

YAMHILL COUNTY PLANNING COMMISSION

Thursday, November 7, 2002 @7:00 p.m.

Yamhill County Courthouse, Room 32

535 E 5th St.

McMinnville, Oregon 97128

Roll Call: Dean Brown, Sid Friedman, Marjorie Ehry, Bernie Diefenderfer, Daryl Garrettson, Brad Myers, Robert Smiley. Absent: Alan Halstead, Gary Johnson, Staff: Ken Friday, Martin Chroust-Masin, Rick Sanai, County Counsel

Review of the **minutes** from the October 3, 2002 Planning Commission Hearing. Sid Friedman made note that he felt that the minutes did not give a complete record of the proceedings dealing with the ordinance changes. He stated that many who testified did so on a variety of different amendments. He gave the example of Fred Robinson. The minutes only mentioned a brief statement about one of his views. However, Mr. Robinson also testified in opposition of the reinstatement of the Forest Template option in the F80 zone but this was not listed in the minutes. Dean noted that there is a tape available to the Board of Commissioners of the entire meeting. Without further comment, the minutes were approved.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: Z-01-02

REQUEST: Zone change from EF-80 and EF-40 Exclusive Farm Use to AF-80 and AF-40 Agriculture Forestry Use.

APPLICANT: Catherine A. Wright, Counsel for the property owners.

OWNERS: Harold and Christine Washington, Christine and Emil Feibel Trust, June K. Wolf Trust

TAX LOTS: 4521-500, 600, 601 and 602

LOCATION: 19105, 19171 and 19191 SW Peavine Road, McMinnville, Oregon 97128

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

Abstentions, objections of jurisdiction and ex parte contact: None

Rick Sanai read the “**raise it or waive it**” statement into the record.

Staff Report: Martin Chroust-Masin gave a brief review of the staff report. Questions: None.

Proponents Case: Tom Tankersley, 701 NE Evans, McMinnville, OR 97128 stated that this property is a mix Agriculture/Forestry use and should be changed to reflect it. Oregon Dept. of Fish and Wildlife are not opposed to this application. Questions: Sid: How were the properties originally zoned. Martin noted that in the packet, exhibit “c”, there is a copy of the original map.

Opponents: None

Public Agency: All are included in the packet except ODFW which was distributed.

Staff Recommendation: Staff recommends approval. Question: Sid Friedman: One of the listed criteria is that at least 50 percent of each parcel which is proposed to be re-zoned be designated to Agriculture/Forestry prior to December 29, 1993. Mr. Friedman said that lot 601 appears to be less than 50 percent. The rest of the parcels appear to meet the criteria. Martin said that by looking at the whole tract the property would satisfy this standard. Sid said that we do have the criteria to meet and this lot does not appear to meet this criterion. Martin added that not re-zoning lot 601 would create a spot zone and that for continuity purposes, staff recommends that the entire tract be re-zoned.

Deliberation:

Brad Myers: He had no comment at this time.

Robert Smiley: He agrees with staff regarding spot zoning but is unsure how to deal with the 50% issue.

Dean Brown: He agrees with staff recommendation.

Sid Friedman: He doesn't feel the request is unreasonable but it doesn't seem to meet the criteria.

Marjorie Ehry: She agrees with staff recommendation.

Bernie Diefenderfer: He agrees with staff recommendation.

Daryl Garrettson: Lot 601 does not appear to meet the criteria but it is already developed with a homesite. He also noted that we do not have clear evidence that it doesn't meet the standard. He concurs with the staff recommendation.

MOTION: Daryl Garrettson moved to approve Docket PAZ-05-02 based on the findings and conclusion as contained in the staff report. Seconded by Bernie Diefenderfer (6-1, Sid Friedman opposed)

Dean Brown reviewed the procedure for the second hearing.

DOCKET NO.: PAZ-05-02

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture Forestry Large Holding to Quarry; a zone change from EF-40 Exclusive Farm Use to MR-2 Mineral Resource and adding approximately 68 acres of land to the Goal 5 aggregate inventory. Approval of this request would allow for expansion of the Anderson-A Quarry.

APPLICANT: Dayton Sand and Gravel Inc.

OWNER: Mr. and Mrs. Richard Sly

TAX LOT: 5423-1400 and 1403

LOCATION: 9365 SE Amity Road, Amity, Oregon

CRITERIA: Sections 402 and 404 of the Yamhill County Zoning Ordinance. Statewide Planning Goal 5. Oregon Administrative Rule (OAR) 660-023, in particular the section dealing with Mineral and Aggregate Resources of OAR 660-023-0180. Transportation Planning Rule of OAR 660-12-0060.

Abstentions, objections of jurisdiction, ex parte contact: None

Rick Sanai read the “**raise it or waive it**” statement into the record.

DLCD has submitted a letter which requested that the record remain open on this application.

Staff report: Ken Friday gave a brief review of the staff report. The criteria to consider is covered in OAR 660-023, Sec 660-023-0180 and the Transportation Planning Rule. Questions: None

Proponents Case: Frank Flynn, Perkins Coie, 1211 SW 5th Ave., Suite 1500, Portland, OR.: He is representing the applicant, Dayton Sand and Gravel. Mr. Flynn stated the applicant is wishing the hearing to be left open for an additional 7 days for rebuttal. He noted the post acknowledgment plan amendment specifies the criteria to be addressed. He stated the administrative rules make it clear that the local standards do not apply.

(Audience questions were difficult to pick up on tape. Questions and answers were handled throughout the meeting in a town hall format.)

David Pallett, Burch West, 11871 SE Eola Hills Rd., Amity, OR. stated the Burch Family has been in business for over 40 years. He gave examples about how the company is serious about safety and environment. Questions: Daryl Garrettson: Do you operate the Anderson Quarry? Mr. Pallett: Yes. Daryl: Is there standing water at the quarry? Mr. Pallett: There is a small pond. Daryl: What is the elevation of the pond? Mr. Pallett: About 380 feet. Daryl: What direction are you planning to work? Mr. Pallett: We will work primary the west side and work into the north face. Audience: How long have your operated the Quarry? Mr. Pallett: Since 1995. Audience: How do you intend to handle the traffic hot spots? David: We post our own speed signs to slow our trucks down to a safe speed. We also limit the use of the Jake brakes. Audience: When are you anticipating starting Phase 3? David Pallett: That will probably be for our grand-kids. Audience: What comment has been received from Water Resources? Ken Friday: Water Resources is reviewing the report and has not yet commented. There is a proposed condition about complying with Water Resources if the application is approved.

Steve Pfeiffer: Perkins Coie, 1211 SW 5th Ave., Suite 1500, Portland, OR: Steve gave a review of Goal 5 criteria. He stated the applicant is to use a specific set of rules for all aggregate applications. He reviewed the process. Questions: Daryl Garrettson: Did you review the DLCD letter regarding the impact zone? Steve Pfeiffer and Frank Flynn: We talked to DLCD about this and came to the conclusion that there are several ways to look at the impact area. DLCD believes there needs to be one default impact area. Daryl: Is ground water a conflict that we can consider? Steve: Impact from and to ground water can be considered. Regarding potential traffic impact considerations, Ken Friday clarified that in the decision Morris Brothers vs Columbia County they ruled that local traffic impact in the Goal 5 process is not a consideration when the access is a state highway. Their decision is directly on point to this request because the appli-

cant's access is also a state highway. Audience: What is a PAPA? Steve: It is short for post acknowledgment plan amendment. Audience: Question from the audience which was not picked up on the tape. Answer from Frank Flynn: We have to consider quantity and quality to first determine if a Goal 5 application can continue. Audience: Will there be an outside verification process? Steve: Our consultants will go through the State's process and use their criteria and make a conclusion. There is no noise permit but there are DEQ requirements. Dust does require a permit from DEQ. Audience: How are traffic issues dealt with? Frank: Although the request does not have to address traffic in the Goal 5 process, it still must comply with the Transportation Planning Rule in Goal 12. There is a traffic study to address this and draft conditions of approval that have been submitted to Staff. Mr. Flynn entered into the record the resume's of the consultants. He reviewed the requirements for a complete application.

Dorian Kuper: Kuper Consulting, 22680 SW 76th Ave., Tualatin, OR 97062 explained the process for determining if the property contains a "significant" resource. The rule requires the applicant to review the area of the resource, the quantity and quality of the resource. Dorian reviewed the core samples of the area. Columbia River Basalt meets the significant requirements for Goal 5. There are approximately 10 million tons of rock to be quarried. Phase one will be a northwesterly movement out of Anderson Quarry and continue moving north as Phase II up to Stevens Quarry. The Third phase is to move east. There is a 500 foot no blast zone. Storm water permits will be continued with storm water runoff plans modified as needed. We have a conceptual reclamation plan. Bernie Defenderfer asked if the bottom of the quarry will be forested. Dorian briefly explained the reclamation plan. Daryl Garrettson: Who can answer questions regarding the business plan? Dorian: Probably the owner. Brad Myers: How deep is the layer of rock. Dorian: There is about 200 feet of mining rock. Audience: When will the reclamation take place? Dorian: The plan calls for reclamation in concurrence with the mining as they have an area cleared. Audience: Where were the core samples taken? Dorian indicated on the map. Audience: How high is the existing bench? Dorian: Approximately 140'. Discussion continued on the reclamation. Audience: How precise is the estimate of 10 million tons of aggregate? Dorian explained that there is likely about 20 million tons but they are being conservative with 10 million.

Steve Bruce, Geo Engineers Inc, 7504 SW Bridgeport Rd., Portland, OR He explained the water sources of the area. He said there is a deeper aquifer in the Stevens Quarry but this site contains no significant water bearing zones. His is recommending a condition that when the applicant mines below the elevation of 390 feet that blast holes are monitored for ground water. The condition would require that if they do see ground water, they would be required to report to DOGAMI the finding and postpone blasting until DOGAMI and Water Resources can make a determination. He noted that wells on Walnut Hill are already protected by conditions on Stevens Quarry. From the results of their study they do not expect detrimental effects on ground water quantity or quality. He noted the study will be over looked by both DOGAMI and Water Resources. Questions: Daryl Garrettson: Do you know what the mean sea level of the bulge would be? Steve Bruce: About 420' Discussion continued on recharge and water testing.

Dick Daniel: Blasting Consulting Co., 12010 NW Lovejoy, Portland, OR 97229 stated that he designs blasting projects. He stated that his company can do reproducible blasting without impacting the neighbors. Mr. Flynn noted that there are several conditions of approval regarding blasting. Questions: Daryl Garrettson: Does basaltic rock transfer the vibration differently than in other substances? Mr. Daniel: Yes. He noted seismic monitoring is routine for blasting. Dean

Brown: What will the bench marks be? Mr. Daniel: I am recommending no more than a 40' bench. Audience: Are there studies of the affect of repeated blasting on a house? Yes. The level of our blasting should not damage a house. Mr. Moraru asked if the blasting will affect his house foundation? Mr. Daniel No.

Joseph Begin, 4900 SW Griffith Dr., Suite 216, Beaverton, OR 97005, explained how the noise study was performed. Questions: Daryl Garrettson: Is there currently a crusher at Anderson A? Mr. Begin: No. Daryl Garrettson: Did you do onsite testing to discover if the geography caused unexpected results? Mr. Begin: No. Audience: If both crushers are running at the same time, would there be an impact? Mr. Begin: No. There is a distance involved. If they were running close together, perhaps there would be an impact. Daryl Garrettson: If you have two sets of equipment running and the noise bounces off the rock wall, would there be an increase. Mr. Begin: Yes. Audience: Are the L10 and L50 standards being met? Mr. Begin: Yes. A discussion on noise continued.

Mr. Frank Flynn: We have an access permit from the Oregon Department of Transportation (ODOT). ODOT has no issues with this application and has supplied a letter to the county. Mr. Flynn stated the applicant will be using the same exiting route. Pacific Habitat Services did a study of the wildlife habitat and wetlands. There is very low impact of endangered species.

Daryl Garrettson: How many tons have been taken off the site in the last two years?. Mr. Pallett: About 12,000 tons. We will ramp up to 80-100 ton in about 5 years.

Opponents:

Robin Wheeler: 8225 SE Three Trees Lane, Amity, OR: She will submit comments in writing.

Larry Wheeler: 8225 SE Three Trees Ln, Amity, OR: There is a large residential area to the north, Walnut Hill. He stated the noise will move unobstructed across the entire Amity hills. He observed there is no berm to deflect the noise. He is concerned about the possibility of two crushers operating at the same time. He stated there has never been a quarry in the state that has been reclaimed. Sid Friedman noted that there are submitted conditions that Mr. Wheeler can review.

Mr. Moraru, 17920 SE Walnut Hill Rd., Amity, OR: He said he testified at the C.C.Meisel, Stevens Quarry hearings. He said at those hearings they discussed the necessity of the approval of the quarry expansion. He said so far, no rock has been removed from the quarry. He said he used rock from Stephens quarry for his driveway. He submitted samples of the original rock and the sandy condition that the rock turned into following the wear from a pickup truck and a car. Questions: None

Sandra Moraru: 17920 SE Walnut Hill Rd., Amity, OR: She lives about 1600 feet from the quarry site. She said the site is a neighbor to a large residential area. Questions: None

Christine Cummins; 10555 SE Amity Rd., Amity, OR: She said she lives adjacent to the quarries. She is concerned with the run-off. She said, control of run-off has never been taken care of correctly. Daryl questioned the run-off and Mrs. Cummings explained the topography and her concerns. She also indicated a stream on the north end of her property. Mr. Flynn asked Mrs.

Cummings to meet with his consultant and look at the draining. In the event of ownership change, Ken Friday noted that the conditions will go with the quarry, not the owners. Discussion continued regarding enforcement of the conditions.

Larry Cummins, 10555 SE Amity Road, Amity, OR: He is concerned that there will be two quarries in such close proximity. He does not feel that the current criteria of Goal 5 is sufficient for making a decision. He is also concerned with the water situation. Questions: Steve Pfeiffer asked Mr. Cummins if he has read the application and the list of conditions. Mr. Cummins: No.

Ross and Marvin Coleman, 1795 W. 2nd St. #14, McMinnville, OR 97128: They are concerned with impacts on the quality of the water. They wonder if the experts really know the future impacts on the water supply. They asked if they would we have recourse in twenty years. Questions: Daryl: Where is your property? MR. Coleman: We are just east of Anderson A quarry.

Daryl Garrettson asked Legal Counsel for written opinion as to whether the administrative rules preempts the Zoning Ordinance.

Public Agency: DLCD, County Sanitarian, Dept. of Fish and Wildlife, ODOT, County Public Works, Soil and Water Conservation District.

Rebuttal: Frank Flynn stated a copy of the application will be made available for review. He said our consultants and our office are available to answer questions. The zoning of this property is MR-2. There are no plans for an asphalt or batch plant. He said there are many examples of sites that have been reclaimed. DOGAMI follows up on the reclamation projects. Mr. Flynn said conditions of approval discuss blasting.

Discussion continued between Rick Sanai, Daryl Garrettson and Frank Flynn regarding PAPA's and the zoning ordinance. Daryl wanted a written opinion with legislative history to answer to the question: "Does the rule in fact pre-empt the zoning ordinance."

MOTION: Daryl Garrettson moved to continue Docket PAZ-05-02 at Staff Recommendation to December 5, 2002, at 7:00 p.m. in Rm 32, Yamhill County Courthouse. During the period of time that this matter is continued, the record will be left open for additional testimony by way of written documents or other evidence that is to be submitted to the Yamhill County Department of Planning and Development no later than 5:00 p.m. on November 20th. The applicant be given an additional 7 (seven) days to November 27, 2002 to submit any rebuttal on additional information submitted during the prior period. That rebuttal to be submitted to the office of Yamhill County Planning and Development no later than 5:00 p.m. on November 27, 2002. Seconded by Sid Friedman.
Approved unanimously.

New Business: Ken Friday said January's hearing night is scheduled for January 2nd. Do we want to meet on January 9th or January 16th? January 9th was selected. Ken also noted that at Dean's request there will be a formal election of Chair and Vice-Chair at the next hearing. Ken asked if any Planning Commission member did not wish to be on the ballot for Chair or Vice-Chair. Brad Myers indicated he did not wish to be on the ballot this time.

Adjourn: The meeting was adjourned at 11:30 p.m.