are quite aware of those requirements and they sign on when they buy the property to agree to abide by them, that's where the strength would be. I read this but I don't see nothing really comes right out and hits you.

WRISTON: I think I'm going to throw in, because we see them time and time again, is CC&Rs are great but they need to be done right.

DELEISSEGUES: Yeah. True.

WRISTON: A homeowner's association is simply basically, and Chris can correct me if I'm wrong, but a corporation that's set up by the Secretary of State to represent the homeowners or whatever, but with the CC&Rs, CC&Rs are a contract and they need to

be signed and they need to be filed with the County Recorder's Office and recorded or referenced in the deed or something.

I guess I would warn present associations that want to do this or future associations that want to do this to make sure that they seek proper legal counsel and get their CC&Rs done correctly.

DELEISSEGUES: Yeah. My daughter-in-law's an attorney that represents homeowner's associations and Jeff just made her speech, that's exactly what she would say.

WRISTON: They're done wrong --

DELEISSEGUES: Yeah.

WRISTON: -- more often than not probably.

DELEISSEGUES: Yeah, and that's where the legal business comes in.

WRISTON: Yeah, don't call me.

DELEISSEGUES: Yeah. Any other deliberation here or a motion?

BARCA: I'll make a motion to approve staff recommendation with the modifications presented tonight in the exhibits.

GIZZI: I'll second it.

DELEISSEGUES: Moved and seconded that we adopt the recommendation for approval of the adoption of the County's equestrian plan recommendations as amended. Roll call, please.

ROLL CALL VOTE

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| GIZZI: | AYE |
| BARCA: | AYE |
| USKOSKI: | AYE |
| WRISTON: | AYE |
| DELEISSEGUES: | AYE |

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

WRISTON: Good job.

BARCA: Sorry I was late, big gas leak out in Ridgefield, separated me from my car for three hours.

GIZZI: This is record time.

ADJOURNMENT

DELEISSEGUES: Yeah. So thank you for your attendance. With that, we're adjourned.

All proceedings of tonite's hearing can be found on the Clark County web page at:
<http://www.clark.wa.gov/planning/commission.html>

Chair

Date

*Minutes Transcribes by:
Cindy Holley, Court Reporter
Sonja Wiser, Administrative Assistant*