

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 March 18, 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 M. Gray, Jr., County Counsel; John Krawczyk, Director of Administrative Services; Rick Sanai, Assistant County Counsel; Ken Friday, Senior Planner; David Bates, News-Register; Lisa Kreder, Dayton High School; Marian Powell, 3140 N. Center Street, Newberg; Matthew and Renee Powell, 1508 N. College Street, Newberg; John Rankin, 26715 SW Baker Road, Sherwood; Rob Molzahn, 2701 Arthur Lane, Newberg; and Marilyn Reeves, President, Friends of Yamhill County, PO Box 1083, McMinnville.

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.

Minutes

3. Approve the following minutes:
 - a. **B. O. 04-136** - Formal session, February 26, 2004.
 - b. **B. O. 04-137** - Formal session, March 4, 2004.

Personnel

2. **B. O. 04-138** - Approve employment of Christina Hiatt, McMinnville, as Office Specialist 2 in Family and Youth Programs, temporary full-time, Range 7, Step 1, effective April 12, 2004 through July 30, 2004.
3. **B. O. 04-139** - Approve employment of Robert Clark Johnstone, McMinnville, as Appraiser Trainee in the Assessor's Office, regular full-time, Range 14, Step 1, \$2321/month, effective March 25, 2004.

Contracts

4. **B. O. 04-140** - Approve a contract between the Assessor's Office and Leonard Farr for appraisal services, effective April 1, 2004 through December 31, 2004.

5. **B. O. 04-141** - Approve a contract between HHS and Multnomah County Health Department for Ryan White CARE Act funds to provide case management services for persons living with HIV/AIDS, retroactive to March 1, 2004 through February 28, 2005.

Permit

6. **B. O. 04-142** - Approve a permit for the Sternwheeler Willamette Queen to be tied up to the dock at Rogers Landing Park from the afternoon of March 27, 2004 to the morning of March 28, 2004.

Transportation

7. **B. O. 04-143** - Authorize provision of secure transportation of mentally ill persons by Coastal Transportation, Inc. and Mt. Retreat Secure Transportation, Inc., effective March 30, 2004 through March 30, 2006.

C. **OLD BUSINESS:** None.

D. **OTHER BUSINESS** (Add-ons and non-consent items): None.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket PAZ-05-03, a request for a Comprehensive Plan amendment from AFLH to Quarry; a zone change from EF-80 to MR-2 for approximately 169 acres, applicant C.C. Meisel, as continued from February 12, 2004 at the point of staff recommendation. *[Continued to May 20, 2004, 10:00 a.m. at the point of staff recommendation.]*

Commissioner George opened the public hearing.

Questions of Staff - Ken Friday summarized the current status of C.C. Meisel's permit application to the Department of Geology and Mineral Industries (DOGAMI), stating that the application is complete and that DOGAMI will be able to complete its technical review and issue its decision with recommended conditions by May 20, 2004.

Ms. Lewis said she would like to hear final reports from Water Resources Department and DOGAMI before making a decision. The applicants agreed to waive their rights for a final decision to be made within 150 days, as long as the time frame remains reasonable.

Ms. Lewis moved to continue the hearing to May 20, 2004, 10:00 a.m. at the point of staff recommendation. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Consideration of Planning Docket PAZ-02-03, a request for a Comprehensive Plan amendment from EF-20 to AF-10, applicant Matthew Powell, as continued from February 26, 2004 at the point of proponent's case. *[Tentatively approved; findings to be adopted April 15, 2004.]*

Commissioner George opened the public hearing.

Proponent's Case - John Rankin, representing Matthew and Renee Powell, briefly summarized previous testimony regarding the slope of the subject property and its unsuitability for farm or vineyard use. He handed out packets of additional information from realtor Rob Molzahn.

Mr. Molzahn presented his study results regarding the issue of availability of AF-10 lots. Out of seven study sections, he came up with 585 existing lots and offered several reasons for the discrepancy between that number and the total from a 1989 study. He then stated that a number of the existing lots were considered unsuitable for building because they are too steep, are owned by the city, or are odd-shaped. He pointed out that two of the study sections are in a very expensive location 20-25 minutes away, and while not excluded from consideration, they were not seriously considered due to financial and commuting reasons. He also discussed potentially dividable lots, and concluded that out of all the existing lots in the seven study sections, only 5.8% are available, and only 3.1% are available in the Bell Road area.

Mr. Rankin stated that considering the real estate market factor, the availability of AF-10 land is low enough to justify an exception. He stated that as AF-10 land continues to be either developed or rezoned to VLDR, the supply needs to be replenished in order to meet the county's goal of providing varied types of housing.

Mr. Friday stated that many of the reasons Mr. Molzahn gave for eliminating properties from consideration would not satisfy LUBA. He explained that because new evidence can't be introduced in an appeal, findings at this point need to be as detailed as possible, and stated that he is not entirely comfortable with the evidence presented so far. There was some discussion of recalculated availability percentages including the properties previously eliminated due to unsuitability.

Mr. Rankin introduced a map of Newberg School District and a map of Yamhill County Rural Residential Code Areas into the record. He addressed several points made in Ms. Reeves' letter and read from Yamhill County's Comprehensive Plan, Summary of Rural Area Development, stating that the application complies with all of the listed requirements.

Questions of Proponents - None.

Opponent's Case - Marilyn Reeves, President of Friends of Yamhill County, read from a letter dated August 6th, 2003 in which Mr. Friday stated to Mr. Rankin that it would be difficult for this application to be approved, and said that she supports the staff recommendation made earlier. She stated that if more AF-10 land is needed in the county, it should be accomplished by a policy decision from the Board, not by approving this one application. She reviewed the history of the subject property and stated it conforms to the EF-20 zoning description, and that approving the applicant's request may encourage other applications for rezoning in the area. She stated that the current zoning already allows the development of a park. She said it would be in the best interest of the applicant to deny this application, since a decision to approve may be appealed. She stated that the applicant has not met the criteria for a reasons exception.

Questions of Opponents - None.

Public Agency Reports - Mr. Friday reviewed the agency reports in the record.

Rebuttal - Mr. Rankin discussed the letter of opposition from the City of Newberg, stating that the city is mostly concerned with potential use of the existing spring water system, which the applicants do not intend to use. He asked the Board to review his list of 21 reasons for exception and stated that although it is a difficult process, this application has met the necessary criteria for approval. He said it is not appropriate for Ms. Reeves to cite a dated staff report since additional information has been presented since then to address the issues raised. He stated that a Comprehensive Plan change, as Ms. Reeves suggested, would be a lengthy process and individual exceptions still need to be considered in the meantime. He stated that cumulative impact does not need to be considered in an exceptions request and explained that in EF-20 zoning, parks are a conditional use, but in AF-10 zoning, parks are permitted outright. He said Ms. Reeves has provided no specific evidence that the application has not met the criteria for approval.

Staff Recommendation - Mr. Friday stated that although the applicant has presented better information than at the previous hearing, staff recommends denial based on the vulnerability of the evidence submitted.

Close of public hearing / deliberation - Ms. Lewis stated the Soil and Water Conservation District disagrees with the subject property's current classification as resource land, and she believes rezoning it to AF-10 makes sense with other land patterns in the area. She said the applicant has made a good case for lack of availability and said she is persuaded that this application meets the criteria for a reasons exception.

Commissioner Lewis moved to tentatively approve Docket PAZ-05-03 with findings in support of approval to be considered on April 15, 2004.

Ms. Stern stated the applicant has made a fair case but it could be better. She said because the property has not been used for farming, because it squares the boundary of AF-10 land, and because park development would be enabled more easily, she is sufficiently satisfied that the applicant has met the criteria.

Ms. George expressed her appreciation for Mr. Friday's careful analysis and comments, Ms. Lewis' educated and experienced perspective, and Ms. Stern's legal perspective, and said approval of the application makes sense.

The motion carried, Commissioners George, Stern, and Lewis voting aye.

F. ANNOUNCEMENTS:

A. Two positions are available on the Road Improvement Advisory Committee. Contact the

Commissioners' Office for applications.

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

Adjourn: 10:29 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS