

**YAMHILL COUNTY PLANNING COMMISSION**

Thursday, September 7, 2006 · 7:00 p.m.

Yamhill County Courthouse, Room 32

535 NE 5th St.

McMinnville, Oregon 97128

**Roll Call:** Bernie Diefenderfer, Matt Dunckel, Marjorie Ehry, Michael Sherwood, David Polite, Robert Smiley, Alan Halstead. Staff: Ken Friday, Martin Chroust-Masin, Rick Sanai.

Review of the **minutes** from the Planning Commission Hearing of July 6, 2006. David Polite moved to approve the minutes as submitted. Seconded by Alan Halstead. Approved unanimously.

**QUASI-JUDICIAL PUBLIC HEARINGS:**

**DOCKET NO.:** PAZ-02-05

**REQUEST:** For a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from EF-40 Agriculture/Forestry Use to AF-10 Agriculture/Forestry Small Holding. The application includes a request for an exception from Goal 3 (Agriculture). The purpose of the application is to build one single-family dwelling on each parcel.

**APPLICANT:** Dennis Walker

**TAX LOT:** 5413-1700, -1701, -1900 and -1901

**LOCATION:** On both sides of Kestrel Heights Road, Amity, Oregon

**CRITERIA:** Sections 402, 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

Chair Smiley opened the public hearing.

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

Rick Sanai read the **“raise it or waive it”** statement into record.

**Staff Report:** Ken Friday gave a brief review of the staff report. He noted the original application was for just 2 parcels and the applicant requested to add 2 more parcels.

**Proponent’s Case:** Dennis Walker, 17085 SE Walnut Grove Lane, Amity, OR 97101 & Michael Robinson, 1120 NW Couch St., Tenth Floor, Portland, OR 97209: Michael brought exhibits along showing the original 2 lots and the added lots. The map illustrates the vacant EF parcels are very few and far between in this area. There is a public road that provides access to dwellings. This is no longer a farm area. It fits in well with the zoning and development. The area can accommodate single family dwellings, wells, and public road access that will generate approximately ten trips per day with no disturbance to farm uses. The application is in proximity with other single family dwellings, the lot pattern and lack of agricultural practices all allow this area to be irrevocably committed to non-resource uses. Michael noted that he and Ken had spoken about spot zoning and how four lots would avoid that situation. Michael then pointed out the areas on the map, showing the 2 contiguous pieces. Applicable approval criteria was addressed in the submitted information. They agree with the staff report. **Questions:** Michael Sherwood: Why were the 4 lots asked for originally? Michael R.: Talked to Ken about spot zoning and added the

other 2 lots. While there was not legal prohibition against spot zoning Ken suggested including the other 2 lots. Dennis: The 2 lots added are owned by my son. Bernie: There is a full easement to every piece of property? Dennis: Yes. Michael R: Several years ago the roads were built to Fire District standards. Matt: What year were these lots created? Dennis: 1911. Alan: They have to go across your easement to get to the access? Dennis: It's a dedicated easement pertaining to the other lots and they are granted access. David: Has there been a Measure 37 claim filed in this area? Ken: Probably within a few miles. One of the difficulties of putting Measure 37 lots in is there are no subdivision lots approved for Measure 37 and just one plat that has 2 lots that is about to be signed. There are 4 - 5 subdivisions that need preliminary approval, but it's hard to burden an applicant with looking at Measure 37 lots when it is hard to predict how many lots there will be in the future. Michael: There is a difference between these lots that have been around for 100 years and those under a Measure 37 claim.

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

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

**Staff Recommendation:** Ken: Because of the development pattern in this area staff recommends approval of the request.

Chair Smiley closed the public hearing.

**Deliberation:**

Matt Dunckel: I'm in favor of the application and concur with staff.

Bernie Diefenderfer: I agree with staff.

Marjorie Ehry: I agree with staff.

David Polite: I'm in favor of the application.

Michael Sherwood: I think it fits in nicely and I concur with staff.

Robert Smiley: I concur with staff.

**MOTION: Alan Halstead moved to approve docket PAZ-02-05. Bernie Diefenderfer seconded. Approved 7 - 0.**

**DOCKET NO.:** S-07-06

**REQUEST:** Approval of a five lot subdivision. The request includes parcel size averaging, whereby individual lots may be less than 5 acres but the average lot size will be over 5 acres. The resulting subdivision lots would vary in size from 2.5 to 9.71 acres.

**APPLICANT:** Steve Prueitt, Cedar Mountain, LLC

**HEARING REQUEST:** Deborah H. Aneja

**TAX LOT:** 2316-3300

**LOCATION:** At the intersection of Albertson Road and Chehalem Way, on the east side and abutting to Albertson Road.

**ZONE:** VLDR-5, Very Low Density Residential

**CRITERIA:** Section 502 of the *Yamhill County Zoning Ordinance*; and the *Yamhill County Land Division Ordinance* including sections 6.010, 6.015(1), 7.000 and 14,000

Chair Smiley opened the public hearing.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** Matt is currently doing survey work for

Mr. Prueitt and wishes to abstain.

Chair Smiley asked if anyone had not been present for the original reading of the “**raise it or waive it**” statement.

**Staff Report:** Martin Chroust-Masin gave a brief review of the staff report. The applicant has indicated that water will be provided by a well.

**Proponent’s Case:** Bruce Vincent, 825 NE 20<sup>th</sup> St. 300, Portland, OR 97332: Mr. Vincent entered a map and information into record. Bruce and the applicant concurs with the staff report and all conditions. Last week his client hired Larry Anderson, a local Civil Engineer in Newberg and he will be working on the county approval redesign and storm water run off calculations. Prior to the subdivision request, the applicant consulted Public Works so they could choose the best access point. He was granted an access permit based on that chosen location. An opponent requested this hearing, along with 2 other letters of opposition. Bruce has read those letters, but no issues are relevant with land ordinance standards. To summarize, there are 3 Categories the opponent’s raised: (1) The new 5 lots will have a negative impact on a peaceful rural area. Bruce referred to the zoning map he submitted and highlighted. (2) Traffic has been raised as an issue. The client is also concerned about that. Randy at Public Works was contacted and the most recent 48 hour traffic count taken shows there are 587 vehicle trips on Albertson Rd. which is 294 trips per day. Because it is classified as a local street it means there can be a capacity of up to 1200 trips per day. (3) The proposed subdivision has and will create soil erosion due to logging. His client is also concerned about this and has designed the logging road to meet all applicable rules. Steve Prueitt stated that slate rock has been laid to help with erosion and he will be planting seed as soon as the rain starts. He’s very careful to ditch some of the areas so they spill into the right drainage and ditch lines.

**Questions:** Michael: The changes that have been made on the roads, are those county directed or on your own? Steve: We put those roads in under our logging practice procedures.

**Questions of Proponent’s:** Audience: What date was the traffic report done? Bruce: In 1997. Will Mr. Prueitt improve Albertson Rd. where it will come into the development? Bruce: For final approval we need to meet county standards with regard to the road. The maximum sustained rate is 10%. There is quite a slope up there. Steve: We have kept them to the Fire Marshall standards and he gave us a satisfactory report on the road.

**Opponent’s Case:** Ann Vullo, 25115 SW Albertson Rd., Hillsboro, OR 97123: Ann presented letters to be entered into record. She requested a new traffic count be done, since the last one was done in 1997. The road doesn’t receive much attention from the county and the wear and tear on the road is a concern. We want the road to be adequate and safe. Also, a letter will be presented from concerned residents who could not attend. The families that are involved have concerns about the snow and icy weather which is normal from October - April, but the ground was so saturated that it didn’t dry out until last May. The drainage is to the point that they have had too much saturation. Land erosion and mud slides are a concern. Regarding the ditches on his side of the road, there is no ditch across from her home. The drainage goes directly down into her driveway to her home. The applicants property slopes down from 1400 - 1100 feet decline. The concern is the slope above it and the saturation of the ground. The area has been stripped of trees. Who will be responsible for property damage if it occurs? There is not adequate assurance that the property will not shift and there is

Inadequate protection from water, landslide damage and land instability. The residents are concerned and asking for a soil review to be done with time to review the information. If this applicant’s proposal is passed, dust, road traffic and damage from the development should be compensated. Applicant needs to

take the financial burden. He has already put in berms that were not there and sought engineers. We are not comfortable with it. Ann came from an area from outside Oregon where the actual mountain was not being looked at. When the first rainy season hits, how will they actually stabilize that mountain? They had to change our driveway because of the drainage issue. **Questions:** Michael: Is there any other home above your property? No. Michael: have you had landslides? Ann: No, but we've had shifting. We keep our ivy and cedar plants to help with that. Bernie: This is a dedicated county road and you said you trenched water around your house. Where did that flow to? Ann: It went down on our property and stays on our property. Bernie: Who took care of the road before he applied? Ann: The county was taking care of the road at the time we moved here. It slacked off and Public Works said there isn't enough money in the budget. Bernie: On the traffic count, what was it? Ann: 294. Bernie: How many log trucks now? Ann: Within the last 2 years about 10%. David: Did Public Works clear the ditches along the road? Ann: Not to my knowledge. There are no ditches along the road. There is one natural water flow down from our house. Robert: Have you seen the recommendation and conditions from staff? Ann: Yes, the ones we are mostly concerned about are on page 5 and 6 (conclusions for denial), page 7 recommendation for #5. We received the report last week. Page 8 on #8 and #9 is a concern. Robert: A lot of your concerns are answered on page 6 under recommendations. Michael said he didn't think it answered their concerns. Ann: The natural flow has been disturbed. Robert: Maybe Martin can explain, but the applicant is able to log this area and has met those requirements.

Deborah Aneja, 25025 SW Albertson Rd., Hillsboro, OR 97125: Deborah showed her lot on the tax lot map. (TL# 3002) Her and her husband moved here from Arizona in August of 2000. She has pictures showing the property line in front of Mr. Prueitt's, which shows the property before it was all logged. This morning she took pictures to show what it looks like today. The pictures were passed around for the commission to view. She noted it was hard to photograph the actual slope. There is a natural spring on the road. It is clear cut down to the road. There is nothing to hold the water back. The Public Works map shows the contours of the land which she passed around. She highlighted where the houses are located. Michael: The slope goes NW and your down at the left corner? Is Ann in a worse condition for drainage? Deborah: Yes, there is a straight shot from the hill where they log, but my house is lower then Ann's, but I don't have a driveway in front of my house. Deborah studied the application talking about the minimal and maximum slopes. In some parts it seems relatively steep to her. Deborah also took pictures on August 5<sup>th</sup> when there was a fire. Because the property has been clear cut, they now get a lot of wind. A report from the Fire Marshall said there were 50 spot fires. They had to get water and fill up their tanks. Fire is a real issue. There are huge piles that they will be burning at some point and he has a permit that is good until November. There has never been a problem with wind before and they had lost power at least 3 times last winter. Fire, wind and erosion are valid concerns. Deborah listed the many wild animals they once had in the area. Why did he clear cut the property if he is going to subdivide? She has almost been hit from the back turning into her driveway and traffic is a real concern. There is no drainage whatsoever. **Questions:** None.

Atul Aneja, 25025 SW Albertson Rd. Hillsboro, OR 97123: Many concerns have been discussed, but one issue is the zoning on this property. Has it changed in the last several years? It was our understanding when we bought the property that it could not be subdivided. Robert: Who told you that? Atul: We were told by the real estate agent. If there was any type of flood we're afraid it would take the whole hill Most of us live below the applicant's property. The road conditions from what we understand, is not the applicant's responsibility, but it is an unpaved gravel road that has not been designed for this traffic and it has already increased in past years. The road is very uneven and extremely steep. There are uneven potholes and dust is everywhere. With increased traffic, this will worsen. **Questions:** None.

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

**Public Agency Report:** Martin stated that Yamhill County Public Works replied regarding the access road. It will need to meet emergency vehicle standards as well as provide a safe access onto Albertson Rd. The access road will need to be constructed or a construction agreement approved prior to final plat approval. Newberg Fire District had no conflicts.

**Rebuttal:** Bruce Vincent: First, the county standards still need to be met concerning the road. A lot of comments centers on Albertson Rd. rather than the subdivision. He suggested the neighbors going to the Board of Commissioners and petition a LID that could be signed and brought to the commissioners about the safety of the road. The storm water will be taken care of. As far as the registered geologists, if Public Works had an issue, something would have been said from them. Deborah talked about the fire and Steve Prueitt explained that he was notified around 11:00 that night and he got a crew of men together and tore the piles apart. They had fire equipment on site. Steve stayed up there with the men all night. It had started in a very suspicious spot that could not be seen by the highway. They hadn't burned up there for 2 ½ months and had never burned on that particular spot. They have only burned when it has been wet or raining. Steve said there are over 200 - 300 trees on the site. **Questions:** Bernie: You will still need to burn the slash piles one way or another? Steve: That's correct. David: Have you had surveyors in at the height of the rains? Steve: We have hired an engineer to do the water retention survey on that. I don't believe we have drastically changed the water off of that hillside. We've left stumps for stability all along the road. David: Due to the clearing, if additional drainage takes place there would you address that? Steve: Yes, absolutely. Bruce: He has to abide by the conditions imposed.

**Staff Recommendation:** Martin stated that based on the staff report and comments made and because this is a rural residential area, staff recommends approval.

Chair Smiley closed the public hearing and took a 10 minute break (9:45 PM)

**Deliberation:**

Alan Halstead: I agree with staff's conditions of approval, highlighting #5.

Michael Sherwood: I concur with staff with the 9 conditions of approval, with #5 being looked at.

David Polite: I echo Alan's concerns for #5 and for the record, it seems in the past when developers have contacted us with subdivisions they have conducted their own traffic studies. This is an old traffic report. I would like to see a traffic study performed. I would like that added to the conditions.

Rick Sanai: We can't have additional evidence because the hearing is closed. You can't have additional evidence now.

Marjorie Ehry: I agree with the statements made and I am concerned with traffic. I hope Mr. Prueitt will look at that. I agree with staff.

Bernie Diefenderfer: I feel Mr. Prueitt has satisfied the rules and regulations. I concur with staff.

Robert Smiley: I appreciate the concerns of the neighboring owners, but I also believe the 9 conditions will address them. I do encourage them to form a Local Service District. I believe their costs, based on the amount of property bordering Albertson Rd. would be advantageous at this time.

**MOTION: Michael Sherwood moved to accept the Staff Recommendation with the 9 conditions of approval as written. Seconded by Alan Halstead. (Passed 5 - 1 with David Polite opposing.)**

**DOCKET NO.:** C-04-06

**REQUEST:** Conditional use approval to allow use of the existing residence, barn, garden and the lawn area for weddings and other group gatherings, to be operated as a home occupation. The facility can accommodate up to 150 people for the gatherings.

**APPLICANT:** Parimita Mohanty

**TAX LOT:** 3309-1400  
**LOCATION:** 15055 NE Dopp Road, Newberg, Oregon  
**ZONE:** EF-80 Exclusive Farm use  
**CRITERIA:** Section 402.04(I), 1004.01, and 1202.02 of the Yamhill County Zoning Ordinance

Chair Smiley opened the public hearing.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** Robert Smiley had business relations with the applicant and will only be directing the meeting and not participating in the discussion. He abstained.

Chair Smiley asked if everyone had not heard the “**raise it or waive it**” statement with one audience member asking for a copy to read since she could not hear Rick when he read it.

**Staff Report:** Martin gave a brief review of the staff report. A letter has been received at the office stating the applicant is already operating the business without land use approval from Yamhill County. The applicant has been informed that he should not be operating the business until he has obtained all the land use permits. **Questions for Staff:** David: What can be done if they are operating without permits? Rick: Red tag them, send it to the Building Dept. and Code Enforcement Officer to shut down the operation. David: Has that been done? Martin: A letter was sent out to them. Ken: When we have issues relating to enforcement, what we do is allow the applicant to apply and go through the process. We did not make any agreement with the applicant that they go ahead and operate. The applicant has chosen to do that and if this application gets approved, there are certain conditions that we’re recommending before the applicant continues the use.

**Proponent’s Case:** Kirti Mohapatra, 15055 NE Dopp Rd., Newberg, OR 97132 & Milo Chapman, 17580 SW 131<sup>st</sup> Ave, Tigard, OR 97132: Milo was the previous owner and gave some history of the property. He stated that Kirti had booked weddings and was threatened with lawsuits if they canceled them. Milo built up the property which he stated is an asset to the community. Henderson House, Portland Chamber Orchestra, the Fire Dept., etc. had occasionally used the facility. Kirti: All the bookings were stopped and he received consent from the neighborhood to have the last one this Saturday. **Questions:** Marjorie: How long have you been doing this without a permit?. Kirti: We started the first one on July 7<sup>th</sup> and 7 events booked since then. Michael to Rick: Is there a business license required for this? Rick: Not necessarily. The State of Oregon has different levels for these. There are minimum requirements to apply for different licenses. Milo: He is not planning on having wine tasting out there now. Caterers bring in the food; there is no food prep. on-site. Michael: You were told not to have anymore functions, is that correct? Then why didn’t you cancel the functions? Kirti: We tried to cancel as many as possible. Bernie: What are you renting the facility and property for? Kirti: For weddings. Milo: He’s not renting the land. Bernie: It’s described in section I. that there is an area of grounds, approximately 3 acres. Who are you renting to? Milo: That is mis-worded. Matt: There was also a letter from one who runs the airport and a petition. What did that consist of? Kirti: I have no idea. Michael: There’s a function on the back of the letter from Mark Soderburg about a Temporary Sales Permit from John Ryan. Kirti: That’s the caterer coming this Saturday. Michael: Will you have liquor and dancing? Yes. The liquor will be provided by the caterers. Martin commented about the Temporary Sales License, which the staff would not sign because the application was not complete.

Douglas Jackson, 14500 NE Dopp Rd., Newberg, OR 97132: Douglas is a neighbor and doesn’t feel the applicant’s use of the property will be out of character. There is a large elementary school down the street and the airport is very busy. They’ve experienced 10 weeks of operation by the current applicant and it seems manageable.

Jeremy Frieday, 4607 NE 59<sup>th</sup> Ave., Vancouver, WA 98661: Jeremy has worked at other facilities and is helping out with the laws, noise, etc. The business will be good for the community. It is a beautiful property.

Sonya Chapman, 17505 NE Terry's Lane, Newberg, OR 97132: Her property is 300 - 400 feet down the road and she lives next to the airport. One of the issues is the matter of the linguistics to understand Kirti and his accent. Sonya doesn't think Kirti has been able to explain himself or understand the legal issues properly. The liquor is provided by the families who are holding the weddings. A few letters were written about the noise level and she went with him to the neighbors to find out what the issues were and they have worked with the neighbors. They booked weddings thinking that the process would only take 8 weeks at the longest but it took longer. It is an asset to the neighborhood and the churches and school will be allowed to use the property. He is a good neighbor and lets the kids swim in the pond. **Questions:** Michael: They knew what they were applying for and knew they had to have the permit. Sonya: Initially, no I don't think they understood it. Michael: Who wrote the well written presentation on the web site? Sonya: I don't know. I feel that they need to have a second chance.

Mary Cyr, 17280 NE Bayley Rd., Newberg, OR 97132: Mary stated she just moved there in March and had no idea what was being planned and asked the previous owners, but they were unaware as well. A lady stopped by to introduce herself and explain what would be going on at the Oasis. She asked her about permits and noise and was told things were being taken care of. Sandra, who said she was managing the Water Oasis, told her many things that turned out not to be. A couple of days ago, Kirti talked to her and things that Sandra told her were not true. The noise hasn't been real bad and Kirti did address her concerns when she talked to him. She neither supports or opposes the application.

**Questions of Proponent's:** Audience: Who's neighborhood names are on the list? Robert read the list of names. Robert was asked to read the petition by Sonya Chapman. Audience: Margaret Jackson stipulated that it depends on how things go. Audience: Does it list the addresses of the neighbors and when was the petition done? Robert: Yes it does. 7/15/2006. Martin stated that 2 letters have been submitted tonight.

**Opponent's Case:** Denise Ashley-Bleiler & Derek Bleiler, 1227 Horizon Ridge Court, Keizer, OR 97303: Denise had a July 22, 2006 wedding contracted at the Water Oasis which was booked in January of 2006. It was not until 2 days before her wedding that she was told they had to alter the wedding. They did not hold their wedding at the establishment. Denise was not offered a cancellation of the wedding or an opportunity to change. She was unaware that there were no permits. Mr. Mohanty did not provide a refund of the money and rejected the demand letter and tried to silence her testimony tonight in exchange for the refund of the contracted money. This afternoon there was a call to her from his attorney stating that Mr. Mohanty agreed to refund the contracted money and out-of-pocket expenses. The release does not admit any guilt on their part and stated her accusations are unfounded. There have been many other verbal and written promises broken which are listed in her contention letter that she will submit. Mr. Mohanty stated a curfew by the county and told them they had a Conditional Use Permit for 5 months and only one neighbor had issues with the prior wedding that had occurred. There are attachments concerning false advertisements on their web site. The majority of the pictures are not of the grounds whatsoever. Denise passed around the color photos. In the request for the permit, they want use of the property for 150 guests, but Denise was told they are having weddings with 300 - 400 guests, which is also on the web site. Ms. Lupton had asked Denise's husband to do electrical work under the table on two occasions and Derek refused. He was then asked for a referral to get the work done under the table before their wedding day. This is not an acceptable business practice. I considered Sandra Lupton to be the business manager of the property and business. They were told Mr. Mohanty lived out of the country. I was never in direct

contact with him. Ms. Lupton stated that the paved parking lot should serve 100 - 200 vehicles. This will definitely increase traffic in the area. One condition of the contract was an overnight stay on the property. Ms. Lupton said she was still working on the rooms. Denise feels Mr. Mohanty is responsible and the Water Oasis is not an honest business. Her dreams have been destroyed and she felt it was her obligation to present this information to the commission.

Don Thomson, 2121 Browning Ave., Salem, OR: Don was minimally involved in Denise & Derek's wedding and felt compelled to come and talk about the unethical practices of this business. He witnessed the promises himself. The practices employed by Sandra and Mr. Mohanty were pressures on a young woman who wanted to plan her wedding. He visited the facility in June with Denise and her husband and it was evident that the facility was in no way going to be ready. Less than 2 days before the wedding, rooms would not be available and he witnessed them trying to leverage Denise. Setting aside cultural and language differences, this is about treating people with trust and respect and there was none of that here. Don and his wife put together the wedding in his backyard in 36 hours for 120 guests. Don did speak with Mr. Mohanty 2 hours before Denise was married in his back yard and Mr. Mohanty tried to leverage him into using the Water Oasis for the ceremony. Mr. Mohanty is very short on delivery and Denise has not received the money promised for refund yet. Don urged to deny the application. **Questions:** David: Can you confirm any of the misleading information, such as the web site? Don: The pictures on the web site do not show the actual building on the premises. Michael: Was this visit prior to the booking? No this was the 10<sup>th</sup> of June and the wedding was booked in January. The construction could no way have been finished in less than 30 days. Michael: How many photos were recognizable? Don: Only 2 of the outside of the facility. Michael: You believe these pictures are a substitution for what was actually there? Don: Absolutely. Denise submitted the color photos into record.

Nancy Strudevant, 17600 NE Aviation Way, Newberg, OR 97132: Nancy owns the Chehalem Airpark and sent a letter in earlier with her concerns. Back in 1990 they started their permits and it took a year and a half, but they didn't start a business until the process was complete. Four different times they have had to chase guests off the runway who were intoxicated. Nancy has never had this issue prior to these functions. It's a safety issue. She said she has also noticed that trash is left behind on their property after the functions. The Water Oasis web site states that they have a private airstrip. Nancy and her husband own and operate the airstrip and they have never been approached to have the airstrip be part of the business. **Questions:** Bernie: Where is the runway in relation to the establishment? Nancy pointed that out on the map. Marjorie: The airstrip is across the road from it? Nancy: Yes it is directly across the road. Nancy noted that the law in 1996 protects the approach to the airstrip and trees will have to come down on the applicant's property. Matt: Did you call the police when these incidents occurred? Nancy: Yes, we called the Sheriff, but by the time they get out there, the people were gone. We have called the Sheriff several times.

Dick Day, 17170 NE 240 Newberg, OR 97132: Dick has lived in the area for awhile and is a nearby neighbor. There are other neighbors who are not happy, but they are not at the meeting tonight. Dick works in insurance and would be flabbergasted if anyone insured this business. To think you can open a business without having a permit is absurd. Language differences or linguistics don't change simple right and wrong. This sounds like this has been going on for a long time. This is supposed to be exclusive farm use zoning. This has nothing to do with agriculture. The traffic has increased since he has lived in the area and that much more traffic is not designed for this road. There is a grade school that is extremely close to this facility. Activities of the school take place in the SW corner that is closest to the facility. During the Spring and Summer kids are in that area until dark. He lives 9/10ths of a mile from the facility and at 9:45 p.m. could hear the music from the facility. **Questions:** None.

**Questions of Opponent's:** Mrs. Day to Denise: Were they charging you for the alcohol or was it going to be free? Denise: I had purchased it and was going to provide it.

**Public Agency Report:** Martin stated that the Public Works Dept. reviewed the file and found no conflicts of interests, but the parking needs to be on the applicant's parcel and not on the county road; the Newberg Rural Fire District had no conflicts. Watermaster did not respond.

**Rebuttal:** Milo Chapman says a lot of mistakes were made and the brochure showed what they hoped to have and was not finished in time. However, the business ethics should not be an issue. David: Do you live on the property? Kirti: I work in Boston and I fly back every Sunday.

**Staff Recommendation:** Staff recommends denial of the application.

Chair Smiley closed the public hearing

**Deliberation:**

Matt Dunckel: I would like to see home occupations since there is a lot of commercial activity in that area.

I'm concerned with the alcohol consumption and driving.

Bernie Diefenderfer: Concur with staff

Marjorie Ehry: In listening to everyone this was grossly mishandled, even though things go wrong with weddings and you have to adapt. I'm not sure even with a legal permit that it would be handled the way it should be. I'm leaning against this.

David Polite: Question to Rick: Can we take into account all the evidence submitted? Rick: The commercial relationships are not legal approval criteria. David: If we can show misrepresentations on the web site, would that be grounds for us to deny? Rick: No. David: How can we overcome the requirement that the applicant show the use will not generate more than what normally occurs in the zone? Ken: It's a judgement call on the commission. We do have those types of uses and the uses in their application would generate 25 - 50 cars and they verbally indicated to Martin 150 people but from the evidence submitted, will have 300 people. You have to look at the compatibility with the surrounding uses.

Rick: An establishment that has a fixed service has everyone leaving at the same time. The volume and character of traffic are what we took into consideration.

Michael Sherwood: We have an obligation to make certain that it's right. I have a real problem with operating a business without a Conditional Use Permit and trust is everything in business. I concur with staff.

Alan Halstead: This would be the only facility in Yamhill County like this for strictly weddings? Ken: I think we've approved one. Alan: I concur with staff and the conditions for denial.

Matt Dunckel to Staff: If they are denied, that doesn't keep them from filing another application? Martin: They would have to wait a year before they could reapply. Ken: They would have the option to appeal it, but if they let the decision stand they would have to wait one year to reapply.

Marjorie: Can we put more restrictions on it?

Ken: Yes, and on page 11 & 12 there is a list of conditions of approval if you decide to approve.

**MOTION: Alan Halstead moved to deny docket C-04-06. Seconded by Michael Sherwood. Passed unanimously 6-0.**

Break for 10 minutes (11:10)

**DOCKET:** PAZ-02-06

**REQUEST:** Approval of a Comprehensive Plan amendment on approximately 40 acres of

property from Agriculture/Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from AF-20 Agriculture/Forestry to AF-10 Agriculture/Forestry Small Holding. The application requires an exception to Goals 3 and 4. (The applicant has presented arguments that an exception to Goals 3 and 4 is not necessary because the applicant believes the property qualifies as “non-resource” land.)

**APPLICANT:** Charles Carnese, representing Rex and Carla Butler and Barbara Reilly  
**TAX LOT:** 3205-200 and 300  
**LOCATION:** 17160 and 17220 NE Slope Lane, Newberg Oregon  
**CRITERIA:** Sections 403, 501 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. OAR 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule. A limited use overlay zone may also be applied.

Chair Smiley opened the public hearing.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** Matt Dunckel abstained since he has done work for Barbara Reilly.

Chair Smiley asked if anyone had not been present for the original reading of the “**raise it or waive it**” statement.

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

**Proponent’s Case:** Charles Carnese, 1500 SW 1<sup>st</sup> Ave, Suite 1170, Portland, OR 97201: Charles began by discussing some of the conclusions that the staff came up with. First of all, #9 in the findings did not discuss the soil capability for timber. On pages 3 - 5 of their supplemental application that talks about timber production, he is unsure why staff didn’t accept that as the explanation. He also challenges the sizes. We believe an exception is not required because this is not resource land. This parcel is too steep to use as grazing. The summary of capable soils on the 4<sup>th</sup> or 5<sup>th</sup> page shows the other factors involving farming. The first thing we have are steep soils, Yamhill County has previously determined that soils greater than 20% have significant limitations. There is no farming and there is an insufficient amount of production of trees. The Department of Forestry has said it is not useful to have timber production where there are too many people. The size of the parcel should be at least 80 acres and these do not meet that. It is subject to the exceptions. The overall conclusion of the staff is on page 10 of the report which he read. He pointed it out on the map. Everything south and to the east should be utilized as 10 acre parcels. The three parcels are said by the staff to be creating a peninsula. There are homes on 2 lots. The AF-20 are divided into many different acres. There is only one AF-20 lot in this area. They have a committed exception. It is not practical for farming or forestry and is irrevocably committed. 10 acre parcels are the best for residential property. It will not be successful for farm or forestry uses.

Randy McCreith, 215 N Blaine St., Newberg, OR 97132: From a real estate perspective, Newberg is changing radically. Kelley was the number one real estate agency in the county. If we had parcels to sell we could sell one a day; they receive that many calls. Clients want useable land for horses, etc. The most in demand is right around 10 acres and there are few available. Looking at the Newberg area from a real estate perspective, prime residential land is perfect for the commute into the high tech corridor and is easier from those areas. A lot of people want the space and manicure it. For most people who live, work and have a family, 20 acres is too large. In this area, these kinds of views and with the location of commute, it will be zoning for the best results. David: Do you think Measure 37 will add more of these

lots? Randy: Yes I do.

Barbara Cronise, P.O. Box 601, Amity, OR 97101: I have worked with the applicant's on this and I have tried to cut it two ways. I looked at how much timber was harvested on approximately 7 acres and if that was the only property we were going to consider, it would look like high timber land, but if you look at the whole parcel, there isn't much that will grow. You need to look at the whole parcel. I had experts go out and look at the property, looking at productivity and then validated those on the actual amount harvested.

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

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

**Staff Recommendation:** Ken Friday wanted to be supportive of this, but the criteria doesn't allow him to do that. Staff recommends denial of the application. Rick Sanai explained the issues of non/resource land.

**Rebuttal:** Charles Carnese stated that he interpreted from the staff report that if there is an inadequate supply of AF-10 parcels that a zone change is justified. Ken stated that is incorrect.

Chair Smiley closed the public hearing.

**Deliberation:**

David Polite: I am not convinced that it's irrevocably committed. I support the staff recommendation.

Michael Sherwood: I don't have a problem with the surrounding area. I am in favor.

Alan Halstead: Theory and reality are 2 different things. I am for the application.

Robert Smiley: My concern is the exception process. I'm worried about the cascade effect. I am for the applicant.

Marjorie Ehry: I agree.

Bernie Diefenderfer: Looking at the situation with common sense, I agree with the proponent.

**MOTION: Alan Halstead moved to approve PAZ-02-06. Seconded by Michael Sherwood. Passed 5-1 with David Polite opposing.**

**New Business:** Brad Myers has resigned his position.

**Adjourn:** The meeting adjourned at 11:55p.m.

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