

**YAMHILL COUNTY PLANNING COMMISSION**

Thursday, October 6, 2005 @7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 E 5th St.  
McMinnville, Oregon 97128

**Roll Call:** Bernie Diefenderfer, Daryl Garrettson, Matt Dunckel, Michael Sherwood, David Polite, Robert Smiley, Alan Halstead (7:20), Marjorie Ehry (7:40) Staff: Ken Friday, Rick Sanai

David Polite moved to approve the September 1, 2005 minutes as submitted. Seconded by Michael Sherwood. Approved unanimously.

Chair Smiley opened the public hearing.

**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.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** David Polite stated that he had a meeting with Jessica Cain last week to discuss doing work for the firm. He elected to recuse himself from this hearing. Matt Dunckel did some measuring for the applicant and his name appears on the map. He stated it will not impact his decision. Michael Sherwood did a site visit yesterday to familiarize himself with the location. Mr. Coffman approached him and asked if he could be of assistance to Michael and he said no and left the site. Rick Sanai stated that the encounter would not disqualify him from this hearing.

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. The application needs to be evaluated under the criteria listed in section 1208.02 of the Yamhill County Zoning Ordinance, and also needs to comply with OAR 660-12 of the Transportation Planning Rule and is subject to the Limited Use Overlay Zone. **Questions of Staff:** Daryl Garrettson: What uses would be permitted as a non-conforming use as far as the expansion of the business? Ken: A use that would need to demonstrate that it causes no greater adverse impact than the present use.

**Proponent’s Case:** Jessica Cain, Gunn & Cain Attorneys at Law, P.O. Box 1046, Newberg, OR 97132 and Jeff Coffman, 270 N. Hwy 99W, Dundee, OR 97115: Ms. Cain described the property and its contents. A new facility will not add additional square footage. The intent is to clean up the site. There will be an additional septic tank and drain field installed. The zone change request is to go to neighborhood commercial. This request will limit the applicant to one residence and a commercial building that would help clean up the existing uses and locate them within one self-contained building. The requested zoning allows this business and the motorcycles as a permitted use. This property is already zoned LDR and has already been urbanized by that zoning. This property is already built and developed and is entitled to an exception. This is eligible because it is being built upon and established as a commercial site. It is serviced by city water and has 2 septic tanks and drain fields on the property that service commercial uses. The

surrounding uses include a neighborhood commercial property across the street. Jessica referred to the map of the area. Jeff Coffman, owner, says he can no longer service his customers. He needs to expand the building and hire employees. He would like to take the overflow from the dealerships onto his location and wants to improve the quality of his service. He also flies all over the country servicing motorcycles. Mr. Coffman does most of the work inside and doesn't feel the traffic will affect Hwy 99. The work hours will remain the same with no increase in noise. **Questions:** Daryl: How many bikes will be serviced in a day? Jeff: 2 - 3 a day. I have no storage right now to take on any more. Daryl: How many employees will you hire? Jeff: 2 for a total of 40 hours weekly. Bernie: How much more do you intend to grow? Jeff: I'm not sure. I can pay my bills without new income, but would like to adjust for the influx of new business. I won't be expanding any more than this building. I'd like for my customers to feel more comfortable coming into my establishment. Matt: If you do have to find another spot for your shop, what about the traffic? Jeff: I can't move my business because everyone knows where I'm located and I can't move any further into Dundee, since you can only get so far away from Portland before the business stops. Robert: Isn't it true that some dealerships moved closer to the interstates? Jeff: Yes, for better business.

Matt Willcuts, P.O. Box 490, Newberg, OR 97132: Matt has lived in Yamhill County his whole life and has 11 years experience in real estate and in business development. He explained the current demand for commercial property at this time. There are about 83 commercial lots in Dundee, most of those have building already on them. Those lots were much smaller in size and the access was not as good as Mr. Coffman's property. He has a protected investment there. It would be nice to have someone who can specialize in these needs in Yamhill County. **Questions:** Bernie: In your professional opinion, how much would this increase the value of his property? Matt: It's hard to say. Ken: What was the parameter you used to identify the size of lots you were looking for? Matt: We contacted a title company and used plat maps to identify the parcel #'s and matched them up with the current map from the county so we could identify them. Ken: What is in the record that identifies the size he needs for an operation like this? Matt: It would be hard to find another property to support this kind of business. Ken: What size could operate this business? Jessica: The footprint is much larger than this map that is shown. Ken: In the notes, it says some of these properties are eliminated because they don't have direct access. Matt: Having the access off Hwy 99 is beneficial. Ken: For the record, the parameter was Hwy 99W access and the size of the parcel. Daryl: If we don't place a Limited Use Overlay on the property under our zoning use, any permitted use can then be conducted on the property. Jessica: The Limited Use Overlay should be broad.

Geoff Judd, Lancaster Engineering, 800 NW 6<sup>th</sup> St. Portland, OR 97209: Mr. Judd explained the traffic counts were done in 2004 and not in 2002. That was an error in the report. The majority of the traffic is commuter traffic, and this use would not have an impact on the traffic in this location due to the high volume along Hwy 99W. Ken pointed out that there are 6 other permitted uses allowed in the Neighborhood Commercial zone.

**Questions of Proponent's:** None

**Opponent's Case:** None

**Public Agency Report:** Ken stated that the Public Works Dept. suggested some changes to the proposal. The applicant's traffic impact study relies heavily upon the construction of the bypass and the interchange at Fox Farm Road. The design for the bypass and interchange are not completed. This assumption seems problematic at best. If the bypass/interchange are not built or delayed, does that mean the Plan Amendment/Zone Change goes away? A letter was received from the City of Dundee stating that the city supports the expansion of commercial growth inside the city limits. Dundee has 2 zones to accompany this type of use. The city is opposed to the request.

**Rebuttal:** Jessica again stated that it is an existing business and asks for approval.

**Staff Recommendation:** Ken stated that the Planning office would like to accommodate the use which is a service. There have been no complaints about this business. We did identify one possible option which is a non-conforming use application. Ken stated that the Oregon Administrative Rule states that if you split property that is less than 2 acres in size, you need to take an exception to Goal 14. One option to remove this restriction would be a Measure 37 claim.

A successful claim hat would eliminate the new Goal 14 rule because it was set up after the applicant obtained the property. Robert: At some future date, the owner could come back and ask the overlay be removed? Ken: They would come back and request another zone change. Staff recommends reluctant denial due to the issues.

Chair Smiley closed the public hearing.

**Deliberation:**

Daryl Garrettson: We need to take the Goal 14 exception. The findings stand for a Goal 14 in this case and I feel the application has met the burden and if we impose the Limited Use Overlay given his perspective plans, the business will not generate any more traffic.

Bernie Diefenderfer: I'll vote for it with the Limited Use Overlay.

Matt Dunckel: This is good for the economy and I'm in favor of the application

Marjorie Ehry: The traffic problem is not caused by this business. I'm in favor.

Robert Smiley: This is generated by a need. I'm in favor.

Michael Sherwood: Yamhill County needs to nurture business. I'm in favor.

Alan Halstead: I'm in favor.

**MOTION: Alan Halstead moved to approve the zone change with the Limited Use Overlay to motorcycle parts and service. Seconded by Daryl Garrettson. Approved unanimously.**

Chair Smiley called for a 7 minute break.

**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, LimitedUse Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

Chair Smiley opened the public hearing at 8: 40 p.m.

Chair Smiley confirmed that all present had heard the “**raise it or waive it**” statement.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:**Daryl Garrettson stated for the record that there was an application regarding this property and its inclusion in the UGB around 1990 and a joint meeting was held with the City of Dundee. He voted in that matter to include the property in the City of Dundee’s UGB. Alan Halstead disclosed that several years ago, when he ran for public office, he received a donation from Mr. Owens. That was the last significant contact he had with him. David Polite abstained for reasons he stated earlier in the meeting. Robert Smiley does work for a tenant of the Owens’, The Oregon Barn. He has never discussed this issue or anything relating to it with them. Marjorie Ehry: Is well acquainted with Willy Owens, but can make a decision without prejudice in this matter. Matt Dunckel also stated that he prepared a map and measure buildings on Mr. Owen’s property.

Ken Friday stated that a request had been received from the applicant’s representative for a continuance to the November 3, 2005 meeting. Chair Smiley questioned those in attendance if they were unable to return for the November 3, 2005 hearing.

**MOTION: Daryl Garrettson moved to continue PAZ-06-04 to the November 3, 2005 Planning Commission Meeting at 7:00 p.m., Room 32 at the Yamhill County Courthouse. Seconded by Alan Halstead. Approved unanimously.**

**DOCKET:** PAZ-03-05  
**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from EF-80 Exclusive Farm Use to AF-10 Agriculture/Forestry Small Holding on 30 acres of a 68.7-acre parcel. The request includes an exception to Goal 3, Agricultural Lands.  
**APPLICANT:** Wade and Patricia Miller  
**REPRESENTATIVE:** Jessica Cain, P.C.  
**TAX LOT:** 4513-200  
**LOCATION:** 13945 and 13949 NW Pheasant Hill Road, McMinnville, Oregon  
**CRITERIA:** Sections 402, 501 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. Section 904, Limited Use Overlay may also be applied. OAR 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule.

Chair Smiley opened the public hearing.

Chair Smiley confirmed that all present had heard the “**raise it or waive it**” statement.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** Matt Dunckel excused himself due to work he’s done with Wade Miller. David Polite abstained as well.

**Staff Report:** Ken Friday gave a brief review of the staff report. There was one letter in opposition.

**Proponent’s Case:** Jessica Cain, Gunn & Cain Attorneys at Law, explained that the application meets the requirements for approval. She pointed out the property on a map. It’s bordered by VLDR. This is a great zone change application in that it provides a buffer for that VLDR. The farming soils that are located in the 3 / 10 acre parcels that are proposed, are of lesser quality than the other soils. It is unnecessary to have a Goal 14 exception. An AF-10 zone does allow for other development and similar uses. Jessica referred to the zoning map showing the 14 mile radius.

**Questions of Proponent’s:** Rich Murphy (audience) asked about the water supply for the neighbors already living there. He has already seen a change over the summer. Jessica: a water study was done and there was an existing service and can service the additional 3 / 10 acre parcels.

**Opponent’s Case:** Marilyn Reeves, Friends of Yamhill County, P.O. Box 1083, McMinnville, OR 97128: Marilyn pointed out that Friends of Yamhill County helps protect land. This application is troubling. It requires a high hurdle and an exception to goal 3. Over 70% of this is high value soils. It has been historically used for farming. It can not be shown why 30 of those acres are no longer suitable for agriculture. We do not think the applicant has documented why there should be a Goal 3 exception for this property. It has had tax and farm deferral for years. There is no evidence that this property is not suitable for farm use. We believe the entire parcel is suitable for farming. They urge rejection of this proposal. **Questions:** Michael: Looking at the zoning map, 5 acre parcels to the west, is that an island away from the city? Ken: No but is bordered by VLDR.

**Questions of Opponent’s:** None.

**Public Agency Report:** The County Sanitarian says some soils on this parcel may be hard or impossible to approve as septic sites. Public Works stated no conflict of interests. The Soil & Water Conservation District submitted a letter in opposition. The McMinnville Fire Dept. stated that access to the pond may be required.

**Rebuttal:** Jessica Cain addressed the septic response by stating that a septic analysis was done on the property, determining there were soils acceptable for a septic tank and drain field. In response to the Goal 3 exception, it is necessary to show that the property is incompatible with respect to large scale farm uses. AF-10 land still allows farm use. Daryl stated that Ms. Cain was misstating what the LCDC found. He explained that AF10 is not a farm zone but a rural residential zone. **Questions:** Daryl: What crops are currently on the land? Mr. Miller said there are grass crops and explained where by referring to the map.

**Staff Recommendation:** In order to find that this property is suitable for an exception, it is not required to show it is impossible to do farming on the land, but simply that it is impracticable. We've discussed Measure 37 and wanted to list all the Measure 37 properties in that area. At this point, they aren't relevant to the criteria. We have concerns with the application and would want a demonstration that farm uses are impractical. There is not enough evidence to recommend approval.

Chair Smiley closed the public hearing.

Jessica Cain said she has the option of keeping the record open for 7 days and she wants to exercise that option.

Chair Smiley then reopened the public hearing.

Rick Sanai stated the request from the applicant's counsel for an open record period had been received and there is a legal obligation to allow at least 7 days.

**MOTION: Alan Halstead moved to leave the record open for 7 days until 5 p.m. on October 13, 2005, for the receipt of additional testimony; leaving the record open from Oct. 14, 2005 to October 20, 2005 until 5 p.m. for the receipt of rebuttal for what was previously submitted; and from October 21, 2005 to October 27, 2005 until 5 p.m. to receive rebuttal from the applicant at which time the record would be closed. All materials to be submitted to the Yamhill County Planning Dept., 401 NE Evans, McMinnville, OR 97128 Seconded by Bernie Diefenderfer. Motion passed by a vote of 5 to 1 for approval. (Opposed by Daryl Garrettson)**

Daryl Garrettson stated that he felt a request to leave the record open should have been done before the Staff Recommendation.

**New Business:** None.

**Adjourn:** The meeting adjourned at 9:30 p.m.

F:\Share\PC\10-06-05\_min.wpd