

**YAMHILL COUNTY PLANNING COMMISSION MINUTES**

Thursday, July 21, 2005 @7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 E 5th St.  
McMinnville, Oregon 97128

**Roll Call:** David Polite, Matt Dunckel, Robert Smiley, Bernie Diefenderfer, Brad Myers, Daryl Garrettson. Absent: Alan Halstead, Marjorie Ehry. Staff: Mike Brandt, Ken Friday, Rick Sanai.

Daryl Garrettson moved to approve the June 2, 2005 **minutes** as submitted. Seconded by Bernie Diefenderfer. Approved unanimously.

Chair Smiley opened the public hearing.

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

**QUASI-JUDICIAL PUBLIC HEARINGS:**

**DOCKET:** PAZ-05-04  
**REQUEST:** Approval of a Comprehensive Plan amendment from Low Density Residential to Commercial; a zone change from LDR-12000 Low Density Residential to NC Neighborhood Commercial. The purpose of the zone change is to allow a motorcycle repair shop in conjunction with the existing motorcycle parts store.  
**APPLICANT:** Jeff and Tammy Coffman  
**REPRESENTATIVE:** Jessica Cain, Attorney at Law  
**TAX LOT:** 3325-900  
**LOCATION:** 270 North Highway 99W Dundee, OR 97115  
**CRITERIA:** Sections 502, 602 and 1208.02 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. OAR 660-12-0060 Transportation Planning Rule.

Chair Smiley stated that a request had been received for a continuance to the September 1, 2005 hearing. Robert questioned those in attendance if they were unable to return for the September 1, 2005 hearing. All interested parties in attendance will be able to attend the next meeting.

**MOTION: Daryl Garrettson moved to continue PAZ-05-04 to the September 1, 2005 Planning Commission Meeting at 7:00 p.m., Room 32 at the Yamhill County Courthouse. Seconded by Brad Myers. Approved unanimously.**

Chair Smiley opened the public hearing.

**DOCKET NO.:** PAZ-06-04  
**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Commercial; a zone change from AF-10 Agriculture/Forestry Small Holding to HC Highway Commercial. The purpose of the zone change is to expand the existing three acre Highway Commercial Zone over the entire 14 acres of the subject parcel.  
**APPLICANT:** Willie Owens

**REPRESENTATIVE:** Jessica Cain, Attorney at Law  
**TAX LOT:** 3325-600  
**LOCATION:** 9660 NE Fox Farm Road, Newberg, Oregon  
**CRITERIA:** Sections 501, 904, 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 660-12-0060 Transportation Planning Rule.

Chair Smiley stated that a request had been received for a continuance to the October 6, 2005 meeting. Robert questioned those in attendance if they were unable to return for the October 6, 2005 hearing. All interested parties in attendance will be able to attend that meeting.

**MOTION: Brad Myers moved to continue PAZ-06-04 to the October 6, 2005 Planning Commission Meeting at 7:00 p.m., Room 32 at the Yamhill County Courthouse. Seconded by Bernie Diefenderfer. Approved unanimously.**

**DOCKET NO.:** S-02-05/C-08-05  
**REQUEST:** The applicant is requesting to develop a 39 lot subdivision (Note: An additional tract is to be created which is to be set aside for a future interchange). The majority of the parcels are two acres in size. The request includes a conditional use approval to develop a community water system to serve these lots.  
**APPLICANT:** Ed Romanov  
**OWNER:** Black Family Vineyard, LLC  
**TAX LOT:** 3326AA-100, 3323-2900 and 3325-700  
**LOCATION:** 905 NW Dogwood Street, Dundee, Oregon. The land is generally located northeast of the intersection of Viewmont Drive and Dogwood Street.  
**ZONE:** VLDR-2.5 and VLDR-1, Very Low Density Residential  
**CRITERIA:** *Yamhill County Land Division Ordinance* and Section 502.06 of the *Yamhill County Zoning Ordinance*. The community water system request is evaluated with the conditional use criteria listed in Section 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 the record.

**Staff Report:** Ken Friday gave a brief review of the staff report. **Questions of Staff:** Daryl: What is the criteria that relates to water under our subdivision ordinance? Ken: There is a requirement that there be an adequate quality and quantity of water as in section 6.090 of the Yamhill County Land Division Ordinance. Daryl: So they are required to demonstrate in order to subdivide, that they have adequate water. Isn't there a disclaimer section in it? Ken: Yes, there are two. Daryl: If they choose not to demonstrate, they have a right to disclaim and still subdivide? Ken: Yes, it's a statement that says the properties are not served by on-site wells. There are four options in Section 6.090. Daryl: Does the applicant have to elect which subsection they are under? Ken: No. Daryl: Do we have the authority to require proof of an adequate water supply under this application? Mike: No. Ken: We are recommending condition #6 that requires drilling a well as proof of water supply.

**Proponent's Case:** Mike Robinson, Attorney, 1120 NW Couch St., 10<sup>th</sup> Floor, Portland, OR 97209 and Edward Romanov, The Allen Group, 6005 Hidden Valley Road, Suite 290, Carlsbad, CA 92009: Mike Robinson indicated for

the record that he asked Ken Friday if the entire Planning Department file is in front of the commission and he said it was. There is a letter dated today with 2 attachments; 1 from Dave Newton and the other a memorandum from the same. The second document submitted today was a letter dated July 14, 2005. Mr. Robinson stated that all the lots are 2 acres and there are 38 lots. The land is not farmland and since 1979, the site has been available for some kind of rural development. They feel that condition #6 is an appropriate condition. The comments from the Dundee Fire Chief, and the Rural Fire Protection District have all been addressed. A few minor changes were made to the subdivision plat to reflect their concerns. Planning staff's approval criteria has been met. Also, a neighborhood meeting was held at the Dundee Elementary School on April 27, 2005. 35 - 40 people were in attendance. Mr. Robinson stated that the approval criteria is found in the Land Division Ordinance section 6.000, 1 - 4. As the applicant, they need to demonstrate the standards in the zoning and development ordinance; the land division ordinance and the comprehensive plan. The application and his July 14 letter addressed the relevant standards found in those documents and demonstrated why they meet those standards. The standards from ORS Chapter 92, ORS 97, and ORS 215, have been met as well. Concerning the water issue, the City of Dundee submitted a letter today asking the county to change the interpretation. The code would have to be changed. There is simply no language that allows the county to consider outside water impact. **Questions:** David Polite: Before the OWRD, is there an opportunity for public hearing there? Mr. Robinson: Absolutely.

Ed Romanov explained that Mr. Black had engaged him to put together a team of professionals, making sure the requirements were adequately fulfilled. The major issue seems to be water. There are 3 possible solutions: To negotiate an arrangement with the City of Dundee for extension of water services; to develop a community system, which is the best solution for everyone; or to have each individual lot owner have their own well. The intention is to drill on exploratory well, which could eventually be a production well, and then 3 monitoring wells surrounding that in different directions to help determine the impacts. **Questions:** David Polite: Have you considered using low-water use for lawns? Ed: Yes, that's being considered and I've done research on that myself. There are underground drip irrigation systems that basically carry the water down to root level, about 3 - 4 inches under the top soil. David: What can be in place that would act as a cost mechanism to cause people to stay within their allocated use? Ed: If consumption of the water exceeds the permit amount, then the state would step in. From a Homeowners Association, an addition cost or fine that makes it economically prohibited. Brad: Will the water be metered and what will it cost per gallon? Also, what would be the size of the reservoir to handle a development that size? Ed: It would be an above ground storage tank and for the domestic and fire, would be 125,000 - 150,000 gallons. It would be separately metered. Bernie: What is the time frame of selling the lots? Ed: A bulk sale will probably be done to a builder the first quarter of next year.

Tony Weller, CES/NW - Project #2010, 15573 SW Bangy Rd., #300. Lake Oswego, OR 97035: Tony reviewed the layout, access, storm, septic, water, and traffic. Lot #2 was deleted, making 38 lots in all. Lots #38 and #39 will be accessed off an unnamed road. The community water system is their preference and the Water Resources Dept. stated the same. It allows the ability to monitor. **Questions:** Bernie: I'm concerned with one access and 307 additional trips daily. Ed: The only secondary access is for emergency vehicles and is within the capacity of Fox Farm road. David Polite: Has the traffic impact been studied? Ken: Bill Gille's response was no objection. Brad: What is the potential impact on existing wells and how many? Ed: We won't know until we drill the test well, which should be between 30 - 60 days. Brad: Would you consider building your reservoir to potentially handle more above and beyond the development? Ed: We would try to create a secondary reservoir, being a pond to hold additional water for irrigation and do a dual distribution system. David: Would you say the system you've designed is at full capacity based on a hundred year flood? Ed: I don't believe it is on our design curve, but the staff report says it's what the Public Works Dept. wants it designed to. Robert: The 30 foot emergency access property, will that be excluded from landowners #27 & #28 properties? Ed: No, the legal ownership goes to the middle on both sides. It has to remain open at all times and it is an easement. It will probably be gravel. Robert: Who will maintain the retention pond area? Ed: The

Homeowner Association. Robert: Our county code does not require fencing around retention ponds? Ken: I don't know of a requirement. Ed: Because there is standing water, the Homeowner's Association will probably want it fenced.

Chair Smiley called a 10 minute break.

Robert asked if anyone else present wanted to testify in favor of this application.

Edwin Sharer, P.O. Box 506, Newberg, OR 97132: This application is a good one. The community water is the best plan. The roads should only be wide enough to meet fire standards. **Questions:** None.

**Questions of Proponent's:** Audience: Nick Bright stated he did not receive a notice of the April 27 meeting. How was the notification area determined? Ed: They solicited information from a title company, but had also received calls from other individuals who were not notified. Letters were sent out to those individuals. Mr. Bright: Is it necessary to have the holding tank above ground? Ed: At this time, this has not been determined. Mr. Bright: Is there any control for mosquitoes with the ponds? Tony: There will not be a permanent pool. The ponds are designed to drain out. Elizabeth Sundeen: Is there a notification from the Water Resources regarding hearings? David Newton: They notify residents within a close proximity and put out a public notice in the paper.

**Neutral Testimony:** Elizabeth Sundeen, 291 NW Carmel Circle, Dundee, OR 97115: Elizabeth had two comments on the roads: The undeveloped portion of Viewmont is a Dundee city green way and is identified as such in the transportation plan section of the comprehensive plan, and at this time, the parks plan is nearing adoption. The connection for vehicles that would be a direct connection between Fox Farm and Dogwood would give a bypass around 99W. Also, she appreciates the neighborhood meetings that were held. She had a question about the CC&R's and at what point would they become binding? Her concern is the property and development rights would be sold and the CC&R's would change. Daryl Garrettson made it clear that the Planning Commission does not approve the CC&R's.

**Questions:** None.

**Opponent's Case:** Diane Ragsdale, Mayor of the City of Dundee, 1119 SW 1<sup>st</sup> St., Dundee, OR 97115, and Jeff Barry, Groundwater Solutions and Consultant for the City of Dundee, 55 SW Yamhill, Suite #400, Portland, OR 97204: The City of Dundee is opposed to this application. The primary concern, with the proposed development, is highly likely to obtain adequate water supply to sustain the proposed lots. Without such a finding to confirm the water supply, the development should not be approved or at the very least, the hearing continued until further acceptable proof is shown. Another subdivision directly outside the City of Dundee is the Red Hills Estates. OWRD issued shallow well permits for the development in the 1990's. When the wells began going dry, the owners deepened the wells without permits. OWRD is in process of permits at this time. During the same period of time, some rural homeowners began coming to the city asking for assistance, since their wells had gone dry. The city barely meets the water needs of its residents and had to make the decision not to allow further hook-ups outside the city limits. The city embarked on its first exploratory well earlier this year and recently received the disappointing report from the consultants at the water supply, stating they could not be sustained and recommended the city not plan on drilling any more wells. The city is concerned about the potential impacts on the current water supply. The city also has continuing concerns regarding storm water run-off and transportation. The entrance to the subdivision will be in the general area of the proposed bypass interchange. Your consideration on denying this application is requested; if not denied, we request continuing this hearing until further proof is obtained that the development has the ability to supply adequate water without interfering with the City of Dundee's water supply. If you are not inclined to grant a continuance, or deny the project, the city respectfully requests the record be kept open for a minimum of 7 days, so that the city can review new evidence and have an opportunity to respond. **Questions:** David: If you had been able to reach an agreement on a common well,

would your concerns dissipate? What factor is the most important? Mayor Ragsdale: It is the water. The drilling of our test well was not sustainable and Jeff Barry can answer questions on that. Brad Myers asked Jeff: Do you have a report to show the city could be in jeopardy of losing some water supply? Jeff: I don't have any factual information or literature with me, but on the basis of what we saw, it will not be able to sustain long-term pumping. The development will be within 1,500 feet from one of the existing city wells and based on our estimations, it will reduce water levels in city well #9 and the pumping value. Brad: Do you have faith in the OWRD's findings? Jeff: They've stated themselves that they don't believe this water source is sustainable. Daryl: Mayor, have you approached the Board of Commissioners about amending the county ordinances, so we could take into consideration your concerns? Mayor Ragsdale: That's a wonderful thought. David: In light of the zoning, they can technically do individual wells. What is the alternative in this case, as opposed to the community well? Mayor Ragsdale: I would hope we could come up with a better solution for the city and to continue our talks with the Black family.

Chair Smiley read into the record a statement by Colleen Bourassa, 23505 NE Dillon Rd., Newberg, OR 97204.

**Questions of Opponent's:** None.

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

Daryl Garrettson to Chair Smiley: There has been a statutory request that the record remain open. Is it your intent to go through rebuttal and then have the record remain open, or to continue at the time; to receive additional written testimony and pick up at rebuttal? Robert asked the applicant to reply.

Mike Robinson: Our preference would be that the application would have rebuttal tonight and conclude the public hearing and hold the written record open.

**Rebuttal:** Tony Weller read the letter from the Fire Chief that is in the record.

Ed Romanov addressed the comments from Mayor Ragsdale on the water test well. He respectfully suggests that the criteria before the Planning Commission, whether it's reasonably feasible to have wells drilled in a community system that would be able to supply approximately 20 gallons per minute. That is the appropriate threshold at this forum. They will address the long-term sustain ability and impact with the OWRD. The discussions ended with the city because they felt they needed about 100 - 150 gallons per minute additional capacity. The report that the city consultant prepared, says the well produced 275 gallons per minute. We need 2 wells collectively producing 20 gallons. We need to drill our own well and get our own results.

David Newton: Well #9 is 1,500 feet from this project. My conclusion was based on the domestic need. The city is looking for a larger demand.

Mike Robinson: Concerning Bernie's earlier questions about access, Mr. Robinson referred to page 20 of the Traffic Impact Analysis. Concerning the Mayor's comments, there is no criteria to deny based on interference. We ask the written record be open for 3 consecutive 1 week periods. For the first period until July 28<sup>th</sup> at 5 p.m. for all parties to submit argument into evidence; for the second 7 day period until August 4<sup>th</sup> at 5 p.m., for parties to submit argument evidence rebutting what came in during the first week, and finally for the third 7 day period until August 11<sup>th</sup> at 5 p.m., for the applicant only to submit written argument only. We understand you will come back and deliberate on September 1, 2005 after you've read all the evidence.

**MOTION: Daryl Garrettson moved to continue docket item S-02-05/C-08-05 at the staff recommendation stage to the September 1, 2005 Yamhill County Planning Commission meeting, 7:00 p.m., Room 32, at the Yamhill County Courthouse; and the record be left open for all parties to submit additional written testimony no later than July 28<sup>th</sup> at 5 p.m., to be received in the Yamhill County Dept. of Planning and Development; that all parties have the opportunity to provide written rebuttal evidence through August 4, 2005 at 5 p.m. in the Yamhill County Dept. of Planning and Development; that the applicant will then be given an additional 7 day period up through August 11, 2005 at 5 p.m., to submit any rebuttal to the rebuttal, in the Yamhill County Dept. of Planning and Development no later than 5 p.m. Seconded by Brad Myers. Passed unanimously.**

**New Business: By Laws:** Mike Brandt stated the Board of Commissioners appointed two new Planning Commission members; Matt Dunckel and David Polite. The third member is Michael Sherwood and the Board wanted to appoint him. According to Article 2, section 4 of the current By Laws, we have to have three members that reside within the corporate city limits. The Board asked that Rick Sanai prepare an amendment to that particular section of the By Laws. Rick changed it to say that two member shall reside within the corporate city limits. The Board asked the Planning Commission to approve this. Mike passed out a copy to each member.

**MOTION: Daryl Garrettson moved the By Laws be amended with the change from six member to five member shall reside in the unincorporated area. Seconded by Brad Myers. Passed unanimously.**

**Nominations for Vice Chair:** Chair Smiley asked for nominations.

**MOTION: Brad Myers moved to nominate Daryl Garrettson as Vice Chair. Seconded by Robert Smiley. Passed unanimously.**

Newberg Urban Area Management Commission:

**MOTION: Brad Myers moved to appoint Michael Sherwood to the NUAMC. Seconded by Daryl Garrettson. Passed unanimously.**

McMinnville Urban Area Management Commission:

**MOTION: Robert Smiley moved to appoint himself to the MUAMC. Seconded by Matt Dunckel. Passed unanimously.**

Ken Friday updated the commission on the blind curve condition requirements from the Saunders docket, verifying that the commission feels that condition has been complied with to the best of their ability.

Mike Brandt updated the commission on the bypass.

Chair Smiley passed out information pertaining to google earth for the record.

**Adjourn:** The meeting adjourned at 9:43 p.m.