

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

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YAMHILL COUNTY PLANNING COMMISSION MINUTES

Thursday, October 7, 2004 · 7:00 p.m.

Yamhill County Courthouse, Room 32

535 E 5th St.

McMinnville, Oregon 97128

Roll Call: Gary Johnson, Brad Myers, Robert Smiley, Dean Brown, Sid Friedman, Marjorie Ehry, Daryl Garrettson.

Absent: Bernie Diefenderfer, Alan Halstead. Staff: Michael Brandt, Ken Friday, Rick Sanai.

Review of the **minutes** from the Planning Commission Hearing of September 9, 2004. Gary Johnson moved to approve the minutes as presented. Seconded by Robert Smiley. Approved unanimously.

Chair Brown reviewed the procedure for the evenings hearings and opened the public hearing.

QUASI-JUDICIAL PUBLIC HEARING:

DOCKET NO.: PAZ-02-04, FP-04-04 and WRG-04-04

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. All of the contiguous tax lots total approximately 422 acres. The proposal is to mine approximately 245 acres of the site. The request includes a Floodplain and Willamette River Greenway permit.

APPLICANT: Joe Bernert Towing Inc.

TAX LOT: 5314-100, 200 and 300, and 5315-300 and 400

LOCATION: 17595 SE Lower Island Road, Dayton Oregon

CRITERIA: Sections 402, 404, 901 and 902 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: Sid Friedman received an email about a threat to agriculture that he regarded as in reference to this docket. He replied by stating he wanted no further communication on this matter and stated that it will not effect his decision.

Staff Recommendation: Ken Friday gave a brief report. Enough evidence for a significant site. Minimizing conflicting uses. They strengthened the approval. Approval with a limited over-lay rule on condition 13, applicants rebuttal, last sentence. In the past no condition has ever been used to limit traffic....**Questions:** Gary: Strictly gravel trucks? Ken: We are not recommending that portion to the commission.

Chair Brown closed the public hearing.

Deliberation:

Daryl Garrettson: This is the best application put together so far...but given the way goal 5 was amended, we will have no choice. Goal 5 will cause problems in the future. Applicant's plan is a good one. He is in favor of the

application, but also would like to limit the number of truck trips.

Marjorie Ehry: I agree. When this was presented at the last meeting, there was such a difference...not in favor to the damage to farmland, which I feel comes first. Goal 5 doesn't give us much choice. She is not in favor.

Sid Friedman: This is a much better than other quarry...but is a hard application. Page 21 of the packet we were given...there are a couple of steps we need to take. The applicant has minimized conflicts to the greatest extent of their ability. He is concerned that at some point, Grand Island reaches a tipping point. I believe this app. Is better, it comes to us after previous applications have come to us...if approved would exceed the tipping point. This does not mean that the quarry will not be approved. But an analysis needs to be done...which should have been done with the last application. He would recommend that an ESE analysis be done to see which resource has the greatest....

Dean Brown: This is one of the best by far applications we have seen. This is almost the toughest choice and which resource use out-weighs the others. I don't know if we can use the past applications....During this process, although this land is highly productive, it has not been in use long. Even though it is difficult, he is agreeing with staff in support of the application.

Robert Smiley: They want to be a good steward of the land, which is of utmost importance. They did more than was required and extensions by going to the land owners and that the eventual plan...the wetlands property. While the applicant does to limit the truck traffic...He feels it has met the criteria and is in favor.

Bran Myers: The application is a very detailed one for a quarry. Under the goal 5 status, we weigh everything right now as to what will it be like in the future. Protection of farmland can be hindering, however, with regards to meeting the requirements, he would approve it.

Gary Johnson: His concern is agricultural land loss. The balance...evaluation would be nice, and Grand Island's traffic is a great concern. He would narrow it down to 75 trucks of agricultural haulers, and not caterpillars, etc. to simplify it. He hates to do it, but it does meet the criteria in his mind. Sid: Have they met the burden of proof?

Gary: We can make an argument...Daryl: There isn't anything about their application that indicates a conflict...a conflict on their land..

Gary: Be careful....Daryl: How they will preserve the soil and put in back on the land, dirt as opposed to soil. With goal 5, I don't see how we can get to the ESE...Sid: I don't agree with that... Daryl: I don't think the rule agrees...Dean: agriculture becomes somewhat viable...changing the characteristics of the common ground.

Trucking on and off the island...Brad: It is part of the river and the exposure to the flooding...once the mining begins, there will be changes within the land. Not as much traffic, but what will be the long-term effect. Daryl: Problem with the rule doesn't allow you to look at the land itself being put back into production. Sid: Other counties have

MOTION: Daryl made a recommendation for approval PAZ....based on the finding of the staff report, based on the conclusions...limiting them to truck traffic per day to hauling trucks. Seconded by Brad Myers.

Motion was voted for approval 5 to 2. (Marjorie Ehry & Sid Friedman opposed.)

Staff Comments: Ken: Scheduled for 10/21 to the Board of Commissioners... Dean: Will it start over again with our recommendation?.

Chair Brown explained the procedure and opened the public hearing.

DOCKET NO.: CTS-01-04
REQUEST: Conditional use approval to allow a temporary dwelling for the care of Luella L. Docken, by Tammara L. Albanese, her daughter, during the term of her health hardship. The living quarters in an existing accessory building would be the temporary residence.
TAX LOT: 2325-2000
APPLICANT: Luella L. Docken
LOCATION: 21400 SW McCormick Hill Road, Hillsboro, Oregon
ZONE: VLDR-5 Very Low Density Residential
REVIEW CRITERIA: Section 502.03(A) and 1202.02 of the Yamhill County Zoning Ordinance

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

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

Staff Report: Ken Friday gave a brief review of the staff report. This request is subject to the zoning ordinance

Mike Brandt: Wanted to take this opportunity to respond...January...When they complained about the dwelling, we sent out our code enforcement dwelling...the Docken’s came in and filled out a....hearing...so long for it to be rescheduled because of the zoning changes in August. Whenever we get a complaint, we generally along the correct forms....this is not common practice. The code was not changed...the ordinance already allowed....we planned to do a series of ordinance changes.....they got permits for it and applied for the permits...there was not a...what we are here for tonight. 5 years of occupation...need to ask the applicant. We do find mobile homes, etc....renting out the other dwelling...it is not uncommon....Martin Chroust-Masin became a...then appointed Ken Friday. 2 residences on a septic, yes. Has it been inspected? I don’t know....We don’t go out looking for those things....septic inspection will be done if approved within the next couple of weeks.

Questions: Sid: A principle of not moving the goal post...adopting new criteria resulting in...does that same principal hold for changes that relax criteria. Rick: Yes. Mike: They paid their money and the...

Proponents Case:

Luella Docken: until this came up....we lived there until 2001 due to temporary occupancy...the apt. I believe I spoke with John Stalcup...I have fallen and my daughter had been traveling back and forth to Aloha, Gerald...It was approved at that time and then asked if it would be a working apt. and my wife made a comment that she was disabled. Luella...we are not renting it our daughter Tammy is just living there. It was inspected with a final..My first husband passed away...polio...shriners...iron lung...27 surgeries, stress...shingles...not trying to get away with anything. In the hospital for 8 days...Tammy needs to be with me so she can live there. She falls often. The opponents can’t even see it. They don’t want the building there. Daryl: Your daughter moved in ...Luella...yes, after we had final...Daryl...gone all day at work. Tammy is there all day? Dean: Different address...Luella...just a mailing address. Dean: while you were building the house....Luella....in Aloha and came up every day.

Tammara L. Albanese, SW Farmington....has lived there for 4 years...financially and hours are too difficult to deal with...they did not know it was illegal to be there with no permits. I don;t know if it has anything to

do with the acreage below. Hasn't caused any problems. Daryl: You are there during the night? You don't work anywhere else?

Questions of Proponents: Suzie Cacciaccaro: She hadn't read through all of it, but the retirement...is Mr. Docken retired or not. I am retired but have taken on a contracting job at the coast...apartments since April 27. Been working everyday, about 7 hours a day. Painting jobs.

Michael entered the letter into record..."retirement" 6117...Portland Oregon

Opponents Case:

Suzie Cacciaccaro, 21470 McCormick Hill Rd., Hillsboro, OR 97123: When they moved there...vacationed in Mexico...when the house was finished, the daughter moved in. Doesn't think Mr. Docken works at all and doesn't know his wife's disability and needs. #8 previous land use action and criteria use 2-d because...there are no windows...brought pictures of the house and explained the lights and cameras pointing at their house. Still does not understand disabilities...worried about property value...8 lights shining at her house. Spoke about family members that have been ill and take care of each other. The reason she brought this up...spoke of her mother gradually becoming ill that lasted for 10 - 15 years. Her father took care of her...If my parents had an apartment, I'm sure they would have let me stay there. Questions: Sid: One of the criteria we judge this on is the principal conflicts...could you explain to how the lights and the camera moved in has to do with the hardship dwelling? Suzie....Sid: Is there any reason we should believe that they would be moved if the application is denied? Suzie: I don't think Brad: The community mediator...what was the reason you did not participate? Michael...If you want your kids alive, keep them off the property. Brad: Did you feel uncomfortable with the mediation process? Suzie: Threaten our children's lives...Brad:....Suzie: You are more than welcome to come see the lights...Deputy....

Questions of Opponents: None.

Mark Cacciaccaro, "": Mr. Brandt covered a lot I was going to say already. We were going to bring a lot of this stuff up....Living in the apt. The proposed application...can not ...lights...my deck and house are completely illuminated...shield my eyes coming up my driveway...the spot lights increased...this has an adverse effect on us enjoying our property. We feel the occupancy of this apt. is the reason for the lights. What are the requirements that justify a medical hardship? I do not think she is not disabled....motor home...retired....can maintain a complete a sep. residence on their own. Is it necessary for the daughter to be there....abuse the system...there is no reason she needs to live in the apt....she can live in the house. Questions: Sid: When there were light shields, were they tolerable? Yes. Sid: When you questioned the....kids away from their building. How many children do you have and ages. 14 and 17.

Questions of Tammara... Who took down the shield for the lights

Public Agency Report:

Michael came home in the Dockins...If you want to keep your kids out of jail, keep them home....the security camera's. Explained the lights on the building. Tammara: We were told none of those letters were not pertinent to this decision, that's why we didn't submit them....lights less offensive...no spot lights...sensor light...prowler tried to break in...put on one single light...turn on the light...police said they couldn't go down there. Tammara submitted pictures into record for committee to see the lights. Dean...Luella...beyond the issue of the kids and the lights...the shop building was built 2 years before they bought there home and the lights were there. Her husband explained his wife's disabilities. We are trying to prevent her from falling,

explaining that even the possibility of her being in a wheelchair has been considered. Michael: No complaints this year, with no on going threats or contacts since last year. Mr. Docken: we went away once in the last 4 years...it is not on-going. Sid: Would it be feasible to redirect your lights....Luella...they do not shine on their property and the police said the same.

Staff Recommendation: Ken....the lights have not been regulated...there is no way for us to do that but suggest that both parties consider mediation, since that can be successful...approval with 4 ...

Closed the public hearing.

Deliberation:

Gary Johnson: Neighborhood conflicts in trying to make a decision...but I see and have heard that it meets everyting in my mind and approval.

Brad: I concur that it meets the requirements...suggestion...communication among neighbors...I look at this not only as a request for a dwelling, but the neighbors feels infrindged upon by the lights. I approve the application.

Robert Smiley: Has met the requirements, and trying to work it out

Dean Brown: I do not feel we don't have any more now then we had the last time...Brad; I feel there is much more here. Dean: I'm sensitive to Mr. Friday's comments on lights....condition for the lights.

Sid: If ever there was a dispute...mediation....not about a medical hardship but bright lights, camera and teenage boys. We would have no power to stop more cameras and lights. One thing that bothers him, is that they should be judged by criteria at the time it was submitted...met medical hardship....letters from physicians and having heard any challenge to that...it serves no purpose...approval.

Marjorie: This is two different situations...hardship meets every qualification asked for and the other part is just being sensitive to neighbors. Somehow, having a mediator to work things out. Approval.

Daryl Garrettson: Mentioned the previous case....different....Social Security administration found her disabled. Also, the other application did not identify a day to day care and distances involved, etc. The burden has been met in this case. The daughter doesn't work....applicant is in need of daily care. Bothered by the fact that they will be living next to each other for quite a long time...make peace so home ...mediation strongly recommended. Free service...Does not see fashioning an agreement about lights...most people in the country have a lot of lights...will not make a motion for a light condition...need to mediate

Sid motioned to make recommendation to approve with process for mediation. Gary Johnson agreed.

Motion passed 6 to 1 for approval. (Opposed by Dean Brown)

Ken...we will send a letter out...appeal process to the Board of Commissioners.

New Business: Ken Friday: Mr. Seward has appealed the denial for hardship. Mike: Board of Commissioners approved the bypass. Mike: The billboard...sign ordinance...amended sign ordinance to commission with the fewest changes as possible...to prohibit billboards. Robert: Light issue...the security camera...ordinance...issue for legisl.

Adjourn: The meeting adjourned at 8:55 p.m.

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