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## The battle of Sandy Bluff

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SUMMARY: A builder's frequent challenges over Sandy's development rules

play out with land-use appeals, court cases and other actions

For more than two years, Sandy city officials and a developer have been at war.

Oregon City-based Joe Spaziani of Great American Development Co., the developer of Sandy Bluff and dozens of other subdivisions in the metropolitan area, has filed a lawsuit in Clackamas County Circuit Court and half a dozen appeals with the state Land Use Board of Appeals.

The city "brings it on themselves," Spaziani said, calling some of its requirements "totally ridiculous."

Sandy officials consider Spaziani a nuisance, one who consumes taxpayers' time and money. They deem most of his challenges to be unreasonable.

"The Sandy Bluff subdivision is maturing as a very nice neighborhood," City Manager Scott Lazenby said. "The actual work he's done has been overall positive, so it is puzzling to have a consistent set of legal fights over what seem to be minor issues."

Beyond the bickering and the bureaucracy, both the city and the developer acknowledge that their conflict is triggered by growth and density concerns. It's also a conflict over the vision of a city and over who should dictate that vision: Residents? City councilors? Developers? The free market?

Separated from metro-area sprawl by a large stretch of unincorporated and mostly undeveloped land, Sandy sees itself as distinct: a self-sufficient, proud little town where people still recognize each other on the streets.

But in the past 10 years, while Spaziani was developing the Sandy Bluff subdivision, the city's landscape changed dramatically. Sandy's population has nearly doubled, to more than 7,000, and subdivisions have multiplied. In 2006, the city set a record for building permits: 193 were granted, each representing a housing unit. A thousand more residential lots are under review or have been approved in recent months.

The sudden growth has given rise to worries and opposition, spurring councilors to quickly revise the development code and work on a slew of new rules.

Spaziani, 60, a stocky and folksy man, says the city's process for revising its code has been arbitrary.

"Sandy kind of has an attitude that they're going to make decisions on the fly, and change this or that requirement at the drop of a hat," he said.

Sandy city officials say they have gone out of their way to work with the developer and have not seen so many legal challenges from any other developer in the city's history.

"We're always feeling on the defensive with Joe," said David Doughman, city attorney. "It seems that legal maneuvering and legal actions are ultimately at the top of his agenda."

Legal experts say it's rare for a developer to file so many lawsuits in one city over land-use issues.

However, most of Spaziani's work has not been controversial, with the exception of a 1989 Milwaukie zoning dispute, which the developer won after an appeal to the state land-use board.

Spaziani's two subdivisions in Happy Valley have generated no legal challenges, said Michael Walter, Happy Valley planning services manager, adding that the developer has been "cooperative" in resolving problems.

#### Origins of conflict

The conflict in Sandy started in 2005, after councilors adopted two ordinances that reinstated minimum lot sizes. Spaziani --whose lots in Sandy tend to be small --filed an appeal to the land-use board, arguing that larger lots would make it impossible to achieve housing densities adopted in the city's comprehensive plan.

The land-use board agreed with Spaziani, and two years later the city conceded that it could not justify the minimum lot-size requirements and meet projected housing needs.

Sandy officials said the code changes were made because councilors struggled with the city's increasing density.

"From the city's perspective, a lot of the changes are born out of wanting to deal with growth pressures," said Doughman, the city attorney. "The vision councilors have for the city's growth is being refined. They now have the desire to retain more of a rural identity, not just have a house on top of a house on top of a house."

#### Growth, density

In March, Sandy voters rejected the annexation of several land parcels that were to be part of Sandy Bluff. It was, city officials and Spaziani acknowledged, a rejection of growth and high-density housing.

But Spaziani said it should not be up to councilors or residents to decide. He said developers abide by market demands and the metro area's urban growth boundary, which has inflated prices in the Portland area, to figure out where and what to build next.

"It just boggles my mind that people in Sandy complain about 'snout houses,' " he said, referring to houses with garages as the dominant feature. "If snout houses don't sell, nobody is going to build them. It's a free market. It's the American dream, having options."

He said opponents of growth in Sandy --some of whom live in the early phases of his Sandy Bluff subdivision -- essentially want to tell others what to buy when they move to town.

"It's an attempt to kill affordable housing," Spaziani said. "If we build bigger lots, they will cost 50 percent more, and \$400,000 will be the cheapest house in Sandy."

#### Who decides?

The Township Development owner, Brian McMahon, who described his developer experience in Sandy as "pleasant," said developers decide to buy property based on the type of parcel that fits with what they are trying to build. But they are not the ones who should dictate the rules.

"The question comes down to, is it the city's right to determine lot sizes or the developer's?" McMahon said. "I think it's the city. The city has the right to plan a community; they have to plan 20 years out. If the developer does not agree, he should develop in another city."

Sandy officials say Spaziani was lucky to benefit from many of the old rules.

"That's part of the tension," Doughman said. "He thought he'd be able to develop all phases with the rules and regulations that existed when he purchased the property and started phase one. But the city has every right to change those rules."

Spaziani said he does not mind change but would like the city to slow down and follow the state-mandated planning process. He said he will make the city "toe the line," though Sandy officials say they would prefer to talk through challenges instead of going to court.

"I think we would much prefer to have a relationship that's less focused on legal challenges and more focused on negotiation and accommodation," Doughman said.

For now, that seems unlikely. This month, Spaziani challenged city park expenditures. Last month, he notified the city he might challenge new design rules that are in the works for residential housing.

As for the future, Spaziani probably won't develop more land. He said he's retiring when he completes Sandy Bluff and plans to travel to Italy, where both his parents were born.

"It takes a toll, butting heads with bureaucracy," he said.

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