

**YAMHILL COUNTY PLANNING COMMISSION**

Thursday, September 5, 2013 ≅ 7:00 p.m.

Yamhill County Courthouse, Room 32

535 NE 5th St.

McMinnville, Oregon 97128

**Roll Call:** Daryl Garrettson, Matt Dunckel, Alan Halstead, Dan Armstrong, Marla Robison, Michael Sherwood, Michael Griffith, John Abrams, Marjorie Ehry **Absent:** **Staff:** Michael Brandt, Stephanie Armstrong

**QUASI-JUDICIAL PUBLIC HEARINGS:**

**DOCKET NO.:** C-03-13/SDR-03-13

**REQUEST:** A request by Edward Fus for a conditional use and site design review approval to allow a winery and tasting room, and to host up to three events per year. Each event could be up to three consecutive days.

**APPLICANT:** Edward Fus

**ZONING:** AF-10 Agriculture/Forestry Small Holding

**TAX LOTS:** 5414-4402

**LOCATION:** 9099 SE Three Trees Lane, Amity

**CRITERIA:** Section 501.03(P), 1101.02 and 1202.02 of the Yamhill County Zoning Ordinance

Commissioner Garrettson opened the public hearing.

**Minutes of July 11, 2013 approved unanimously.**

**Abstentions, Objections to Jurisdiction, Ex Parte Contact:** None.

Michael Brandt read the “raise it, or waive it” statement required by ORS 197.763 and gave the staff report. Mike pointed out page 6 of staff report and stated the issue of cc&r’s are not regulated or enforced by the County.

Michael Sherwood asked if they can hear what the cc&r’s say? Mike replied yes.

Alan Halstead asked what happened with the PC’s recommendation regarding the agri-tourism ordinance in the VLDR and AF-10 zones. Mike said the Board did not take it up.

**Proponent’s case:**

Ed Fus, 8749 NW Martial St. Portland, OR 97229 and Lauren O’Brien, 1301 4<sup>th</sup> Ave., Seattle, WA 98101. Have owned the property for 13 years. Three acres in pinot noir vineyard and balance in fruit trees. Current plans to build retirement home on property. Wine is made in Carlton but do not have a tasting room for direct sales. Requesting CUP to sell and store wine. Does not want a wine production facility on-site. Staff interpretation of a winery should not include a wine production facility. Wants to remain a “virtual” winery. The request fits in with the character of the neighborhood. Objects to conditions that requires a winery before any tasting events, and a traffic study, Bill Gille has stated that the traffic is not significant.

Chair Garrettson said we have a problem as the AF-10 zone requires a winery in conjunction with a tasting facility and clarified what land use law requires for a winery being a production facility v. what OLCC rules allow.

Michael Sherwood asked about the three wineries mentioned and if they are virtual wineries. Mr. Fus said that Calamity Hill is a virtual winery. Sherwood: How long have they been in business: Fuss: for 2-3 years out of that

tasting room.

Chair Garrettson explained that the PC just got through not allowing agri-tourism events on AF-10 and VLDR zones.

PC and the applicants discussed number of appointments and people for tastings, the driveway and how many cases of wine they produce. Mr. Fuss stated that 5% of the wine they make comes from grapes grown on the subject parcel.

**Opponent's case:** Jessica Lee, 8849 SE Three Trees Ln, Amity and Susan Karp, 8755 SE Three Trees Ln, Amity Ms. Karp said the applicants have never lived there and that the neighbors have lived there. Dumbfounded that the Fuss's plan to live there, this is the first they have heard about it. Renewals of cc&r's will be to add neighboring businesses that do not have customers. Cc&r's do not allow not tax deferred activity. Three Trees Lane has many dips and curves. Three families have addresses on Three Trees Lane. Tent set up on property for pig fest. Ms. Karp went on the internet and looked around. 2011 was the first pig roast. Went over previous events that have been held on property. Contacted OLCC, no OLCC permits were found for the events. Complaint follow up Mr. Fuss thought he would have his CUP by the event and he didn't so he didn't charge for the event. Ms. Lee stated Mr. Fuss's presentation doesn't match their application. They don't plan to build a winery, tasting room or residence but just to throw up a tent for the events. Three Trees Lane is not heavily traveled and is dead end road. Worried about impaired drivers, traffic safety, noise, have been accidents on the road. Spoke of the limitations of living in a rural farming community. Feels the application conflicts with their residential use. Ms. Karp stated Mr. Fuss does a lot of marketing and will use a lot of signs. Would have people there every weekend and littering. Spoke about parking.

Mary Rema, 8460 SE Three Trees Lane, Amity: Photo 9. Lives at the top of Three Trees Lane. Blind curve on Three Trees Lane. Moved to her property in 1980 and hasn't seen Mr. Fuss in 30 years out there.

Bob Valin, 8875 SE Three Trees Lane, Amity: Spoke in opposition to the application.

Terry Cannon, 9165 SW Hillview Drive, Amity: Spoke in opposition to the application.

William and Melanie Braun, 8600 SE Three Trees Lane, Amity: Written comments read by Chair.

Beth Valin, 8875 SE Three Trees Lane, Amity: Written comments read by Chair.

Daniel Jago, 9400 SE Three Trees Lane, Amity: Agrees with what has been said.

Skywolf MacGregor, 9300 SE Three Trees Lane, Amity: Agrees with what has been said.

7 min. break.

Edward Ferar, 8755 SE Three Trees Lane, Amity: Written comments read by Chair.

James Lee, 8849 SE Three Trees Lane, Amity: Written comments read by Chair.

Allen and Gene Herkamp, 8801 SE Three Trees Lane, Amity: Written comments read by Chair.

**Public Agency Reports:** Mike Brandt added the comment that was received from Bill Gille at the Public Works Department.

**Rebuttal:** Ms. O'Brien clarified the number of events that they have held in the past. Mr. Fuss responded that the

application submitted by them was submitted with a couple of options. Spoke about potential signs. Stated he is allowed to have personal parties and tents and that he invited personal friends only to the recent event. Neighbors are picking and choosing what to believe of what he says.

Michael Sherwood asked if they will build the residence if the winery is denied. Mr. Fuss said he is undecided because of the emotional hit.

July 13 event ended up being a graduation party for their daughter and retirement party for wife. No signs have ever been placed.

Chair Garrettson asked what percentage of wine comes from grapes in Yamhill County. Mr. Fuss stated about 5%. Chair Garrettson stated that he is offering 95% of wine that comes from outside of county.

**Staff Recommendation:** Mike Brandt gave the staff recommendation of denial based on the fact that the application does not meet the provisions of a winery.

**Deliberation:**

Abrams: can't recommend approval due to the winery definition.

Halstead: leader in opposing the events in AF-10 and VLDR. Doesn't meet the criteria.

Dunckel: would like to allow events in these zones but it doesn't meet the winery provisions.

Sherwood: agrees with staff. Dangerous precedent.

Garrettson: primary purpose of the request is the view and doesn't enhance agriculture in the county.

Ehry: supports agri-tourism but it would be setting a poor precedence.

Griffith: recommend denial.

Armstrong: agrees with chair.

Robison: agrees with chair. Thinks people should be able to do what they want with their property to a certain degree.

**Motion:** Alan Halstead moved to deny the application based on staff report and finding. Michael Sherwood seconded the motion. Motion denied unanimously.

5 minute break.

**DOCKET NO.:** C-04-13/SDR-04-13

**REQUEST:** Conditional use and site design review for a commercial activity in conjunction with farm use for a winery and a public tasting room. The request is to allow on-site tastings, promotions and sale of wine as described by state law (ORS 215.452). The request also includes hosting outdoor concerts, for which admission is charged, facility rentals or celebratory events for up to 60 people, 10 times per year.

**APPLICANT:** Scott Flora

**ZONING:** EF-40 Exclusive Farm Use and AF-40 Ag/Forestry Use

**TAX LOTS:** 3321-607

**LOCATION:** The property is located at 11812 NE Worden Hill Road, Newberg

**CRITERIA:** Sections 403.04(G), 403.07, 1101.02 and 1202.02 of the Yamhill County Zoning Ordinance

**Abstentions, Objections to Jurisdiction, Ex Parte Contact:** None.

No one required a rereading of the "raise it, or waive it" statement required by ORS 197.763.

Mike Brandt gave the staff report.

PC asked staff questions.

**Proponent's case:**

Scott, Denise and Shale Flora: 3949 SW Halcyon Road, Tualatin: Will hopefully be moving into their new residence this month: 11812 NE Worden Hill Road, Newberg. Mr. Flora gave a power point presentation.

Chair Garrettson asked about production. Mr. Flora answered that the grapes will all be from Yamhill County. 6 acres are producing currently.

Michael Sherwood asked who owns the access easement. Mr. Flora stated Wayne and Janet Hansen own the easement. When asked about events Mr. Flora stated he would like to have amplified music and would like to host weddings and celebratory events and would like to allow small business retreats.

Donna Cortes, Mr. Flora's mother, testified in favor of her son.

Debra and Gary Manning, 11816 NE Worden Hill Road, Newberg: testified in support of the application.

Chair Garrettson asked what the noise environment is like. They stated they hear everything being at the peak, highest point, in the area. Michael Sherwood asked how long they have lived there. They stated since July. Michael Sherwood asked about the danger of Worden Hill Road and there have been any accidents. They replied they don't know specifically.

**Opponents case:**

Amy Wesselsman, PO Box 386, Dundee: Main concern is that activities of wineries don't interfere with peoples livelihoods and is scared about the weddings and concerts. Doesn't want it to set a precedence. Wants sideboards to the size and scope of events. Worden Hill Road is a very unsafe road.

Dick Day, 17170 NE Highway 240, Newberg: Has 86 acres. Concerned about traffic with the dangerous road. Recommend a moratorium on permits that are not ag related because of the unsafe road. Is opposed to amplified music for concerts as it's not an ag use. Recommended conditions.

Ilsa Perse, 5765 NE Mineral Springs Road, Carlton: Partly on behalf of Friends of Yamhill County. Testified in opposition. Concerned about the ability to put out fires. No amplified music.

Chair Garrettson read Susan Meredith's written comments.

Steven Iverson, 1033 SW Courtney Dr. McMinnville: Written comments read by Chair.

Cathy Day, 17170 NE Highway 240, Newberg: Concerned about noise.

Jason Lett requested to keep the record open although was not present to make the request.

Gary Muir, 17300 NE Olds Lane, Newberg: Concerned about the number of events requested, dangerous road and spring water.

**Public Agency Reports:** Mike Brandt gave the public agency reports.

**Rebuttal:** Mr. Flora asked for clarification on precedence. Chair Garrettson and Mike provided clarification. He rebutted opponent's comments.

**Staff Recommendation:** Mike recommended the PC mention to the Board the dangerous intersection on Worden

Hill Road. Mike recommended approval of the application with changes to conditions. Allow events allowed under SB 841 plus 6 events that could be weddings or concerts. Condition requiring addressing of Ord. 787. Recommends keeping the no amplified music condition. Add a condition that winery approval is not transferrable with the land.

Motion to leave the record open for any party to submit written comments by 5pm, September 12, then for any party to submit written rebuttal by 5pm, September 19, then for the applicant to submit rebuttal to anything that was submitted during the open record period by 5pm, September 26. Next hearing October 3, 2013.

Alan Halstead moved to approve the above motion. Marjorie Ehry seconded the motion. Motion approved unanimously.

**LEGISLATIVE PUBLIC HEARING:**

**DOCKET NO.:** G-02-13

**REQUEST:** To modify Section 901 Floodplain Overlay District, and to adopt related definitions in Section 200, of the Yamhill County Zoning Ordinance to comply with changes required by the Federal Emergency Management Agency

**APPLICANT:** Yamhill County

**AFFECTED ZONES:** Floodplain Overlay District (FP)

**CRITERIA:** Section 1207.01 of the Yamhill County Zoning Ordinance

Mike gave the staff report.

Matt Dunckel moved to recommend adoption of modifications to Sections 200 and 901 of the YCZO. Michael Sherwood seconded. Motion passed unanimously.

**Other business** – Mike Brandt said there is a hearing for a zone change in October.

Hearing adjourned at 11:06PM