

YAMHILL COUNTY PLANNING COMMISSION

Thursday, October 3, 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, Ken Friday

Minutes of September 3, 2013. Matt Dunckel added that Jason Lett wasn't present to request continuance. Marjorie Ehry seconded to approve as amended. Motion approved unanimously.

CONTINUED QUASI-JUDICIAL PUBLIC HEARING:

(The following application was continued at the point of "Deliberation")

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

Chair Garrettson opened the public hearing.

Mike Brandt gave the staff recommendation.

Deliberation: All Commissioners agreed with the staff recommendation.

Motion: Commissioner Halstead moved to approve the application with the conditions noted by the staff recommendation. The motion was seconded by Michael Sherwood. Motion passed unanimously.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: Z-01-13

REQUEST: Zone change from EF-20, Exclusive Farm use to AF-20, Agriculture/Forestry

APPLICANT: Bryce Roberts

TAX LOT: 5420-300, Lot 22 of Amity Heights Subdivision

LOCATION: North of property addressed 4047 SE Rice Lane, Amity

CRITERIA: Sections 402, 403 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

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

Michael Brandt read the “raise it, or waive it” statement required by ORS 197.763

Staff Report: Stephanie Armstrong gave the staff report.

Proponent’s case: No proponents.

Opponent’s case: No opponents.

Public Agency Reports: Stephanie Armstrong gave the Public Agency Reports.

Staff recommendation: Staff recommended approval.

Deliberation: All Commissioners agreed with staff recommendation.

Motion: **** moved to approve the application, **** seconded the motion. Motion passed unanimously.

DOCKET NO.: C-09-13
REQUEST: Conditional use approval for a seven guestroom bed and breakfast to be operated as a home occupation. The application includes a request to host up to twelve events per year, for up to 150 people per event.
APPLICANT: John Scott Gibson
TAX LOT: 5434-3401
LOCATION: 6280 SE Eola Hills Road, Amity
ZONE: EF-40 Exclusive Farm Use
CRITERIA: Sections 402.04(I), 402.07(A), 1004.01, 1012 and 1202.02 of the Yamhill County Zoning Ordinance

Abstentions, Objections to Jurisdiction, Ex Parte Contact: Matt Dunckel said he did own the parcel but it will not affect his ability to vote on the matter as he has no connection to the property or applicant.

Staff Report: Ken Friday gave the staff report.

Chair Garrettson asked if a water right is needed for a B&B. Ken answered.

Marla Robison asked if they could use the cottage for the B&B. Ken explained they couldn’t. Marla asked about a second kitchen. Ken said they can use their kitchen for personal and B&B use.

John Abrams asked about the easement. Ken said we don’t get involved with easements as they are a civil agreement.

Proponent’s case: Scott and Melody Gibson, 655 NW Brookview Ct, McMinnville.

5 min. break for proponent to set up projector.

Dan Armstrong stated he owns a property six or seven parcels to the south of the subject property off of Sartore Road and it will not affect his decision on the matter.

Proponents case continued: Scott Gibson addressed the issues brought up by the neighbors. Addressed erosion. Property had been logged in early 90’s and they replanted an area to a meadow and cleared underbrush. Didn’t build any new roads in the property but did put in culverts in the roads. One area does have significant flow, which is a seasonal stream. During heavy rains the flow is quite heavy. In 2003 an application was made to have a residence on the property. At that time Mr. Leppin objected to the residence due to the loss of top soil and erosion. Mr. Gibson said he does not irrigate the grass or fertilize. Addressed noise. Apologized for noise in the past from previous weddings. Was notified of the problem. Has now dropped the request for events from his current

application so noise and traffic won't be an issue. At peak season with every room filled, maximum traffic would be 14 trips by each guest twice per day. Farming could create more traffic. Addressed water. Had a conference with someone from Water Resources Department. Mr. Gibson stated they will be living on the property and operating the B&B. B&B's are supportive of agriculture and agri-tourism. Addressed issues brought up by attorney. Such as outdoor use being prohibited. Mr. Gibson disagrees. Addressed case law provided by attorney. Addressed septic concerns. Septic consultant looked at system and found the system is functioning well. Only one line is used so far. Would potentially put in an ATT septic system. Addressed parking. Said they have over 100 feet of parking that would allow 12 spaces next to the house. He will decommission the existing cottage per county rules once main home is occupied. Addressed fire issues. Spoke with Amity Fire Chief. Lower road looks ok, but didn't look at the upper road. Will adapt roadways per Amity Fire Chief and the State Fire Marshal as needed. Does have a small pond that could be used for fire suppression. Has been renting the existing home as a vacation rental. Hasn't heard any complaints related to noise. Mr. Gibson addressed the statement from the attorney which stated that the CUP couldn't be approved before the dwelling was built. Mr. Gibson disagreed. The PC has the ability to make the approval contingent on living in the house before operating the B&B. No current lodging available in the Amity area which he feels doesn't allow Amity to reach its full potential. 135 days occupied for current cottage.

Melody Gibson added that Yamhill County plan linked lodging and wineries as complimentary. Study looked at areas in rural settings and the study noted that the County needs those accommodations.

Michael Sherwood asked why they dropped the events. Mr. Gibson said the opposition from neighbors and issues brought up in the staff report. He could reconsider events in the future. Michael Sherwood asked how many they have had in the last year. Mr. Gibson said two events. One was a wedding reception. No amplified music, he walked the perimeter of the property during the event. No traffic complaints. Neighbor Bob Peters, has a road that goes by his house. Michael Sherwood asked how close his nearest neighbor is. Gibson pointed to the nearest houses.

Dan Armstrong asked about intention of other 26 acres. Mr. Gibson said there is potential for lavender. Not in tax deferral due to NFD approval. Ms. Gibson stated the property is steep in some areas and not very suitable for farming.

Marjorie Ehry asked if they charge for the weddings. Mr. Gibson said they have never charged.

Matt Dunckel asked about ordinance requiring home occupation to be substantially in the dwelling. Ken addressed that criterion.

Chair Garrettson asked if the property is owned by an LLC and who the principals were. Mr. Gibson said his wife and him. Chair Garrettson asked about the well. Mr. Gibson said there are two wells. One is 7 gal. per minute. Chair Garrettson asked about the pond and a water right. Mr. Gibson said the pond collects rain water and they fill it from a well in summer.

Marla Robison asked about the type of trees on the property. Mr. Gibson said it is Maple trees. No fir trees. Reuses water from pond.

Dan Armstrong asked if they open a seven room B&B and end up having water issues what would they do. Mr. Gibson said he would quit irrigating. Dan Armstrong asked for clarification regarding the 2000 gallon tank. Mr. Gibson said it takes about 8 hours to fill 2000 gallon tank. Neighbors are concerned about water. Ms. Gibson addressed the irrigating that they are doing. Dan Armstrong asked how he arrived at the seven room B&B number. Mr. Gibson stated that it is expensive to build and the property has a septic easement and would like all rooms to have a view. Septic easement that is on the parcel belongs to another parcel to the south.

No others testified in favor.

Opponent's case: Gerold Leppin, 22205 SE Old Bethel Road, Amity: Has pioneer water right. Clearing that used to be Douglas fir on Mr. Gibson's property now has erosion problems that occurred in 2011. Original roads were rock roads which absorb water. Mr. Gibson widened roads and added culverts which contribute to the erosion problem. This spring Gibson had excavators looking for fence lines dirt was pushed onto his property. Mr. Leppin read his written statement.

Michael Sherwood asked how long he owned the property. His father bought it in 1943. Has had erosion problem since the timber was removed. Michael Sherwood asked if the erosion could be from underground streams. Mr. Leppin said he thinks it is from Mr. Gibson's pond and irrigation of the grass.

Marla Robison asked what year they took the timber off. Mr. Leppin said he thinks it was 2009.

Dan Armstrong asked if he took his concerns to Mr. Gibson. Mr. Leppin said he did.

Chair Garrettson asked where the spring is located. Mr. Leppin showed him on the map.

Steve Morasch, 700 Washington St, Ste 701, Vancouver, WA, 98660. Office in Portland as well. Attorney with Schwabe, Williamson and Wyatt: Addressed the issue of a home in farmland. The ordinance wouldn't allow a 7 room B&B as it isn't a structure that is normally allowed in the zone. Record has no evidence of what the building will look like. Statute doesn't allow anything to occur outside with the home occupation. Read all of the outdoor activities proposed by the applicant. B&B language doesn't use the word substantially but the home occupation does. The B&B language is specific. Applicant didn't provide professional testimony regarding traffic, water or erosion except for septic. Traffic is not only limited to two trips per day. A seven room B&B will use more water but applicant has not provided expert testimony. No testimony from a professional regarding storm water runoff.

James Vannice, 6990 SE Eola Hills Road, Amity: Easement runs through his property. Did his own research on B&B traffic. 2,000 trips from his research. Water research: 240,000 gallons per year for a B&B. There are 23 B&B's in YC.

Alan Halstead asked if he could point to the road easement. Mr. Vannice pointed to the easement. Dan Armstrong asked what the verbiage of the easement says. Mr. Vannice read the language from the easement. Chair Garrettson asked which access the cottage renter's use. Mr. Vannice said they use the lower one. For events they use both.

Bill Cattrall, 7320 SE Sartore Road, Amity: Testified in opposition.

Thomas Scheible, 6000 SE Sartore Road, Amity: Read testimony in opposition.

Micahel Sherwood asked that he show where his property is. Mr. Scheible showed him on the map.

Craig Wilson, 7000 SE Eola Hills Road, Amity: Testified in opposition. Can currently see cottage from kitchen window. Concerned what the new house will be. Needs fire department report. Report from fire department may be different from what Mr. Gibson's testified. Noise from past events has been a major problem.

Marjorie Ehry asked how long he's lived there. He stated since 2004 or 2005.

John Abrams asked about the erosion issue. His property is higher than the Gibson's.

Dan Armstrong asked if he had a pond. Yes, it is from rain water runoff. Has a well that runs 11 gallons/minute. Last summer 2.5 gallons/minute put in cistern.

Steve Vanderzanden, 8228 SE Eola Hills Road, Amity: Testified in opposition.

Steve Wendell, PO Box 526, Amity: Testified in opposition.

7 minute break.

Public Agency Reports: Ken gave public agency report.

Rebuttal: Mr. Gibson provided rebuttal.

Dan Armstrong asked if the parcel to the south has a building approval. Mr. Gibson said it is approved for a residence and a septic system is in the ground. Dan Armstrong asked how many total rooms in the proposed house and if he would be willing to reduce the number of rooms. Mr. Gibson said there would be a total of 9 bedrooms in the B&B and could go to 6 rooms although it becomes more difficult to make money on the business with less rooms. Dan Armstrong asked if the culvert improvements cause erosion on Leppin's property. Mr. Gibson does not think so.

John Abrams asked about the cottage occupancy and if it seasonal. Mr. Gibson said it is, nobody wants to come in January or February.

Staff Recommendation: Ken Friday gave his staff recommendation of approval with the conditions noted for the B&B in the staff report. Changed the condition for the applicants to include their name and the access to be approved by Amity Fire District.

Deliberation:

Abrams: Wanted to hear what the other commissioners had to say.

Halstead: Doesn't think the applicant has met the burden of proof and doesn't support the application.

Dunckel: There is a trust issue in the neighborhood. Doesn't think the applicant has shown that he hasn't created some of the erosion problems Mr. Leppin has. Not in support.

Sherwood: Believes in agri-tourism and B&B's. Doesn't fit with the neighbors. House not under construction. Water issues. Proximity of other homes. Voting against it.

Garrettson: 2003 Staff Report has Mr. Leppin's comments. Ongoing erosion problem. Would allowing the use increase the erosion problem? Burden of proof on applicant. Doesn't know how he will vote.

Ehry: Erosion is an issue. Has to be dealt with before approval. Gibson's have cart before horse. Wants to see a residence first. Not in favor at this time.

Armstrong: Stunning view on hillside. Concerned with the water issue. Oregon Law allows you to pull that much water. Leppin's have major erosion problems. Not sure that it doesn't significantly impact the cost of the neighbor farming. Can't support it due to the impact to farm use.

Robison: Thinks a B&B would be great but many things need to be done before it could go through. Issues with water, runoff, fire department haven't been answered. Would deny it at this point.

Motion: Alan Halstead moved to deny the application. Michael Sherwood seconded the motion. Motion denied 7-1 (Garrettson).

Other business – November 7th hearing for the landfill application.

Hearing adjourned at 10:12PM