

**YAMHILL COUNTY PLANNING COMMISSION MINUTES**

Thursday, December 4, 2003 @7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 E 5th St.  
McMinnville, Oregon 97128

Roll Call: Marjorie Ehry, Alan Halstead, Gary Johnson, Robert Smiley, Dean Brown, Daryl Garrettson (7:10). Absent: Bernie Diefenderfer, Sid Friedman, Brad Myers. Staff: Ken Friday, Martin Chroust-Masin, Rick Sanai, County Counsel.

Review of the minutes from the November 6, 2003 Planning Commission Hearing. Robert Smiley moved to approve the minutes as submitted. Seconded by Marjorie Ehry. Approved unanimously.

Chair Dean Brown explained the procedure for tonight's hearing. He explained that the first hearing will be opened at staff recommendation.

**CONTINUATION OF QUASI-JUDICIAL PUBLIC HEARING:**

**DOCKET NO.:** PAZ-05-03  
**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture Forestry Large Holding to Quarry; a zone change from EF-80 Exclusive Farm Use to MR-2 Mineral Resource for approximately 169 acres of land.  
**APPLICANT:** C.C. Meisel  
**OWNER:** C.C. Meisel  
**TAX LOT:** 4335-201 and 301 (Also known as the Hester Property)  
**LOCATION:** Approximately 1/4 mile north of the east end of Nichols Road, Dayton 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.

**Staff recommendation:** Staff recommends that the Planning Commission forward a recommendation of approval to the Board of Commissioners based on evidence submitted and to place the quarry on our Goal 5 inventory Tax Lot 4335-201 and 301 with a limited-use overlay with 21 conditions of approval. The first 18 conditions of approval are the same as you will find in the staff report with the following modifications:

- There is a modification to condition #5 adding language as requested by the applicant that C.C. Meisel install 4 devices to track water levels.
- A modification to condition #12 how DOGAMI may increase the setbacks in order to insure that mining will not go into the Willamette River Greenway.

Conditions #19, 20 & 21 were added to facilitate road improvements to make a safe road for the quarry operation and the farmers. Questions: Alan Halstead: On condition #19, is that 20 foot of improved surface or clear area? Ken: Improved surface area. Marjorie Ehry: Is Nichols Road public or private? Ken: It is a designated County Road part of the way. Marjorie: It's use is primarily for access for the farm owners? Ken: Yes. Marjorie: Is there any condition

regarding wells? Ken: No, we thought about doing that but DOGAMI has the expertise so we are relying on them to regulate that aspect of the application. Alan: Do they have any teeth regarding future problems? Ken: There are too many variable for me to answer that question. (Commissioner Garrettson present @ 7:10 pm.) Dean Brown asked Daryl Garrettson if he would be participating in the deliberation. Daryl noted that he would be available to participate if it is necessary that he do so.

Chair Dean Brown closed the hearing for deliberation.

Deliberation:

Gary Johnson: He is concerned with the back-flow and the potential for creation of another island in the river. He is not in favor of approval.

Alan Halstead: His concerns with access have been smoothed over by conditions #19, 20 & 21. He is concerned with the wells in the area and with the chances of the river changing course in a flood situation. He is not in favor of approval.

Gary Johnson: He is concerned with the water rights issues of Slegers and Dorseys and the chance they could lose their water rights.

Robert Smiley: He said there is value to the farmland and the gravel that can be mined underneath it. The applicant is willing to take the necessary steps, working with DOGAMI and the transportation issues. He is satisfied this can be a safe operation as long as DOGAMI does regulate.

Dean Brown: He is not satisfied we have enough information to convert this from an Agriculture resource to Mineral Resource. He is not in favor of approval.

Marjorie Ehry: Our natural resources are very valuable as well as is food production. She is concerned with the road. She would like to see this property stay in farm use. Potential erosion and interference with the wells are a great concern to her. She is not in favor of approving the application.

Ken Friday: Ken said that before a recommendation is made, he needed to let the Planning Commission know that they must put this property on the Goal 5 inventory because there was unrebutted evidence in the record that this is a "Significant" resource site. He reminded the Commission that they could still find that the conflicts are not mitigated and prevent the extraction at the site.

Question of Staff: Daryl Garrettson: Even when putting property on the Goal 5 inventory, can't you still make your ESEE analysis and choose not to list a particular resource? Ken: With the new Goal 5, you have to list it. The aggregate extraction does not have to be allowed on the site but the resource must be listed in the Goal 5 inventory. Rick Sanai agreed with Ken.

**MOTION:** Alan Halstead moved to recommend to the Board of Commissioners that the property be recognized as a Goal 5 resource. Died for lack of second.

Dean does not feel there is enough information to change this resource from agriculture to aggregate. Daryl asked if the property is listed as a Goal 5 resource, do we have to approve the quarry? Ken: you can list as a Goal 5, but find that there are too many conflicts to allow for the rock to be extracted.

MOTION: Gary Johnson moved to deny PAZ-05-03. Seconded by Marjorie Ehry. Motion Failed (3-2, no: Alan Halstead, Robert Smiley, Dean Brown. Daryl Garrettson abstained.

MOTION: Robert Smiley moved to send PAZ-05-03 to the Board of Commissioners without recommendation. Seconded by Alan Halstead. Approved 4-1 (no Marjorie Ehry) Daryl Garrettson abstained.

**QUASI-JUDICIAL PUBLIC HEARINGS:**

**DOCKET NO.:** CTS-13-03  
**REQUEST:** Conditional use approval to allow a manufactured home to remain on the parcel for the care of Theresa M. Rollman, by Cheryl Bridgers, her daughter, during the term of her health hardship.  
**TAX LOT:** 3311CD-900  
**APPLICANT:** Theresa M. Rollman  
**LOCATION:** 21005 NE Highway 240, Newberg, Oregon  
**ZONE:** EF-20 Exclusive Farm Use  
**CRITERIA:** Section 402.04(A) and 1202.02 of the Yamhill County Zoning Ordinance

Dean Brown opened the hearing.

**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 reviewed the staff report.

**Proponents Case:**

Teresa Rollman, 21005 NE Highway 240, Newberg, OR 97132: Her vision is her primary health issue and has been under treatment for 3 years, with little success. She reviewed her medical conditions. She documented the work being done on the property. Daryl Garrettson: What kind of care will your daughter give you. Teresa: She can drive me where I need to go. Daryl: Will she do any medical assistance for you. Teresa: Help with medications. Daryl: Does your husband have a drivers license. Teresa: Yes.

**Opponents Case:**

Frank Hall: 21057 NE Highway 240, Newberg: I am a caregiver. I also have various medical conditions. I am upset because the husband is not on the application. I was drilled by the Rollman earlier regarding the hardship on my property and the fact that when my mother was deceased, I had to immediately remove the temporary dwelling from the property. I have just as serious medical conditions as Mrs. Rollman and I am a caregiver.

Richard and Kay Rex, 20955 NE Highway 240, Newberg: I also have serious medical conditions. We are concerned with the applicant having two residences on 2 ½ acres. Neither dwelling is a temporary unit. We want it either decommissioned or the dwelling removed.

**Public Agency Report:** They are all included in the staff report.

**Rebuttal:** Mrs. Rollman said that he is surprised by Mr. Rex’s objection when they feel free to use our driveway.

**Staff Recommendation:** Staff recommends approval with conditions as listed in the staff report. Keeping in mind that when a hardship ends, one of the dwellings must be removed. **Questions of staff:** Dean Brown asked when staff denies this kind of application. Martin: If there is no medical reason.

**Deliberation:**

Daryl Garrettson: I am usually in favor of this type of application. There has to be a need for a caregiver. Transportation is not a “need”. There has to be some level of necessity.

Marjorie Ehry: I do not have a problem with a trailer for a hardship case. Transportation is probably not the only need she has. I am in favor of the application.

Dean Brown: I am distressed that there is not more reasons for denial or a clear definition of a hardship. There should be better criteria. I am not in favor of approval.

Robert Smiley: This application is very abused. There is a lack of process on these applications. They have not reviewed all of their alternatives.

Alan Halstead: Burden of proof has not been met. He is for denial of application.

Gary Johnson: He is for denial of application.

MOTION: Alan Halstead moved to deny the application. Seconded by Robert Smiley. Comments: Martin Chroust-Masin noted that medical is not the only justification for hardship. Age is also a factor. Marjorie: When you need care, you need care. This might be premature. Daryl said that bringing in an aged parent into your home is one thing, but putting a second house is a different matter. Approved unanimously.

MOTION: Daryl Garrettson moved that staff be directed to prepare proper public notice to bring this specific section of the zoning ordinance before the Planning Commission in a legislative hearing. Seconded by Alan Halstead. Approved unanimously.

**DOCKET NO.:** Z-01-03  
**REQUEST:** Approval of a zone change from AF-40 Agriculture/Forestry to Very Low Density Residential VLDR 2.5 for a 28.5 acre parcel. The request includes an exception to Goal 14 (Urbanization).  
**APPLICANT:** Debra Webb  
**TAX LOT:** 3323-2700 and 3101  
**LOCATION:** 10600 NE Red Hills Road, Dundee, Oregon  
**CRITERIA:** Sections 402, 502 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. The exceptions process in OAR 660-04, and the Transportation Planning Rule found in OAR 660-12-0060 also applies.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** None

Dean verified all present had heard the “raise it or waive it” statement.

**Staff Report:** Ken gave a brief review of the staff report. Questions: Robert Smiley: What effect would the proposed bi-pass have on this property? Ken: The bi-pass is proposed to be on the south side of 99W. This property is located north of 99W. Daryl: Is the only VLDR land or non-resource land located across the road? Ken: Correct. Daryl: Was this property ever included in the exceptions area acknowledgment process? Ken: It was part of exception area 2 that was adopted in April 1980. There was a plan designation granted for “very low density residential”, was it was never zoned for VLDR. Daryl: How extensive is the plan designation south of the road? Ken: (trying to find map). Daryl: Question of Counsel: When we took exceptions to Goal 3, did it comply with the exception of Goal 14? Rick: Yes it did. Daryl: If we zone to 5 acres do we need Goal 14 exception? Rick: I don’t think so. Ken supplied a map showing entire exception area.

**Proponent’s Case:**

Debra Webb, 5060 NW Gales Creek Rd., Forest Grove, OR 97116; Dale Jordon, 493 SE Walnut Circle, Dallas, OR 97338, representing Ms. Webb: Mr. Jordon supplied a map from DLCD for the exception area indicating the Webb property as being included in the exception area. Further study indicated that VLDR-5 acre zoning would be more appropriate. The access to this property was questioned. Red Hills Road is an adequate road. 5-acre lots will not generate significant trips to cause a problem. Regarding Goal 4 and forestry operation, there are a number of wood lots in the area. There is some wood lot on this property. There has been some commercial harvest on nearby properties. Homesites would be situated in the areas that would cause the least amount of erosion. Questions: none.

**Opponent’s Case:** None

**Public Agency Report:** None other than those previously distributed. Questions: Daryl: Did we notify the City of Newberg? Ken: No. Daryl: How far is their area of influence? Ken: The influence area is 1 mile. This is about 1½ miles from Newberg.

**Rebuttal:** None

**Staff Recommendation:** Staff recommends approval of a zone change from AF-40 to VLDR 5. We do not recommend approval to VLDR 2.5.

**Deliberation:**

Gary Johnson: He agrees with the staff recommendation.

Alan Halstead: He agrees with the staff recommendation.

Robert Smiley: He agrees with the staff recommendation.

Dean Brown: He agrees with the staff recommendation.

Marjorie Ehry: She agrees with the staff recommendation

Daryl Garretson: He has a concern that, since it is a committed exception, we would have a hard time with the justification at 2 ½ acres, but at 5-acre, we shouldn’t have the problem.

**MOTION:** Daryl Garrettson moved to approve Z-01-03 based on the findings and conclusion contained in the Staff Report for a change from AF-40 to VLDR 5. Seconded by Gary Johnson. Approved unanimously.

**Election of Officers :** Staff will announce results at next hearing.

**New Business:** Ken gave a status of G-01-03, the Parks plan. This docket will not be on the January hearing.

The hearing was adjourned at 8:50 p.m.

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