

YAMHILL COUNTY PLANNING COMMISSION

Thursday, March 2, 2006, 7:00 p.m.
Yamhill County Courthouse, Room 32
535 E. 5th St.
McMinnville, Oregon 97128

Roll Call: Daryl Garrettson, Matt Duncel, Bernie Diefenderfer, Marjorie Ehry, Robert Smiley, David Polite, Michael Sherwood. Staff: Mike Brandt, Ken Friday.

Daryl Garrettson moved to approve January 5, 2006 **minutes** as submitted. Seconded by Bernie Diefenderfer. Approved unanimously.

Chair Smiley opened the public hearing.

QUASI-JUDICIAL HEARINGS:

DOCKET NO.: PAZ-06-05

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 and AF-20 Agriculture/ Forestry to AF-10, Agricultural/Forestry Small Holding. The application includes a request for an exception from Goals 3 (Agriculture) and 4 (Forest). The purpose of the application is to rezone approximately 60 acres of property from farm/forest resource land to a 10-acre rural residential zone.

APPLICANT: Benkendorf Associates Corporation

TAX LOT: 3226-1600, 492, 495

LOCATION: 32005 NE Wilsonville Rd., Newberg, Oregon 97132 (3226-1600); 32710 NE Lesley Rd., Newberg (3226-495); and on the south side of Lesley Rd. and approximately 660' south of the intersection of Kramien Rd. and Lesley Rd.

CRITERIA: Sections 402, 403, 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 660-004 related to a reason's exception and 660-012-0060 Transportation Planning Rule.

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

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

Staff Report: Ken Friday gave a brief review of the staff report. Each lot is receiving forestry deferral.

Proponent's Case: Al Benkendorf, of The Benkendorf Associates, 522 SW 5th, Suite 703, Portland, OR 97204 and Joel A. Norgren, Soil Scientist, 3655 NW Van Buren, Corvallis, OR 97330: Mr. Benkendorf

stated that this application is about adding 3 new quality residences to Yamhill County. Over time there have been a series of lot line adjustments to aggregate all of the poor soils on the parcels and the soils

that are productive on the parcels. Tax lot 1700 is a viable parcel. There are 2 issues after reviewing the staff report: Is this resource land and is there a need for additional AF-10? Mr. Norgren spoke to the resource capabilities, stating that this particular group of parcels are probably the biggest concentration of the poorest soils in Yamhill County and virtually impossible to farm. According to the capability classifications that the Soil Conservation uses, 79% of the 60 acres are called Class 6, which is low value soils. The remaining percentage is dominated by soils that are steeper than 30% and are south slopes, which makes it difficult for regeneration. They turn brown during the summers, due to the fact that the soils do not hold moisture.

Jon Hemstreet, 28880 Thomson Mill, Sheridan OR 97378: Mr. Benkendorf asked him to come and explain the timber potential on this ground, which is poor. He visited the property on 2/14/06, and he noticed that it doesn't even grow brush or grass. The trees planted in 1988 are 3 - 4 inches in diameter, at best and have stunted growth. Not every tree will die, but he strongly suspects that there will be pockets where trees grow, but the soils are so shallow, there will be no high potential in years to come. He passed around a sheet showing the figures from the Oregon Dept. of Forestry's Resource Trust and explained in detail the site Classes 4 and 5. After 50 years, there would only be 2 ½ truck loads to the acre. Timber is a poor choice on this ground.

Mr. Benkendorf referred to a map, showing lots that are adjacent to the property. The staff indicated that the smaller parcels were addressed, but not the parcels to the south. The major difference between these properties is there is vegetation growth on the parcels immediately to the south, because the land is leveled out. The parcels to the west, are flat. Only 10% of the original allocation of AF-10 lots in the county remain vacant today. Mr. Benkendorf referred to a report from Johnson Gardner, LLC to Garrette Custom Homes, that reviewed the economic and demographic trends in Yamhill County and housing supply considerations. This is an indicator that Yamhill County is running out of smaller vacant lot sizes. The primary source of small acreage home sites comes from property that had previously been approved for construction but held undeveloped by investors. Very few home sites have entered the market via subdivision. In conclusion, Mr. Benkendorf emphasized that these are conditions which were approved in other properties a year ago. The proposal is consistent with Goal 12 and with the County's Goal Policies and Zone Ordinances. **Questions:** Michael Sherwood: Did you use a 5 mile radius on your survey? Al: We used the exception areas that staff had recommended. Daryl: Your proposing to increase that island by 150%. Why should we, on an application by application basis on soil suitability, extend the AF-10 zone there, as opposed to other places on Parrott Mountain? Al: I believe this is the largest concentration of poorest quality soils. Daryl: Where on the application is there a survey that shows me the poorest soils on Parrott Mountain in the AF-20 zone.? Al: I don't believe there is one. Daryl: Is there anything, other than Mr. Norgren's testimony, that would show me a survey of the soil types as far what resource land was improperly classified to begin with? Al: We did not look at the entire mountain. This is an opportunity to correct a past mistake. Daryl: Do you believe that as a planning process, we shouldn't do it on an application by application basis, but should take a comprehensive look so we can meet all the various planning criteria to see where to expand? Al: In a perfect world all the information would be considered at the time the zoning was applied. Unfortunately, some of this information was not available when it was zoned.

Krystal Nanna, 32007 NE Lesley Rd., Newberg, OR 97132: She is a realtor and spoke of the need for land in this size classification.

Hadley Robbins, 7090 SW Benham Ct., Portland, OR: When we bought the property, we were focused

on building a house, not on developing it as a forest site. We would like to divide it, sell the other lot and put the money back into our house.

Questions of Proponent's: Marilyn Reeves: You indicated that this property had been restocked. Can you give me any information on the value that was logged on that property? Mr. Robbins: It was stocked, not restocked.

Opponent's Case: Marilyn Reeves, Friends of Yamhill County, P.O. Box 1083, McMinnville, OR 97128: We are very close to non-resource land in this area. We decided to challenge that last year before the Board of Commissioners. At that time, we indicated that we strongly believed, that if in fact the county would decide it was not resource land, we would challenge it. As a result, we now have a domino effect. This application is for a reasons exception to Goals 3 & 4, which is different than an application for non-resource land. This property is not in the middle of a rural residential zone, but is an island. We agree with the 3 recommendations in the staff report. There is no evidence of an existing demonstrable need. If you have one house on 20 acres in an EF-20 zone, then that's what it should be. In conclusion, we urge you to accept the staff recommendations and deny this proposal.

Public Agency Report: Ken stated there are no additional reports.

Rebuttal: Mr. Benkendorf believes they have met the reason's exception. Conditions of this property are no different then the one approved last April. We recommend and urge for approval.

Staff Recommendation: Ken stated that in the conclusions for approval, he noted at the time he wrote the staff report he didn't believe a reason's exception had not been justified, and he still believes that. However, the Planning Commission can find that the application is justified in not being resource land, due to the soils and past resource use of the land. If you find it's not resource land then you don't have to take an exception to Goals 3 & 4. Because of that, he recommends approval of the application.

Questions of Staff: Daryl: Your saying you find that the criteria of the proposed change is appropriate considering the surrounding land uses, density and pattern of development? Ken: Yes, I think you can find that. Matt Dunckel: In the original zoning plan, how did this ever get zoned resource ground in the first place? Ken: Probably was a broad brush approach, ownerships at the time, and parcel sizes. The zoning was done back in the 1980's and a lot was done by air photos. Daryl: It was done in the 1970's.

Chair Smiley closed the public hearing.

Deliberation:

Michael Sherwood: The land is steep and stunted growth trees. I'll vote in favor.

David Polite: The trees are dying and there are extreme slopes. I'll vote in favor.

Marjorie Ehry: I agree.

Bernie Diefenderfer: I concur with staff's recommendation.

Matt Dunckel: I agree with staff also.

Daryl: If we approve this, we might as well take that entire AF-20 zone and say it's AF-10 right now. When we approved that 40 acres, we didn't look at the fact we were writing off the whole hillside. If we're going to increase the stock of AF-10, as planners, do we do it on an application by application basis? I would be willing to make a motion to direct staff to restudy the mountain on whether we need

to create more AF-10's, but not on an application by application basis. My vote is no.
Robert Smiley: My concern is that we are facing a special application in an area where I do not disagree with the soil or market analysis, but my concern is the pattern set for the future. My vote is no.

MOTION: Matt Dunckel moved to approve docket PAZ-06-05 . Seconded by Michael Sherwood. Motion was approved with a vote of 5 - 2. (Opposed by Daryl Garrettson and Robert Smiley.)

Chair Smiley called a break.
Meeting resumed at 8:30 p.m.

Chair Smiley opened the public hearing.

DOCKET NO.: PAZ-01-06
REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Commercial; a zone change from EF-80 Exclusive Farm Use to RC Recreation Commercial (with a limited use overlay zone). The application includes a request for an exception from Goals 3 (Agriculture) and 14 (Urbanization). The purpose of the application is to allow a boutique hotel with approximately 50 rooms, a spa, restaurant and meeting facilities on a parcel of approximately 72 acres.
APPLICANT: Hazel B. Timmons Trust
TAX LOT: 3333-320
LOCATION: 17350 NE Timmons Lane, Dayton, OR 97114
CRITERIA: Sections 402, 601, 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 660-004 related to an exception and 660-012-0060 Transportation Planning Rule.

Abstentions, Objections of Jurisdiction, Ex Parte Contact: Robert Smiley stated his business is related to the wine industry, but this will not affect his decision. David Polite stated he owns a small vineyard and winery, but this will not affect his decision. Daryl Garrettson lives at the bottom of the hill, although he doesn't believe he can see the site from his residence. This will not affect his ability to vote on the application. Marjorie Ehry lives in the area and she knows individuals involved, but it will not affect her decision.

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

Staff Report: Ken Friday noted a request to have the record left open. He gave a brief review of the staff report. There has also been a Measure 37 application on this property, as well as adjacent tax lots. It is substantially the same request with the addition of residential home sites. The Measure 37 application has not been evaluated by the Board of Commissioners yet and will be presented to them in 4 - 6 weeks. Ken passed out letters he had received to the Planning Commission. Questions: Daryl: Do you know when the property was conveyed to the trust? Ken: No. Daryl: What is the position the Board of Commissioners have taken on the conveyances of the property in trust? Mike: It depends on the nature of the trust.

Proponent's Case: Michael Robinson, 1120 NW Couch St., Tenth Floor, Portland, OR 97209-4128: Mr. Robinson stated that they understand how valuable farm land is. He requested this be continued to the April 6, 2006 hearing. The application has been amended to exclude a request for a single family home. A second Traffic Impact Analysis needs to be done, since another intersection needs to be addressed. This application is for a hotel, limited in size, which needs certain qualities to serve the visitors in this area. In 1986, a study was done showing the need for additional lodging in this area, as well as in January 2006, due to winery visits. We looked for alternative sites, but concluded, along with staff, that there isn't one. The Board of Commissioners recently amended the zoning ordinance to allow more rooms and Bed & Breakfasts. Mr. Garretson brought up a valid point when he asked in the other hearing, how do we keep this from opening the doors to other applications, but at the end of this process, we want to have drafted very narrow conditions that limits exactly what the exception is for, and make it clear that this is a very narrow basis, should you choose to recommend this to the Board of Commissioners for approval. We will work with your staff on crafting this, and want to hear the concerns of the neighbors. We want to cooperate local businesses and vendors. There were a number of sites to look at, but this one will be large enough to accommodate the use, but also be a buffer to the neighbors, and a site with some agricultural production with a nice view. It is our hope that if this is approved, the quarry won't be restarted. We have an obligation to address the criteria for both the exception Goal 3 and 14. Our application contains the justification demonstrating why we meet the exception criteria for those exceptions. We also need a Limited Use Overlay. One of the issues that will be heard is whether this should be a destination resort. Goal 8 says you have to go through the process, but it doesn't say if these are the only kinds of hotels or resorts outside the UGB they will allow. In order to be a destination resort, you have to be 24 air miles from the nearest UGB. Concerning traffic, quarry traffic would be more of an undesirable impact. This site would not be like introducing new trips into the area. There are tour buses, etc. already on the road for wineries. We believe if this application is approved, it will be a great neighbor to the wineries and vineyards, and a compatible neighbor to Yamhill County that showcases agriculture.

David Kahn: He was born and raised in Portland, went away to law school and lived in Indianapolis for 7 years where he worked for the Pacers, second in command as the General Manager and returned here in 2001. Currently, he is the owner/operator with other investors for the NBA's development league teams. He has been struck, from the tourism standpoint, that the area is dramatically under served. The demand is demonstrable here in Yamhill County. In order for this project to be successful, it needs to

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feel as if it's be here forever. It needs to blend seamlessly into the landscape. We have an opportunity to have a world class resort in this area. The only way this will work is to listen to peoples concerns and try to fashion solutions with them.

Mr. Robinson handed out a letter he received from Timothy Harmon, Principal and Director of Auberge Resorts.

Steve Dixon, Landscape Architect, Otak, Inc., 17355 SW Boones Ferry Rd., Lake Oswego, OR 97035: Mr. Dixon first showed and explained a diagram of potential uses and the relationship between the uses at a facility such as this. The challenge from a site standpoint, is capturing the views, providing a

buffer, and minimizing the visual impact from below. He also showed some character images.

Eric Prutz, Senior Economist at Echo NW, and a Professor at the School of Urban Studies and Planning at Portland State: We were asked to develop a conceptual vision or description of what a luxury wine county hotel would look like, based upon comparable establishments in California's Napa Valley. We were also asked to evaluate whether such a development could be supported anywhere within the urbanized or exception areas of the county. Our research shows there is an unsatisfied demand for a luxury hotel in Oregon's wine country and that non of the existing parcels in Yamhill County allow for a hotel development. Currently tourists who want to stay at 3 star or above hotels, need to stay in Lake Oswego. Our hotel vision is small, but upscale. Having come up with a concept, where do you put one? Our analysis of Yamhill County is that Lafayette and Carlton have no zones that would allow for a hotel, while the cities of Dundee and Dayton do, there are no sites of sufficient size to support a luxury hotel. The city of Yamhill had only 1 vacant property that is owned by a church and the city concluded that the church would be unwilling to sell the property for a hotel development. The city of McMinnville provided a list of 5 vacant parcels; 5 or more parcels with zoning that allows for hotel. Each of these properties is close to a major highway and would not be suitable for this type of hotel. There is a large demand for this kind of hotel with luxury accommodations. **Questions:** Daryl: At this point, we have no data as to the vacancy rate in this county. Are you going to provide that data at the April meeting? Also, I don't see the Flying M addressed in your study. Eric: I'm aware of the Flying M, although it was outside of our study area. Daryl: All of Yamhill County is wine country. We have one destination resort that is the Flying M. Also, Friends of Yamhill County raised many alternative sites in their letter. I would like those addressed in April, as well. Bernie: Can we have employment figures and security arrangements? Mr. Robinson: We will look at that. Daryl: The other figure we need is the amount of traffic anticipated by day trips.

Edwin Sharer, P.O. Box 506, Newberg, OR 97132: Concerning other sites, in fact, we went to the Flying M, but couldn't see Mercedes and BMW's driving up that gravel road. A Chehalem Mountain site was a good site, but there are water problems there. We settled on this site due to the ambiance around it. Edwin brought 2 aerial photos that shows the elevation of the site and stated there would be limitations on raising grapes. The area that has the proper aspects to harvest crops is just under 24 acres. With this planned layout, part of this property can be used for grapes. After reading letters submitted to the county, he explained the history of the property. Concerning water rights, they know this property has not been included in a limited water overlay area and they are familiar with the process, believing they can get through complying with the state.

Tom Lancaster, Principal of Lancaster Engineering, 800 NW 6th Ave., #206, Portland, OR 97209: **Questions & Comments:** Marjorie: Traffic is one of the main concerns for me, as well as the water issue. Edwin did a good job in explaining the gallons used for homes, etc., but I hope tonight and in April we have excellent answers on those issues. Tom: These are key issues. We are looking at the day trips, including the restaurant, deliveries, etc. The amount of traffic we really need to look at is the access to 99W. Daryl: We would need to see the access information at the weigh station, at the Hwy. 18 intersection, and traffic coming from McMinnville. Robert: First of all, in your report where it says that 15% will head west and 85% would return to the north, I was stunned. In the Echo NW report it listed wineries that would require people to go toward McMinnville. Once you draw customers into wine country, I'm sure they will go on to the museum and to the casinos.

Michael Robinson: **Questions:** Daryl: If this application is granted with a limited use overlay, does the applicant or land owner prepared to waive their Measure 37 claim? Michael: I need to talk with the Timmons Trust. Daryl: Are we going to get any water information from you or will that come from the opponents? Michael: After we hear the testimony, we will be better prepared to supply that in April. Daryl: Can you provide your anticipated water use for landscaping at the April meeting? Michael: We can give you a scenario. Daryl: I imagine if we vote to approve, one of the conditions would restrict the amount of water used for landscaping. If there's a water issue up there, then I would anticipate from you what the landscaping needs will be. Michael: I think legally it's not possible for the county to venture into the area that the OWD regulates water use, but the other way to get there is the kind of landscaping we will install. Daryl: I think we can't regulate water use, but we can regulate those amenities that are directly related to the use if we approve, which would include the landscape and the grounds. Michael: We can get you a concept on what kind of landscaping we would use. Daryl: What's going to happen with the quarry and will it continue to operate? Michael: If this is approved, the quarry will not operate. Daryl: What kind of assurance, if approved, would we have that the quarry would no longer operate and how would you structure that? Michael: I need to speak with David and the Timmon's Trust, but there are different restrictive covenants we could write. Daryl: It appears from the DLCD letter that they're saying if it isn't a destination resort, that you can't have it under Goal 8. Is this a difference of opinion or can you show that they're wrong? Michael: I read their letter differently, and I feel they left room for some other types of resorts. I will sit down with Gary and work through this.

Dan Armstrong, 7000 NE Krono Rd., Yamhill, OR 97148: I encourage you not to throw up any obstacles to this, since this could be a real jewel.

Jim Crawford, 6291 NE Breyman Orchard Rd., Dayton, OR 97114: That site is where I wanted to build my house, but it was my father-in-laws property. This project makes a lot of sense. Traffic will grow no matter what, especially with the growing population. There are 6 -7 wineries just near my home alone and their tasting rooms are open daily. This project will not cause that much of an increase in the traffic.

John E. Looney, 17979 NE Lewis Roger Ln., Newberg, OR 97132: I've lived there for 20 years and went through a lot of zone changes. Now, I have a winery and vineyard and most of the Bed and Breakfast's provide direct sales for me, since we only do local distribution. This operation would create more sales for me, as well.

Questions of Proponent's: None.

Comments that neither support or oppose the application: Kris & Karen Utz, 9600 NE Worden Hill Rd.: Karen: We have been very successful as a B & B in Yamhill County. There are very high - end visitors to this area. Kris: There are not enough rooms in the area. Karen: We ended our year at 70% occupancy and have bookings through December. We are asking you to carefully consider this and how it can fairly be shared by all of us. We would like to follow some of the things that this applicant is asking for.

Kevin Albright, 712 Main St., Dayton, OR 97114: I have some personal concerns. I am not representing

the Fire Board. First, the water supply at the site for fire fighting purposes. Daryl: A swimming pool could be a nice reservoir. Kevin: The Stoller's have a large house up there, but we can't get to that swimming pool the way it's set up. Daryl: You would be looking to access the pool for fire safety? Kevin: Yes, as long as it's laid out correctly. Fire sprinklers in every room is a big concern, since it takes 20 minutes to get a fire truck up there. Archery Summit has a lot of accidents in that area. Traffic is a real concern.

Ronni Lacroute, 1365 NW Meadows Dr., McMinnville, OR 97128: Ronni owns a winery and is very much in favor of having more quality lodging. The question is how to do it so the needs of the community are respected and will it be viable in preserving the ecology. Is there enough water to support this project? The employees also need to be treated well, so that we don't have a failed project down the road. There are some very fine vineyards that are producing grapes above 800 feet, although they take longer to ripen and require more attention. It can be done and you can have excellent fruit.

Susan DuRette, 360 SE Wilson St., McMinnville, OR 97128: Susan and her husband own and operate a B & B and have for 10 years. Again, there is a need for more rooms, but she's not sure about this project. There are 22 B & B's in the county and we've all had to follow certain guidelines, and will those be thrown out if this is approved. If you give up those rules, you may lose what we have here.

Richard Elstrom, 4840 Breyman Orchards Rd. NE, Dayton, OR 97114: Richard has lived below the proposed site for 25 years and has seen a great increase in traffic on the road. Traffic at 99W is a concern and feels this is better suited for the city than on farmland. **Questions:** Daryl: How deep is your well and what is the output? Richard: The depth is 185 feet and it produces 15 gallons a minute.

Robert Skibinski, 16855 Walnut Hill Rd., Amity, OR 97101: There is a need for expansion in the room industry, but there is a real planning problem. Sites need to be available for these types of applications.

Opponent's Case: Sid Friedman, 14286 NW Old Moores Valley Rd., Yamhill, OR 97148: Sid is testifying on behalf of himself and 1000 Friends of Oregon: He submitted written comments earlier in the day. This seems to be more of a concept than a complete application. At this point, judging from what has been submitted, it doesn't meet the criteria. We urge you to deny it. Approval would set a terrible precedent and would also jeopardize the local economy; that being the vineyard industry. Investors and tax payers have already contributed money to support this kind of development in areas like Dundee, Carlton, Newberg, Yamhill or McMinnville. Sid referred to the statue for a destination resort. This is not the only parcel in the county for a high-end luxury hotel. **Questions:** Daryl: What is your position on the destination resort rule related to Goal 8 which does away with the exceptions requirement. Did the state mean that it's the only way you can cite a hotel with a restaurant? Sid: There are two ways to site it: You can take the goal exception, but even if you do that, under 197.455 it must be on lands eligible for destination resort citing by the effected county. Daryl: But we can't zone land for a destination resort in this county, because we can't meet Goal 8 because we're within 24 miles of Salem or Portland. Sid: There are parts of the county that are not within those 24 miles. Daryl: Sheridan is 25 miles, but it's tribal land. My understanding is that it was not intended to prohibit urban counties if they took the proper exceptions from citing a hotel with a restaurant.

Gary Johnson, 8000 NE Gun Club Rd., Carlton, OR: Sid stated a lot of what Gary had thought of. The

water issue is a concern. Gary sat on the Lafayette Water Shed Committee for 2 years. There are 2 faults up there that has an effect with the amount of water on the other side of the ridge. Traffic is another concern, as well as the fire and health issues, since it takes time to get up there. That type of commercial activity is in an urban environment. The inner structure of agriculture has changed in this community. The Carlton plant brings in hogs every week from Canada, so there are no hog producers in the county. **Questions:** There was a study of the Lafayette water shed up there? Gary: Yes, and Dayton has a water shed up there, too. Daryl: Can you get those documents for us, Ken? Ken: I'll see if I can find them. Marjorie: One of the big things that changed agriculture in this area was the Columbus Day storm, which took out Walnuts, Prunes and Cherries. It changed the whole county.

Malia Kupillas, Founder of Pacific Hydro Geology, 18477 S. Valley Vista Rd., Mulino. OR 97042: Malia is a registered Geologist in the State of Oregon and also registered in the State of Washington, as well as a Water Rights Examiner. She submitted a brief letter and a topographic map that shows the location of this proposed property in relation to Dayton springs and Lafayette's springs and well field. Ken noted there was no map attached and Malia stated she would get it to him. Water Resources is very concerned with the water supply up there. All surface water is currently over-appropriated in the state and there is no more available in this area. She has checked and there is only a small area along the proposed partition where outside of a quarter mile from the nearest spring. They're already limited. Archery Summit has applied for a new water right for the land they purchased adjacent to their existing winery and vineyard, which was denied. Edwin presented the water needs for crops in this area. A vineyard on 5 acres of land, using drip irrigation, uses less water than one house on that same 5 acres of land. Irrigation demands decrease annually. This proposal is a steady year- round constant demand. They are putting the cart before the horse by proceeding with their land use planning process without going to the Water Resource Dept. and submitted an application first. **Questions:** Bernie: What does Archery Summit require for the winery? Malia: Their winery right now is 5,000 gallons a day for commercial use. Wineries use very little water. Daryl: Are you familiar with the city of Lafayette's study? Malia: Yes. Daryl: You haven't said whether or not this is a critical ground water area? Malia: At this point, they haven't taken those steps. It is not under study because it has not been petitioned to the commission. Daryl: The pipeline from Lafayette's water supply runs across my property, and we had no water restrictions the last 2 drought years. Malia: The water levels are declining. Robert: If the quarry was shut down, would that be a benefit or would it not make a change at all? Malia: It wouldn't make a difference.

David Millman, P.O. Box 700, Dundee, OR 97115: Our concerns are obvious with water and traffic. The wine starts in the soil and it's delicate. Problems from this could effect the neighbors. I just heard about this in the notice I received from this dept. Mr. Kahn then met with me and wanted to hear what I had to say. This project will be placed in the middle of agricultural land. We need much more information. This is a serious zone change.

Louis Driever, 8875 SE Morgan Ave., McMinnville, OR 97128: There are 22 B & B's in the county and at least 150 rooms. To say there are none, begs the question.

Laurel Hood, 17755 NE Calkins Ln., Newberg, OR 97132: Laurel was involved in public service on another Planning Commission and as Mayor. She is also a farmer in Yamhill County on Chehalem Mtn. Laurel saw the community of Canon Beach go from a place of a residential community to a flood of

tourists over a 30 year period of time. It makes it unattractive for the residents who live there. The information given thus far, has been based on hypothesis. After reading the Staff Report and the Comprehensive Land Use Plan, the request doesn't meet Goal 3 or Goal 14. Goal 6 was not addressed, but needs to be due to the water and land resources. There hasn't been enough substantial evidence to support this. Minimal wage jobs are also a concern. There needs to be adequate land for agriculture. This could create conflict in the future.

Emily Gladhart, P.O. Box 160, Lafayette, OR 97127: Emily is quite concerned with the water issue and also the fact that this is prime soil. Last year, even in a drought year, she only irrigated once at the end of the year. A project of this sort would be useful to Yamhill County, but there are luxurious B & B's. Many visitors at her winery do the route through wine country and onto the coast. Another concern is the re-zoning of 72 acres of prime land. If this goes through, there are several who will try to do the same.

Ron & Marie Catlin, 6325 NE Hilltop Ln., Dayton, OR 97114: They moved here 7 years ago and tried to put in a sprinkler system. They are at the same elevation as the proposed site, and there was not enough water. The quality of the road isn't good and who will take care of it? There is no police protection up there. Can this be supported up there? The quality of life where they live is a definite factor. **Questions:** Daryl: How deep is your well and what's the output? Marie: We don't know the exact depth, but around 6 ½ gallons per minute and the water has been declining over the past few years.

Jason Lett, 4800 Hawn Creek Rd., McMinnville, OR 97128: Jason represents a local vineyard. Jason came very close, just recently, to getting hit while trying to make a turn onto the highway. Traffic is a major concern in this area. The client's vision is needed in this area, but the proposed area is not appropriate. State wide goals need to be looked at, as well as the Comprehensive Plan. The applicant's do address some points, but are ignoring others. We need land to grow and expand vineyards.

Lisa Weidman, 4195 NE Breyman Orchards Rd., Dayton, OR 97114: Lisa is a homeowner on the lower portion of the road. There is a concentration of houses in that area. Speed of vehicles coming down the hill is a real concern. The speed is quite often up to 55 mph past our house. She is concerned with the pets and children, including deer and several residents that have to cross the road for mail and papers every day.

Russell Gladhart, 4050 Winters Hill Rd., Dayton, OR 97114: Russell submitted written testimony into the record. He manages farmland near the property and is in favor of development in lodging and restaurants in the county, but it needs to be done in urban areas, or close to urban area where water and sewer can service them. Businesses who have invested in accordance with the rules, did so with the understanding that future businesses would have to do the same. He urged the Planning Commission to deny the request.

Eric Aberg, 3330 SE Amity - Dayton Hwy., Amity, OR: He agrees there should be a 4 - 5 star hotel/restaurant in the county, but not at that location. Grapes at that elevation are great for champagne. Also, spraying can be a real factor along with noise. Bird cannons go off between 5:00 - 6:00 a.m. in the morning.

Joan Davenport, Wine Country Farm, 6855 Breyman Orchards Rd., Dayton, OR 97114: The big spring is on my property and is just about non-existent now. I raised horses and grapes and wanted to have the water just for the horses. Joan uses a well for the B & B which is 375 feet deep and at one time got 15 gallons per minute, but no more. Last summer, it started having air in the line. Joan just sold another property that was on the Dayton watershed, and up to a year ago, would not allow lawn watering. She is very concerned with the water situation. This is prime farm land.

Ilsa Perse, 5765 Mineral Springs Rd., Carlton, OR 97111: Everything she had to say has been said.

Edward Gaus, 4195 NE Breyman Orchards Rd., Dayton, OR 97114: Edward lives at the bottom of the hill and has worked with real estate developers. He opposes an exception to removing agricultural high value farm land. In this case, there would be 3 commercial enterprises: a hotel, spa and restaurant. The traffic is a significant issue.

Merilyn Reeves, Friends of Yamhill County, P.O. Box 1083, McMinnville, OR 97128: It was only eight days ago when the applicant submitted the reports. It will be impossible for the applicant to come back in April and address all the issues presented. This is the most significant application presented to date and it needs more time. Citizens need to be informed as to when the information comes in.

Questions of Opponent's: None.

Chair Smiley asked staff at what point will the hearing continue in April. Daryl stated that it should be at the Proponent's case due to new evidence that will be presented. Mike Brandt agreed.

Rebuttal:

Mike Robbins stated that they are planning to return in April, unless it needs a longer period of time.

Edwin Sharer stated that Kiwi will also grow on that land. He is aware of the water rights and regulations. He also said he will bring a well log to the next hearing.

MOTION: Daryl Garrettson moved to continue docket item PAZ-01-06 to the April 6, 2006 Planning Commission Hearing, 7:00 p.m. at the Yamhill County Courthouse, Room 32 with the hearing to be taken up at the Proponent's Case. Seconded by Marjorie Ehry. Approved unanimously.

ZONING ORDINANCE LEGISLATIVE HEARING:

DOCKET NO.: G-01-06

REQUEST: To modify the definition of “Kennel” in the Yamhill County Zoning Ordinance. The existing ordinance language has the following definition:

KENNEL: A site providing for the accommodation of four (4) or more dogs of licensable age under the Yamhill County Dog Control Ordinance, where such dogs are kept for board, propagation, training, or sale.

The request is to replace the existing language with the following definition:

KENNEL: A commercial or non-commercial site providing for the accommodation of three or more fertile or five or more spayed/neutered dogs of licensable age, or any combination thereof, where such dogs are kept for household pets, rescue or seeing-eye training, board, propagation, other training, sale or trade, consumption or other purposes.

APPLICANT: Yamhill County Dog Control

LOCATION: These ordinance changes would apply to the unincorporated areas of Yamhill County in the appropriate zoning districts.

CRITERIA: ORS 197 and 215, OAR 660-06 and Section 1207.02 of the Yamhill County Zoning Ordinance.

Chair Smiley called the legislative hearing to order.

Witnesses: Officer Jody Whiting, Yamhill County Dog Control, 2070 NE Lafayette Ave., McMinnville, OR 97128: Robert stated that a memo had been received. A brief example as to why the language should be changed would be: Responding to a call involving multiple dogs, where they meet the stipulations of a kennel under the definition. We’re trying to lower the number of dogs. Right now it is no more than 3 fertile, no more than 5 total. If they have more than that, they are in violation, which is normally when the Dog Control is called out because of an issue. If that doesn’t work, it’s referred to the Planning Dept. and it falls through the cracks because the Planning Dept. doesn’t include pets. Which means, if you want to have 67 dogs and 67 dog crates in the backyard or garage, you can. If it’s not a kennel, or falls under the definition with a kennel permit, she doesn’t have the right to enter or re-enter and check living conditions, cleanliness, etc. on the property. Michael: Do you see a lot of that? Jody: I’m seeing more of it, yes. Daryl: Is a kennel a conditional use or a prohibited use? Mike: I will say for Jody’s sake, that at one time we thought we amended the ordinance so both definitions were the same and then I think their definition was amended after we did ours. Now we’re back to the same thing again. Daryl: The original Dog Control Ordinance never counted pets, but if you were a kennel you got a reduced license fee. Jody: You still do. Now there are commercial and non-commercial kennels. A non-commercial kennel was where you chose to have pets, but you couldn’t have more than 15 dogs breed in litters in a 1 year period of time. There is a difference between a for profit business and a hobby. Bernie: What if you have a large place and have 5 dogs? What gives you the right to come on my property, unless I’m abusing them. Jody: Most people are law abiding, dog licensed citizens, but it’s the calls I receive about Lab. sized dogs living in small crates that no one knows about. Bernie: You can get a warrant and enter the premises. To amend this the way you want to is potential abuse from your

dept. down the road. We're okay with change of verbiage. Daryl: Those people won't apply for a conditional use permit, so they will be in violation of the zoning ordinance. The Planning Dept. can't go on the property without a search warrant either if they refuse access. Jody: The problem is when I refer them to the Planning Dept., they fall through. Usually I'm able to deal with it. There are just certain cases that are falling through the cracks that desperately need attention. It's beneficial to work with the community, instead of walking in and smacking them on the hand. If someone is overwhelmed and needs help, I want to help them. Robert: I understand your problem, but the problem is the ordinance goes too far. The most objectionable thing here is the word consumption. By putting consumption in the definition, you're almost saying that's acceptable. Mike: If you already have this definition in the dog control ordinance, I don't see what us changing it in the zoning ordinance will help. Jody: Because if they have more than 5 dogs, they need to go to get the permits. Mike: If someone has 5 pets, we won't make them get a kennel license.

Dianne Croan, P.O. Box 328, Amity, OR 97101: One of the reasons she came was because of Jody. She was going to move her kennel from Clackamas County because she was in the city. Dianne found this property in Amity on Salt Creek Rd. and she asked if there was any exclusions at all. She was told there were none. Dianne bought the property. She is not breeding them or showing them anymore. When she started to move everything, her partner passed away. In the meantime, Dianne was trying to redo the building the dogs were going to go into. A veterinarian has been overseeing these things. Then she found out she can't get a kennel license because it's high value farm ground. Most dogs are being maintained for the remainder of their life. She spoke with Dog Control and licensed them all. She is still working on the building and there is a furnace that keeps the temp. at 68 degrees. Daryl: Are you selling or breeding them? Dianne: No. Daryl: Then they're pets now. From the Planning Dept. under our ordinance, you don't need our permission. You only need Dog Control's to license them. David: How many dogs do you have? Dianne: 10. Most were born in my kennel and I have maintained them their whole life. Daryl: Where's County Counsel in this? Jody: His car broke down. Mike: He's the one that has been working with Jody, the BOC and ultimately us. Daryl: I'm not understanding the enforcement which makes me reluctant to vote for a change.

Jody: This is a prime example of what I've been talking about. I was referred to Ms. Croan through Clackamas County because she was cited on multiple cases of animal neglect. Jody explained the conditions of the dogs and the areas where they are kept.

Dianne stated that Jody came out to the property not long after she moved from Clackamas County and at that time, things were not in the best conditions. The dogs have always had medical attention.

MOTION: Daryl Garrettson moved to recommend to the Board of Commissioners not to change the ordinance. Seconded by Bernie Diefenderfer. (David Polite abstained) Approved unanimously.

Adjourn: The meeting adjourned at 1:15 a.m.