

BOARD ORDERS AND MINUTES

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY ("the Board") sat for the transaction of county business in formal session on February 26, 2004 at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

Also present were John Krawczyk, Director of Administrative Services; John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Ken Friday, Senior Planner; Merilyn Reeves, President, Friends of Yamhill County, PO Box 1083, McMinnville; John Rankin, 26715 SW Baker Road, Sherwood; Matthew and Renee Powell, 1508 N. College Street, Newberg; Rob Molzahn, 2701 Arthur Lane, Newberg; and Don Clements, Chehalem Parks and Rec District, 3005 Lindquist Court, Newberg.

Commissioner George called the meeting to order.

A. **PUBLIC COMMENT PERIOD:** This fifteen-minute time period is reserved for public comment on any topic other than a quasi-judicial land use matter or other topic scheduled for public hearing. None offered.

B. **CONSENT AGENDA:** Commissioner Stern moved approval of the consent agenda. The motion carried, Commissioners George, Stern, and Lewis voting aye.

Personnel

1. **B. O. 04-98** - Approve employment of Leticia Enriquez, McMinnville, as Senior Office Specialist in HHS, regular part-time, Range 10, Step 1, \$11.21/hour, effective March 1, 2004.

3. **B. O. 04-99** - Approve a change in work status of Jason Abraham, Environmental Health Specialist in the Planning Department, to regular full-time, \$3366.09/month, effective March 9, 2004.

4. **B. O. 04-100** - Approve a change in work status of Ronald Prebe from Medium Equipment Operator to Heavy Equipment Operator in the Public Works Department, Range 15, Step 1, \$2436.96/month, effective March 9, 2004, as recommended by the Classification Committee.

5. **B. O. 04-101** - Approve employment of Randi Feneide, McMinnville, as Child Care Worker in HHS, emergency appointment, up to 10 hours/week as needed, \$8/hour, effective February 25, 2004 until June 30, 2004.

Contracts

5. Approve two contracts between CCF and the following providers:
 - a. **B. O. 04-102** - Head Start of Yamhill County to provide training for child care providers in Yamhill County, \$13,200, retroactive to January 1, 2004 through June 30, 2004.
 - b. **B. O. 04-103** - Public Health to provide a Directions class to at-risk youth in Lafayette, Sheridan, and Willamina, \$11,914, retroactive to January 1, 2004 through June 30, 2004.

Grants

6. **B. O. 04-104** - Approve prioritization of two applications for the Special Transportation Discretionary Grants Project List in the following order:
 1. School Bus/Chehalem Valley Strategic Planning Committee Project, \$44,865.
 - b. Yamhill County - Transportation Expansion Feasibility Study, 34,000.
7. **B. O. 04-105** - Ratify approval of grant application for the FY 2004 Homeland Security Program, \$1,376,976.

Road Vacation

8. **B. O. 04-106** - Approve Docket RV-2-2004, a petition for vacation of public road in Otter Creek Hylands subdivision, no hearing required under ORS 368.351.

Loan Forgiveness

9. Approve forgiveness of 40% of outstanding farmworker housing loans to the following borrowers:
 1. **B. O. 04-107** - Shelburne Family Farms, Dayton
 2. **B. O. 04-108** - Dennis Brutke, Amity
10. **B. O. 04-109** - Approve forgiveness of 40% of outstanding farmworker housing loan to Las Aquilas, Dayton (formerly Valley Camp, LLC) upon the Financial Services Manager's certification that the borrower is in compliance with DEQ.

Take-Home Vehicle

11. **B. O. 04-110** - Authorize a county take-home vehicle for the Sheriff's Office Emergency Manager; modifying B.O. 02-383.

C. OLD BUSINESS:

Mass Gathering Permit

1. **B. O. 04-111** - Consideration of approval of findings in support of a request by Newberg Boat Club for mass gathering to conduct 2004 Memorial Day weekend boat races at Rogers Landing Park, as tentatively approved February 19, 2004.

Commissioner Lewis moved to adopt findings in support of the request. The motion carried, Commissioners George, Stern, and Lewis voting aye.

D. PUBLIC HEARINGS:

1. Consideration of Planning Docket PAZ-02-03, a request for a Comprehensive Plan amendment from EF-20 to AF-10, applicant Matthew Powell. *[Continued to March 18, 2004, 10:00 a.m. at the point of proponent's case.]*

Commissioner George opened the public hearing. There were no abstentions or objections to jurisdiction. Commissioners George and Stern noted they had visited the site prior to the hearing.

Rick Sanai read the statement required for land use hearings related to the requirement that parties must raise all issues at the hearing or waive their right to raise the issues on appeal.

Staff Report - Ken Friday entered the staff report into the record, providing a summary of the parcel and the request for zone change. Referring to the letter in the record from Friends of Yamhill County and its citation of a previous Yamhill County court case, he stated that the Board should not consider as a basis for exception uses which are already allowed under the current EF-20 zoning.

Public Comment - None.

Proponents - Mr. John Rankin, representing Matthew and Renee Powell, stated that the property is part of what appears to be a rural residential neighborhood. He stated there are significant amounts of AF-10 land on three sides of the subject property and outlined several factors which preclude farm use, primarily the significant slope over a majority of the property. He read a letter into the record from Sterling Fox, which stated that while the soil and southern exposure would be favorable for vineyards, the slope, elevation, and discontinuity of the land would preclude vineyard use. The only past farm use has been pasturing cows on the southern section of the property.

Mr. Rankin suggested that possibly there was an error in the 1980 zoning of this parcel, when the county first created the AF-10 designation. He said that looking at the tax lot lines on the map, it logically makes more sense for the property to have been included with similar surrounding properties, which were zoned AF-10. He stated that at a planning commission meeting on January 8th, 2004, a planning commissioner explained that the subject property had originally been included in the 1980 process, and later excluded in order to eliminate an appeal. Mr. Rankin read the relevant portion of the minutes. Ken Friday stated that information is incorrect and explained that the 1974 Comprehensive Plan map was the basis for the 1980 exceptions process, and that map never included the subject property.

Mr. Rankin stated that from the Chehalem Parks and Recreation District's standpoint, it would be advantageous to move from EF-20 to AF-10. No site design review would be required and there would be outright allowance of park development. Don Clements, Superintendent of CPRD, confirmed their position in support of the application.

Rob Molzahn, a Newberg real estate broker for 14 years, addressed the issues of demonstrable need, market demand, and availability. He stated that many buyers are looking for

AF-10 properties, but availability is limited, regardless of how the term is defined. The Powells are specifically looking for property in the Newberg school district, and a search of the Multiple Listing Service showed eleven sales of property since 1999 in the Newberg/Dundee area where homes were built. Mr. Molzahn stated that generally 15-20% of properties never come on the market, so they can't be considered available. Taking that factor into consideration, the AF-10 properties in the area are essentially used up, or soon will be at the current rate. He stated that the present zoning description (large, contiguous, relatively flat land for large-scale agriculture) doesn't fit the subject property as well as the AF-10 description and purposes.

Matthew Powell stated that he had previously looked for property throughout the county, but due to family circumstances feels it is critical to remain in his current area. As a result, his search has narrowed to properties within the Newberg school district.

Mr. Rankin cited the Wetheral/Douglas County case as a legal basis for selecting a limited area for a specific personal need. He also referred to the Cox/Yamhill County case, which allowed the LDS Church to limit their search to Amity. He pointed out that there is a band of AF-10 properties along the base of the Chehalem mountains that are also out of the valley floor and steeply sloped, especially in the Bell Road area. His own analysis of the Newberg area led him to agree with Mr. Molzahn's conclusion that the area essentially has no available AF-10 land. He handed out a summary of 21 reasons supporting the exception and read through the list.

Mr. Friday stated he believes the property is in a limited groundwater area, and that any permit granted for agricultural use of groundwater would probably be for a limited number of years and subject to review. Ms. George noted that this would jeopardize agriculture on the property.

Mr. Rankin stated that cumulative impacts shouldn't be an issue in the Board's decision, since this is a unique property and the county makes land use decisions on a case by case basis. He then addressed several arguments made in the letter from Friends of Yamhill County.

Mr. Rankin stated that in case of appeal on this decision, he would offer his services to work with the Planning staff.

Questions of Proponents - Commissioner Stern asked Mr. Rankin about the consideration of cumulative impact in light of the Yamhill County case provided. Mr. Rankin reaffirmed that decisions are made case-by-case, and projecting into the future would not be appropriate for a land-use decision.

Commissioner Stern asked why the applicants had restricted their focus to the three areas within the school boundaries rather than all areas within the school district. Mr. Rankin stated that properties outside the school boundaries create a transportation issue, and other areas are more farm viable. He stated they consciously chose areas with marginal farm criteria. Mr. Molzahn stated that they did look at property in other areas within the school district and weighed the possibilities of commuting.

Commissioner Stern asked Mr. Rankin why market listings were considered when the staff

report, referring to a LUBA case, stated that market listings were not an acceptable method of determining availability. Mr. Rankin stated that market availability is a factor that was used in conjunction with analysis of other available lots in the area, and explained that they had looked at properties that had been sold from 1999 to the present, not just at properties presently for sale. He concluded that the pool of AF-10 property available for development is currently in the range that never comes on the market.

Commissioner Stern asked Mr. Friday if anything presented by the applicant today had met the criteria for approval. Mr. Friday replied that in order to meet the criteria, the applicant would need to present a more detailed analysis of the exception areas. Mr. Rankin requested a continuance to do the analysis. Mr. Friday also requested a map showing the school district boundaries and study results confirming the 15-20% market factor.

Commissioner George moved to continue the hearing to March 18, 2004 at the point of the proponent's case. The motion carried, Commissioners George, Stern, and Lewis voting aye.

E. ANNOUNCEMENTS:

1. A position is available on the Road Improvement Advisory Committee. Contact the Commissioners' Office for applications.

2. Two positions are available in the Commission on Children and Families. Contact the Commissioners' Office for applications.

Adjourn: 10:40 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS