

## YAMHILL COUNTY PLANNING COMMISSION MINUTES

Thursday, July 17, 2003 @7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 E 5th St.  
McMinnville, Oregon 97128

**Roll Call:** Bernie Diefenderfer, Daryl Garrettson, Sid Friedman, Dean Brown, Gary Johnson, Marjorie Ehry, Robert Smiley. Absent: Alan Halstead, Brad Myers. Staff: Ken Friday

Gary Johnson moved to approve the **minutes** from the March 6, 2003 Planning Commission Hearing. Seconded by Robert Smiley. Approved unanimously.

### QUASI-JUDICIAL PUBLIC HEARING:

**DOCKET NO.:** PAZ-01-03  
**REQUEST:** Approval of a Comprehensive Plan map amendment from Agriculture Forestry Large Holding to Agriculture Forestry Small Holding; a zone change from EF-20 Exclusive Farm Use to AF-10 Agriculture Forestry Small Holding; and an Exception to Goal 3.  
**APPLICANT:** Timothy and Lorena Mason  
**OWNER:** Albert and Karen Koons  
**TAX LOT:** 3314-700  
**LOCATION:** Approximately 900 feet west of the intersection of Highway 240 and Stone Road, on the south side of Highway 240.  
**CRITERIA:** Sections 402, 501 and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule.

**Abstentions, objections to jurisdiction, exparte contact:** Sid Friedman stated he was at a gathering where it was mentioned that this hearing was approaching. He then left the room and heard nothing of substance.

Ken Friday read the **“raise it or waive it”** statement into the record.

**Staff Report:** Ken Friday gave a review of the staff report. He noted a correction. He had stated previously that the applicant had given a detailed description of the surrounding land uses on page 7, correction being page 4, item 7. Questions: Sid Friedman asked about page 5 of the staff report. As he looked at it, it is based on area 1.6. Does that include the property that was re-zoned a few years ago where there was an exception taken? Ken said he didn't think it included the previous rezoned area. Sid then asked Ken how far the rezoned area was from the subject parcel. Ken responded that it was off Dillon Rd. Daryl Garrettson added it is at least a mile and a half from there. Sid asked about multiple buildable lots in a 1 mile radius of the site. Daryl then asked Ken to show him on the map the boundaries and Ken described the surrounding zoning. Dean Brown asked Ken if ODOT had responded and if there would be direct access to Highway 240. Ken explained that there had been no response in writing, but he had called Mr. Richmond two days prior, who said the access to Highway 240 would probably be permitted.

**Proponent's Case:**

John Pinkstaff, 1727 NW Hoyt, Portland, OR 97209. John gave a brief history of the property and distributed an update of developed properties and number of dwellings.

Tom Thompson of Northwest Agricultural Consulting, 1275 Oak Villa Rd., Dallas, OR 97338. Tom described the parcel of land and wells and the differing characteristics north of Highway 240, compared to those on the south side. John asked Tom about hobby farming, assuming that someone is living on the property. Tom explained that a hobby farm requires more intense agriculture if you're trying to make money off the ground. John asked Tom's conclusion and he said that commercial farming would not be feasible from this property. Ken noted that after looking at the information from John Pinkstaff, there are 4 lots that are not automatically buildable. The four lots were rezoned from AF-10 to EF-20 in order to allow the construction of a winery. Gary asked about the map and the 3 red dots on it. John responded that they indicate new dwellings constructed since 1999.

Timothy R. Mason, 23485 NE Dillon Rd., Newberg, OR 97132. Tim is a small construction contractor. He explained that his intention is to build a house on the parcel, have a mini garden and a small farm to grow hay for his wife's 2 horses. Tim was told by the neighbor that the reason the land can't be farmed is because it is too wet and has poor drainage. Sid Friedman stated that he was hearing two different characteristics of the land: 1) The surrounding properties have committed this piece to non-resource use. 2) The characteristics of the property itself and the wetness of the soils, in some way, commit it to non-resource use. Is it being argued that this piece does not meet the definition of agricultural land? John Pinkstaff said that he recognizes the committed exception has to focus on a surrounding development, but he also needs to present what is existing on the site in relation to the surrounding development and lands. Daryl Garrettson added that in a case like this, there has to be some indication, and that because of its size and soils, it is more committed to rural residential development as opposed to agricultural development. Is it practical to farm it? John then reviewed the surrounding lands.

**Opponents:**

Merilyn Reeves, Friends of Yamhill County, P.O. Box 1083, McMinnville, OR 97128. This case is similar to a case in Cove Orchard which LUBA remanded to the county. LUBA 97.236. A goal 3 exception does not require that the county demonstrate the evidence allowed by the goal is impossible, but the county must demonstrate that farm uses, as identified in the ORS.215.203 are impractical. The LUBA Referee indicated in the Cove Orchard remand that the mere existence of small parcels in separate ownership adjacent to the subjects property, do not in themselves justify the conclusion that the property is committed to uses not allowed in Goal 3. The staff report makes reference to how the property complies with the goals and policies of the comprehensive plan, however the section that the staff report refers to is rural/residential. Looking at the other goals and policies that come from that section, it would be more difficult to approve this proposal. OAR 606-04-28(6) lists the factors. Merilyn also mentioned that she does not believe the applicant has satisfied Section 1208.04 in the staff report. Questions: Sid Friedman asked if she was requesting the record to remain open? Merilyn responded, no. Sid also mentioned that Merilyn had stated that the property in question failed to qualify for a farm dwelling. Merilyn corrected her comment by saying it did not qualify for a non-farm dwelling.

**Public Agency Report:** Ken Friday review the public agency reports.

**Rebuttal:** John Pinkstaff mentioned that the parcel had been disqualified for farm deferral. He said it suggests that it hasn't been farmed because it's impractical. Dean Brown asked how long the land has been in its current ownership. Tim Mason said he wasn't positive, but it had been several years.

**Staff Recommendation:** Based on the findings as listed in the staff report, staff recommends approval of Docket PAZ-01-03

**Deliberation:**

Gary Johnson: He agrees with the staff recommendation. He believes you must be realistic about the use of this property.

Robert Smiley: He agrees with staff and added that you can do a lot of different things on a small lot, but this is not commercially viable.

Dean Brown: He agrees with staff and added that he has never seen anything done with this piece of property. He feels that if there would have been any value for agricultural purposes, it would have been done.

Sid Friedman: He believes that the case has not been made and he was not convinced that the standards for a committed exception have been met. He opposes the staff recommendation.

Marjorie Ehry: She agrees with the recommendation of staff and also commented that you must be practical and that it was an honorable thing for them to proceed with what they want to do with the property.

Bernie Diefenderfer: He agrees with the staff recommendation and added that it is not reasonably profitable.

Daryl Garrettson: He said he was undecided. He mentioned that the parcel is not practical for farming, but the zone change requires consideration of alternative sites. There are 40 vacant acres immediately south of this parcel, so there are alternative sites available.

**MOTION:** Gary Johnson moved to approve Docket PAZ-1-3. Seconded by Bernie Diefenderfer. Approved 6-1 with Sid Friedman opposed.

**LEGISLATIVE PUBLIC HEARING:**

**DOCKET NO.:** G-01-03

**REQUEST:** To add the following language into the *Yamhill County Comprehensive Plan*:

*“The coordinated management of Yamhill County parks is important to Yamhill County. The Yamhill County Parks Department has developed the Comprehensive Parks and Open Space Master Plan (Master Plan), which has been adopted*

*by resolution by the Board of Commissioners. Said Master Plan may be amended from time to time by the Board of Commissioners. The Master Plan shall be used as a guide to decision-makers when considering land use applications which directly affect or are adjacent to Yamhill County park land.”*

**APPLICANT:** Yamhill County

Ken passed out a copy of the master plan. Due to the size of the Plan, it was not copied for the packet but rather the web-link was provided. Sid Friedman expressed that he would like to have a copy to review. Daryl expressed concern over the use of the word “guide.” Ken added that there is no rush for this and it can be moved to the next meeting.

**MOTION:** Daryl Garrettson moved to continue this docket item to the September 4<sup>th</sup>, 2003 meeting.  
Seconded by Gary Johnson.

Ken said each Planning Commission member will be provided a copy of the master plan and possibly a revised policy. Dean Brown asked for an opinion letter from the department stating what the effect would be in land use decisions, along with the master plan,

**New Business:** Ken Friday thanked Alan Halstead and Robert Smiley for agreeing to serve another term.

Linda Lowe announced a tentative date for the Planning Commission Dinner for Friday, September 26<sup>th</sup>, 2003.

**Adjournment:** The hearing was adjourned at 8:45 p.m.

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