

YAMHILL COUNTY PLANNING COMMISSION

Thursday, November 4, 2004 @7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

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

Chair Dean Brown called the meeting to order at 7:00 p.m.

Review of the **minutes** from the Planning Commission Hearing of October 7, 2004. Gary Johnson moved to approve the minutes as presented. Seconded by Marjorie Ehry. Approved unanimously.

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

QUASI-JUDICIAL PUBLIC HEARING:

DOCKET NO.: C-21-04
REQUEST: Conditional use approval to allow the manufacture, servicing and off-site sale of small tractors to be operated as a home occupation.
APPLICANT: Steven Roy
TAX LOT: 3209-502
LOCATION: 29300 NE Pendle Hill Road
ZONE: VLDR 2.5 Very Low Density Residential
REVIEW CRITERIA: Section 502.03(B), 1004, 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. **Questions of Staff:** Dean Brown: What is the distance from the nearest public road to the site on the private road? Ken stated he would find out.

Proponent’s Case: John Bridges, Attorney with Brown, Tarlow & Bridges, 515 E. First St., Newberg, OR 97132 & Steven Roy, 29300 NE Pendle Hill Rd., Newberg, OR 97132: Mr. Bridges stated that Mr. Roy began a business on the site in 2003, manufacturing small scale tractors. He misunderstood what he could and couldn’t do on his property. Mr. Roy was contacted by Mark Soderberg of Yamhill County Code Enforcement, after a complaint was made. Mr. Roy contacted Mr. Bridges and the Planning Department, to find out what he needed to do. Mr. Roy acknowledges he erred in providing on site sales, which he has discontinued. Since the code enforcement pictures were taken, the following changes have been made: Removal of the sign on the back side of the barn. Messages promoting sales on site have been removed and on site sales have ceased. The only contact information now displayed on Mr. Roy’s web site is his phone and fax numbers. The manufacturing and service is now located in the building alone. The noise is largely generated from an air wrench. The surrounding uses are Bell Rd., which is used as an alternative to 99W, a Christmas Tree Farm across the street, which generates some noise associated with the harvesting of trees and a vineyard which generates noise, as well. Mr. & Mrs. Huffman’s letter stated that Mr. Roy intends on having 5 employees on this site. There is only one part-time employee and there is no intention of hiring any more. Mr. Bridges stated that they have reviewed the staff recommendation and the conditions are acceptable. Mr. Roy addressed Dean Brown’s question posed earlier, stating that the length of the road is approximately 600 feet. **Questions:** Robert Smiley: What are the current hours and days of operation? Mr. Bridges: Monday - Friday from 8:00 - 5:00. Bernie Diefenderfer: Have you been maintaining the road? Mr. Roy: I have initiated the maintenance and everyone on the road has split the cost. Gary Johnson : Are you actually assembling the tractors? Mr. Roy: Yes. Dean:

How many properties does the road serve within 600 feet? Mr. Roy: Six (6) counting us. Gary: How many times during the year are there deliveries of tractors to be assembled? Mr. Roy: 8 times a year. Bernie: On the assembly, is it done inside the building? Mr. Roy: Everything is done inside. Marjorie Ehry: What kind of noise is generated, since you're just assembling and not manufacturing? Mr. Bridges The vast majority is the air wrench. **Questions of Proponents:** Richard Engnell: What is the largest horse powered tractor you have assembled? Mr. Roy: I had one 70 horse power. Mr. Engnell: Are the easements on the property recorded? Mr. Bridges: I did not do a title search.

Opponents Case: Craig B. Huffman, 29260 NE Pendle Hill Rd., Newberg, OR 97132: Mr. Huffman lives immediately below the Roy's property. He referred to two issues, one being the road itself. The road is approximately 25 feet from their front door. They expected road noise when they moved in, but they do get a lot of noise and vibration from large semi trucks. It is a gravel road, which has served well with light residential traffic. A gravel road is a tender road, particularly when there is moisture. Secondly, the noise associated with the business. It will be much less, since they have eliminated the retail sales, but the air wrench will add a great deal of noise to the residential mix. The vineyard is 1,000 feet from the area, and although they do use air cannons once a year and the Christmas Tree Farm does run chain saws, it is seasonal and therefore disappears from the mix. One or both of those operations are also in different zoning restrictions. **Questions:** Marjorie: Are there any school buses that use that road? Mr. Huffman: No. They need to get on the bus at the foot of Pendle Hill Rd. **Questions of Opponents:** None.

Richard Engnell, 29295 NE Pendle Hill Rd., Newberg, OR 97132: Mr. Engnell is unsure if the building alone will be adequate for the business in the future. The language in the application did not show that the business had changed. He neither opposes nor supports this application, but wanted to present his concerns and views. Mr. Engnell showed some pictures and the visibility of the business from his property, as well as the area where the tractors were stored. Before the complaint was filed, there were 8 - 10 tractors on site. They have heard the air wrenches, but the main noise is the traffic that comes up from diesel powered trucks. It is not constant, but it is very significant. There is no recorded easement on his property. He doesn't want to pave, contribute or maintain a paved road. **Questions:** Bernie: Do you have an air compressor? Mr. Engnell: No. Bernie: What is your estimated maintenance of the road costs? Mr. Engnell: Very little cost. **Questions of Opponents:** Mr. Bridges: Does your property back up to Bell Rd? Mr. Engnell: Yes and the house is about 30 - 40 feet from Bell Rd.

Public Agency Report: Ken Friday explained that the County Sanitarian said this proposal has an insignificant impact on the sewage disposal system, the Newberg Fire Dept. said access to structures must be approved by the Fire Dept., and the State Water Master noted that this is within the Chehalem Mountain Ground Water Limited Area and additional restrictions apply for use of ground water.

Rebuttal: Mr. Bridges: The Roy's bought there property and then built on it. When they borrowed money to do that, they signed the normal documents. Title company's will not lend money to someone who does not have access. Mr. Bridges showed the commission a picture that was taken as a result of the letter Mr. Engnell wrote. There is an opportunity to further screen from that neighbor. The Roy's could plant some arborvitae, which would provide more screening for the neighbor. In light of the background noise, which comes from the surrounding Christmas Tree Farm and Bell Rd., the air wrench should not be a great disturbance. Mr. Roy has only assembled 30 tractors. They apologize for not knowing the rights and responsibilities when the business was started. **Questions:** Bernie: Do you maintain the property and the road? Mr. Roy: I maintain it or arrange the maintenance. Bernie: How many hours a week do you spend on maintenance? Mr. Roy: About 10 hours a week. Dean: Is this your primary occupation? Mr. Roy: Yes.

Staff Recommendation: Ken Friday stated the following: We believe this application pushes the boundaries of the Home Occupation standards and Conditional Use Criteria. Our concern is the scale of it in this location. This is an area of 2.5 acre parcels at the end of a narrow private road. Due to this, our department recommends denial of the request based on the conclusion for denial. If the Planning Commission votes to approve the request, then we would want you to consider placing the nine (9) conditions of approval mentioned in the staff report.

Chair Brown closed the public hearing.

Deliberation: Gary Johnson: I was leaning more to the approval because eight major truck loads a year does not bother me at all. I had concerns at the beginning as to why we were looking at it, because of the 2.5 acre zoned area. I'm undecided.

Robert Smiley: When I read the application and saw the different violations of the code, it was apparent to me that this was far outside the boundaries of a home business, but given the fact that they have modified the code violations and agreed to the staff recommendation and 9 conditions, I'm leaning toward approval.

Dean Brown: My concern is the road. One of the criteria for Conditional Use is the adequacy of public facilities, and in this case it is a private facility. My concerns are enough to not approve.

Marjorie Ehry: I'm in favor of most home businesses. Like many, these people don't intend on causing a problem and don't realize what is unacceptable. The Roy's have done everything they can do to correct the problem and to be good neighbors. The road is a real problem. That is something to consider with extra traffic. I would like to accept this, but the road is the question.

Bernie Diefenderfer: I'm leaning toward approval. I didn't hear a traffic or a noise count for Bell Rd. An occasional use of an air wrench inside a building is not a valid reason to deny a business. I would go with approval.

MOTION: Marjorie Ehry moved to approve the Conditional Use Application, with the conditions of approval as recommended by staff. Seconded by Bernie Diefenderfer. Motion passed 4 to 1 for approval. (Opposed by Dean Brown.)

Ken Friday explained the appeal process.

New Business: Ken Friday updated the Planning Commission on the Seward Application that went before the Commissioners and was denied 2 to 1. (Leslie Lewis voted in favor.)

Adjourn: The meeting adjourned at 8:00 p.m.

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