

YAMHILL COUNTY PLANNING COMMISSION

Thursday, May 5, 2005 @7:00 p.m.
Yamhill County Courthouse, Room 32
535 E 5th St.
McMinnville, Oregon 97128

Chair Robert Smiley called the meeting to order at 7:00 p.m.

Roll Call: Bernie Diefenderfer, Marjorie Ehry, Daryl Garrettson, Alan Halstead, Brad Myers, Chair Robert Smiley, Gary Johnson (7:02) Absent: Sid Friedman. Staff: Mike Brandt, Martin Chroust-Masin, Ken Friday

Review of the **minutes** from the Planning Commission Hearing of April 7, 2005. Alan Halstead moved to approve the minutes as presented. Seconded by Bernie Diefenderfer. Approved unanimously.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: C-28-04
REQUEST: Conditional use approval to establish a dog kennel to keep 16 dogs on the applicant's property. The dogs will be Chihuahuas and German Shepherds. The request does not include approval to allow the commercial boarding of dogs.
APPLICANT: Kerrie B. Casas
TAX LOT: 6306-1700
LOCATION: 12650 Kirkwood Road NW, Salem, Oregon
ZONE: AF-10 Agriculture/Forestry Small Holding
CRITERIA: Section 501.03(I), 501.06(C)(2), and 1202.02 of the Yamhill County Zoning Ordinance

Martin Chroust-Masin presented a request by the applicant for a continuance on Docket C-28-04 to the July Planning Commission Hearing.

MOTION: Chair Smiley moved for a continuance on Docket C-28-04 to the July 7, 2005 Planning Commission Meeting at 7:00 p.m., Room 32 at the Yamhill County Courthouse. Seconded by Marjorie Ehry. Approved unanimously.

DOCKET NO.: C-06-05
REQUEST: Conditional use approval to allow a bed and breakfast to be operated as a home occupation.
APPLICANT: Shirley A. Wellbrock
TAX LOT: 4409-1301
LOCATION: 3554 Westside Road, McMinnville, Oregon
ZONE: VLDR-2.5 Very Low Density Residential
CRITERIA: Section 502.03(B), 1004, 1012 and 1202.02 of the Yamhill County Zoning Ordinance.

Chair Smiley opened the public hearing.

Abstentions, Objections of Jurisdiction, Ex Parte Contact: None

Mike Brandt read the **"raise it or waive it"** statement into record.

Staff Report: Martin Chroust Masin gave a brief review of the staff report.

Proponent's Case: Shirley Wellbrock, 3554 NW Westside Rd., McMinnville, OR 97128: She is requesting a permit for a 2 bedroom Bed & Breakfast. The current road is now used for the necessities of her life and for the people who work for her. Mrs. Wellbrock purchased the property in November of 2003 and has made substantial improvements

to the property. Her neighbor has been concerned with privacy and safety. She cannot see their property from her own. Mrs. Wellbrock is retired and would like to have an income from the Bed & Breakfast that would enable her to remain on the property. Her neighbor, Mr. Rumbaugh, had not shown much concern about the road, the Bed & Breakfast, or the 300 trees that were planted. Mrs. Wellbrock retained the services of an attorney to draw up the paperwork, but they were drawn up incorrectly. She has since discharged the attorney. Mrs. Wellbrock is aware of the safety issue, since the Rumbaugh's have two small children, and will advise potential guests of the neighbor's children. **Questions:** Bernie Diefenderfer: Where was the road going to go? Mrs. Wellbrock explained in detail where the road would go on her property and the easements. Daryl Garrettson: What do you intend to do about signs if you put in your own road? Mrs. Wellbrock: The sign doesn't concern me, since publicity will come from word of mouth or from advertisements. Marjorie Ehry: Why can't you put in your own driveway? Mrs. Wellbrock: I have a sense that fair is fair, and if I will pay that kind of money for the road, then there should be an equal exchange of easements.

Marc Wellbrock, 721 Maple St., Dayton, OR 97114: Mr. Wellbrock explained that his father passed away last year and his mother is trying to keep her property. She has a vested interest. The clientele she would cater to would be small. His mother offered Mr. Rumbaugh an exchange of easements two months ago and would put the road in at her cost. Mr. Rumbaugh didn't respond until four days ago.

Questions for Proponent's: Mr. Rumbaugh asked Marc Wellbrock if he has any personal knowledge of his response to the attorney. Mr. Wellbrock stated that the attorney said he had heard nothing from Mr. Rumbaugh until just a few days ago.

Opponent's Case: Stan & Lori Rumbaugh, 3550 NW Westside Rd., McMinnville, Or 97128: Mrs. Rumbaugh stated her concern with the safety of their children. They share the driveway and have many coming to their home looking for Shirley's home. The road does go through their yard where the children play. She saw an add in the Yamhill County 2005 Visitor Guide and the intention looks like a wedding/reception area. The drinking that would take place at a gathering like that is a concern. Mr. Limbaugh stated that Mrs. Wellbrock has improved the property. He has never said that he would not sign any documents, but in fact corrected a serious error in the first document that was sent out by the attorney. He stated his concerns of Mrs. Wellbrock giving up her easement and not having any alternative. He also suggested to the attorney, that by moving the road higher on the bank, it would save her thousands of dollars. Mr. Rumbaugh stated that his neighbors didn't understand farm easements when they moved in and he had to relocate some of their equipment with their approval. Also, the trees were planted in the center of his easement. They are not totally opposed to the Bed & Breakfast, since they know Mrs. Wellbrock needs the income. They would have no problem with her using their part of the easement while the road is being built. **Questions:** Robert Smiley: Would you have an objection to a sign near the road? Mr. Rumbaugh: On a temporary basis, probably not. Bernie: I have counted 23 vehicles on your property in the pictures. Do you have a home business there? Mr. Rumbaugh: No.

Questions of Opponent's: None.

Public Agency Report: The City of McMinnville and Public Works replied with no conflicts.

Rebuttal: Mrs. Wellbrock said she was guilty of jumping the gun in putting the add into the Visitor Guide, but it would have been too late if she had waited. She stated she is not equipped to handle a large reception, but thought it would be a nice place for a couple to be married. She apologized for any distress that the wording caused her neighbors.

Staff Recommendation: Staff recommends approval of the application.

Chair Smiley closed the public hearing.

Deliberation:

Gary Johnson: I have always supported home occupations. Their own private road would simplify the process.

Alan Halstead: My main concern is the easement situation. If she could have her own driveway, I would be more comfortable.

Brad Myers: It sounds like there should be more communication between the two parties. If they both can compromise about the road layout, I would vote to approve it.

Marjorie Ehry: I also support home business. When I first received this, it wasn't an inviting approach and I thought if there was a different driveway, it would be more inviting. I do agree that both parties need to communicate.

Bernie Diefenderfer: I concur with staff.

Daryl Garrettson: The easement question is between them. I'm bothered under the criteria of compatibility with approving any kind of commercial designation that crosses someone else's land. I suggest that we add a condition 10, that says after 6 months, access shall be by road over the applicant's property or the permit lapses.

MOTION: Daryl Garrettson moved to approve Docket item C-06-05 based on the findings and conclusions in the staff report, with conditions 1 through 9 in the staff report and condition 10: within 6 months of the granting of the permit, access shall be over the applicant's property only or the permit shall lapse, unless the Planning Department agrees to extend it past the 6 months. Seconded by Alan Halstead. Approved unanimously.

Mike Brandt explained the appeal process.

Chair Smiley called a break until 8:03 p.m.

DOCKET NO.: C-04-05/SDR-04-05

REQUEST: Conditional use and site design review approval for a wine tasting room in conjunction with the existing winery. The applicant is also seeking to modify conditions #3, 7, and 8 of the previous land use approval (Docket C-08-01/SDR-17-01.) See existing and proposed conditions of approval.

EXISTING CONDITIONS

3. The applicant must show that a permit from the Oregon Water Resources Department has been obtained from the existing well which is to be used as a source of water for the winery and irrigation.
7. The winery shall not have a public tasting room or be open to the public except for private appointments of individuals interested in purchasing wine.
8. No sign advertising the winery shall be placed on any of the approaching roadways.

PROPOSED CONDITIONS

3. If required by the Oregon Water Resources Department, the applicant must obtain a permit to use the existing well as a source of water for the winery and for irrigation.
7. A public tasting room for wine produced on-site is allowed in the existing winery building, as shown on Exhibit A.
8. ODOT-style road signs may be placed on the approaching roadways, directing visitors to the wine tasting room. The number and location of these signs is subject to the approval of the Yamhill County Public Works Director.

APPLICANT: Greg Sanders

TAX LOT: 3333-302 and 310

LOCATION: 6250 NE Hill Top Lane, Dayton, Oregon

ZONE: EF-20 Exclusive Farm Use

CRITERIA: Sections 402.04(G), 402.07, 1101.02 and 1202.02 of the *Yamhill County Zoning Ordinance*. Comprehensive Plan policies may also be applicable.

Chair Smiley opened the public hearing.

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

Chair Smiley asked if everyone was present for the “**raise it or waive it**” statement at the beginning of the meeting.

Staff Report: Ken Friday gave a brief review of the staff report.

Proponent’s Case: Nicholas Nguyen, Primary Representative for White Rose Wines, 6250 NE Hilltop Lane, Dayton, OR 97114: He stated that their testimony is essentially within the package and meets all the requirements. He pointed out that they’ve asked only for an on-site tasting room, not a year round events facility. **Questions:** Daryl: I note in the letter submitted, a visit rate of 4 - 8 vehicles weekly. Nicholas: It is a tasting room by appointment only. Daryl: What about the Thanksgiving event? Nicholas: We understood that 3 events were allowed per year. Robert to Staff: Did the original application grant 3 events per year? Ken: No, I don’t believe it did, but there could be some confusion over that, since it is one of the only wineries that doesn’t have the 3 events granted. Mike Brandt stated that when he read through the zoning ordinance, if you look under “winery” as defined in the EFU Zone, he can see where they could think 3 events are permitted per year. Then Ken pointed out to him another section of the ordinance that says, notwithstanding, the decision making body has the right to limit a winery to not include those events. Since the Board of Commissioners didn’t specifically state those events were allowed in their previous approval, it’s probably safe to assume that they meant not to.

Frank Charbonneau, 9370 SW Greenburg Rd., Suite 411, Portland, OR 97223: He is a registered Civil and Traffic Engineer in the State of Oregon. He recently accessed the roadway capacities, circulation and safety concerns that have been introduced by some neighbors. Mr. Charbonneau prepared a memorandum about those issues and the technical aspects, coming to the conclusion that he feels there are no safety problems. **Questions:** Daryl: How would you describe the gravel road? Mr. Charbonneau stated the document describes the road and it is adequate for the volume of traffic projected by a public wine tasting room.

Ronald M. Catlin, 6325 NE Hilltop Lane, Dayton, OR 97114: Mr. Catlin stated that the road is a fine gravel road and is in good shape. The winery is located about 200 yards from his deck and his only real concerns are the water factor, provision for noise, the road maintenance, and that signage not take away from the local character of the area. **Questions:** Daryl: Is there no maintenance agreement to take care of the road? Mr. Catland: There is no written agreement.

Emily Gladhart, P.O. Box 160, Lafayette, OR 97127: She stated she is also in the wine business and a realtor. It is a lovely area and the wineries are bringing in many tourists. Dust on the gravel road is a concern, but small wineries cannot afford to pave long distances. **Questions:** Gary Johnson: What are the water issues in that area? Ms. Gladhart: On the property adjacent to the Catlands, the well is 30 gallons a minute. Bernie of Staff: How much water will the tasting room use from the well? Ken: They will serve bottled water.

Questions of Proponent’s: None.

Opponent’s Case: Patricia Crawford, 6291 NE Breyman Orchard Rd., Dayton, OR 97114: Her concern was about the conditional use permit. How can you have a tasting room with only 8 acres of grapes? Also, the traffic safety is a concern. She showed photographs of the safety issues, which she gave to staff. There are blind areas on the road, and would have no objection if those corners were fixed. Mr. Sanders should help maintain the road and has never offered. **Questions:** Marjorie: Is this a different road than the gravel road? Gary explained where it is located on the map. Ken explained where the winery wants to use the road. Mrs. Crawford also presented a letter to staff from Marshall Lundsberg.

Jim D. Crawford, 6291 NE Breyman Orchard Rd., Dayton, OR 97114: Concerning the well situation, Mr. Crawford believes that it is 6 gallons a minute, but is not aware if there is an additional well on the property. There could be a water problem in the future. There are signs up there and a condition of his permit is for no signs. Greg Sanders doesn't live there. When you are part of the community, you understand better, and his issues are different from our own. We have lived there for 40 years. When the workers travel that road, they come down our driveway, and the speed they go is faster than I would like to have. You can't see very far down the road and we have come close to hitting another car several times. With the tasting room, I'm concerned with drivers being intoxicated. Mr. Crawford pointed out his concerns on the map. **Questions:** Bernie: You keep referring to your driveway. Is that a public road? Mr. Crawford: Yes, I just refer to it as our driveway.

Questions of Opponent's: None.

Public Agency Report: Ken Friday reported that the Public Works director submitted a letter dated December of last year, addressing the issue and the County Sanitarian stated the sewer system was applicable.

Rebuttal: Nicholas Nguyen responded with respect to the water, stating that it was addressed in the application. The Watermaster felt the impact would be nominal. Concerning the safety issue, Mr. Charbonneau made recommendations. **Questions:** Daryl: There has been some concern about fixing the blind corner. Nicholas: Mr. Sanders will follow whatever the commission deems as appropriate. Daryl: Will there be any problem if there is a condition that would prohibit amplified music? Nicholas: Not at all.

Staff Recommendation: Staff recommends approval as proposed.

Chair Smiley closed the public hearing.

Deliberation:

Daryl Garrettson: I'm concerned with the impact on the roads, especially with the other wineries up there. I'm willing to recommend approval with the conditions of maintaining the road and no amplified music.

Bernie Diefenderfer: I agree with Daryl.

Marjorie Ehry: One of the big problems in that area have been the roads. It needed to be taken care of a long time ago. If the corrections are made, I agree with Daryl.

Brad Myers: Given the evidence and the support, I have no objections.

Alan Halstead: My concern is if there is adequate room in the right away to make the improvements. I will support with the conditions, with a report back in 1 year from staff.

Gary Johnson: With the criteria we have, it falls into place. I agree with the conditions suggested by Daryl.

Robert Smiley: I agree there needs to be issues addressed, especially after seeing the pictures and the blind corner. That area will only grow.

MOTION: Daryl Garrettson moved for the approval of the changes and conditions in Docket item C-04-05/SDR 04-05 for the existing conditions, with the addition of 3 conditions, and if the applicant chooses to reject the 3 new conditions, then the existing conditions would stand. Those conditions are: Dust palliative at the appropriate time of year on the gravel portion of Hilltop Lane; the blind corner be remedied as outlined in the Lundsberg letter; no outdoor amplified music shall be allowed. Seconded by Gary Johnson. Approved unanimously.

Ken Friday explained the appeal process.

DOCKET: PAZ-01-05

REQUEST: To make a zoning exchange between two adjacent properties that are approximately equal in size. One 39.75-acre parcel would have a Comprehensive Plan amendment and zone change from Forestry to Agriculture/Forestry Small Holding; a zone change from F-80 Forestry to AF-10 Agriculture/Forestry Small Holding. The other 40-acre parcel would have a Comprehensive Plan amendment and zone change from Agriculture/Forestry Small Holding to Forestry; a zone

change from AF-10 Agriculture/Forestry Small Holding to F-80 Forestry. An exception to Goal 4 is proposed.

APPLICANTS: David Buswell and Leonard Prier

TAX LOT: 5734-602 and 1800

LOCATION: 41111 Fort Hill Road, Willamina, Oregon

CRITERIA: Sections 401, 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. An Exception to Goal 4 is proposed.

Chair Smiley opened the public hearing.

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

Chair Smiley asked if everyone was present for the “**raise it or waive it**” statement.

Staff Report: Ken Friday gave a brief review of the staff report.

Proponent’s Case: David Buswell, P.O. Box 1177, Willamina, OR 97396: David made himself available for any questions from the commission.

Opponent’s Case: Emily Gladhart, P.O. Box 160, Lafayette, OR 97127 had left the meeting but wrote the following comments on the public comment card, which Chair Smiley read, as follows: Small holding destroy the forestry and agricultural options to be economically viable. They also greatly increase demands for county services that are not readily available. Oregon depends on its agricultural economy for the long run. It is unfortunate if the well being of a few developers take precedence over that of the citizens of Yamhill County.

Public Agency Report: Ken Friday stated there were no additional reports.

Staff Recommendation: Staff recommends approval of the request.

Chair Smiley closed the public hearing.

MOTION: Alan Halstead moved to approve Docket PAZ-01-05. Seconded by Daryl Garrettson. Approved unanimously.

Ken Friday stated that this unanimous recommendation will be forwarded on to the Board of Commissioners.

New Business: None.

Adjourn: The meeting adjourned at 9:27 p.m.

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