

YAMHILL COUNTY PLANNING COMMISSION

Thursday, October 5, 2006 · 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Bernie Diefenderfer, Marjorie Ehry, David Polite, Michael Sherwood, Matt Dunckel, Robert Smiley. Staff: Mike Brandt, Ken Friday, Rick Sanai.

Review of the **minutes** from the Planning Commission Hearing of September 7, 2006. Michael Sherwood moved to approve the minutes as submitted. Seconded by Marjorie Ehry. Approved unanimously.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: PAZ-04-06
REQUEST: For a remand hearing of previously approved Comprehensive Plan amendment from I - Industrial to C - Commercial use; a zone change from HI - Heavy Industrial to HC - Highway Commercial use on 3.36 acres. This application was remanded by Yamhill County Board of Commissioners to the Yamhill County Planning Commission for reconsideration of their approval of Docket PAZ-04-06 on 3.36 Acres.
APPLICANT: Julie Dean
TAX LOT: 5632-1200
LOCATION: 32020 SW West Valley Highway, Sheridan, Oregon
CRITERIA: Sections 501, 603 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 660-012-0060 Transportation Planning Rule

Chair Smiley opened the public hearing.

Abstentions, Objections of Jurisdiction, Ex Parte Contact: Matt Dunckel has done work for Julie Dean in the past but will not influence his decision. Bernie Diefenderfer abstained.

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

Staff Report: Ken Friday abbreviated the staff report, since this was previously before Board Of Commissioners (BOC). In the process of the BOC hearing, it became clear that the applicant wanted to do a different type of use and planned on more sales. The applicant was confused and thought that Light Industrial would allow those types of sales. The Planning Office made it clear that it would not but had no objection if the applicant modified the request to a Highway Commercial Zone. The applicant wanted to complete the other portion of the property rezoning so it was suggested at the BOC hearing to remand this portion back to the Planning Commission.

Proponent’s Case: None.

Opponent’s Case: None.

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

Chair Smiley closed the public hearing.

Staff Recommendation: Staff recommends approval of the application.

Deliberation:

Michael Sherwood: I see no reason not to approve this with the limited use overlay.

David Polite: I concur with staff.

Robert Smiley: I concur with staff.

Marjorie Ehry: I concur with staff.

Matt Dunckel: I concur with staff.

MOTION: Matt Dunckel moved to approve docket PAZ-04-06. Seconded by Michael Sherwood. Approved 5-0.

DOCKET NO.: S-11-06

REQUEST: Approval of a 12-lot subdivision on a 58.14 acre property. The lot sizes are approximately 3 to 4.5 acres in size. This application is possible due to approval of a Measure 37 claim through Docket M37-115-05 (Board Order 06-119) which allows the development under the land use rules in effect on May 1, 1962.

OWNER: Youngman Family Trust

APPLICANT: Robert and Betty Janzen, representing the Youngman Family Trust

TAX LOT: 2526-1400

LOCATION: On the western boundary of 15345 NW Tupper Road, Yamhill, Oregon

ZONE: AF-40, Agriculture/Forestry Large Holding

CRITERIA: Board Order 06-119, State Claim M121524 and the Yamhill County Land Division Ordinance

Chair Smiley opened the public hearing.

Abstentions, Objections of Jurisdiction, Ex Parte Contact: Matt Dunckel abstained. Marjorie is acquainted with the applicants but this will not affect her decision.

Chair Smiley asked if anyone had not been present for the original reading of the “**raise it or waive it**” statement. Rick Sanai was asked to read it again.

Staff Report: Ken Friday gave a brief review of the staff report and passed out copies of the flood plain map and 2 letters related to this issue. **Questions:** David Polite: Has anything been received from DEQ and would their authority be relevant here? Ken: Only with regard to the installation of the septic system or if they have future erosion control issues. Site evaluations have been approved for the proposed parcels. David: From what I see we haven’t heard from the Dept. of Forestry? Ken: That’s correct. David: Wouldn’t the Forestry Practices Act have some relevance here? Mike Brandt: Yes it would, but only to the extent that it effects health and safety. David: So health is not related to water quality? Mike: I think you are all charting a new course here. This is a request for a subdivision after a Measure 37 (2004) approval. You are asking questions that have not been resolved. David: Was the Dept. of Agriculture contacted? Ken: We’ve never contacted them on a subdivision like this. This property is zoned forestry.

David: The Senate Bill 1010 was also discussed in the setbacks and those would eventually become requirements. This particular application deals with property along the river. Ken: There are fire setbacks and there would be, in some respects, a setback from the stream by virtue of the flood plain. Michael Sherwood: From reviewing this, Robert & Betty Janzen are both the owners of this property? Ken: That's correct.

Proponent's Case: Tom Tankersley, Attorney, 701 N. Evans, McMinnville, OR 97128: Mr. Tankersley represents the Youngman Family Trust. Robert and Betty Janzen filed the application on behalf of the Trust which they are owners of, as well. Mrs. Janzen is Mrs. Youngman's daughter. There were Measure 37 claims at both the state and county levels that authorized this subdivision and he understands that some of the neighbors disagree with the policy behind Measure 37, but that decision has already been made by the voters. The family understands and agrees the subdivision must comply with health and safety rules. This includes the Forest Dwelling setback standards mentioned in the report and they are working hard to meet health and safety requirements. The Planning Commission should have copies of the letters written between Tom's partner and the Road Dept. confirming that the access will work. There is a question on one lot and the applicant's understand that the plat can't be signed until that issue is resolved and all requirements have been met. **Questions:** David: In regard to the fire setback which addresses the concern about fire safety, will that require the cutting of trees on the water lots? Tom: I don't believe it will. Michael: I have a copy of the deed but I do not see Robert's name on it. Tom: Do you have the 1985 deed? Ken: The 1985 deed shows the transfer in February 1985.

Questions of Proponent's: Audience: In reviewing the files of the Planning Commission, I disagree. The information from the state shows the Janzens were approved after the land use planing laws. I would like clarification on that. Tom: There was a question from DLCD early response that they were confused by the application on behalf of the Youngman Trust. Audience: Mrs Youngman deeded part of the property in 1975 to the Janzen's so they did not have ownership in 1962. Tom: Our intention on the application was made by the Youngman trust which is one of the owners. Audience: What is the Youngman trust? Is it something that came up after Measure 37 had been approved? Audience: The Youngman Trust has been in existence for quite awhile. Audience: Then it should be identified in the Planning Commission files. Mike Brandt: The validity of the Measure 37 claim is not being looked at tonight.

Opponent's Case: Jan DeRosset, 15100 NW Tupper Rd., Yamhill, OR 97148: I neither support or oppose the application because I don't have the legal knowledge, but I am a neighbor on this road and it has impacted our lives. The road has been a big impact and is not maintained to meet the traffic on this road now. The dust is incredible. Their traffic has doubled and they drive fast. As a homeowner, I live right on the road. There are children and school buses. What about the citizens that already live there? We are already impacted on this development. I would like to see a speed zone of 25 mph. Who will maintain the road? **Questions:** Marjorie: How long have you lived there? Jan: 7 years. Bernie: How far away? Jan: 20 - 25 feet. The traffic is out of control. Gravel is being thrown on my property. Robert: Are they residents who are causing this problems? Jan: No, vehicles and people I haven't seen before. Ken: We have no authority to place a speed limit on this road. Robert: There is work being done on this property? Ken: Site evaluations have been done. David: Due to the measure 37 claim, a traffic study doesn't have to be done? Ken: The driveway needs to meet the Public Works requirements. Mike: This was referred to the Public Works Dept. and they have a matrix for all the capacities for the public roads. They did not come back and say this needs a traffic study. They use the basic traffic counts. Mr. Gille did not come back with that, although he has the ability to do so. David: Has this calculation been updated? Ken: As far as road Infrastructure an Ordinance has been recently passed.

Kathleen Yielding, P.O. Box 549, Yamhill, OR 97148: Kathleen passed pictures to Ken for the commission to look at which shows the road as of today. The photos are of Tupper Rd. and she explained where each picture was taken and the footage and direction in relation to the property, road measurements, steepness, where children dirt bike, lack of clearance, and where traffic comes out in the middle of the road. These are just samples of the problems with the road. In 1962 I don't believe anyone would have put 8 homes there. As far as the Fire Dept. goes, we were the last piece of property covered up that road when we moved there 22 years ago. We had them out to our place for a brush fire 10 years ago and they could barely get their tanker truck in our driveway due to the steepness. The Fire Chief didn't have time to come out this week to our area, but will next week. Water and sanitation are great concerns. We are already ourselves on our second well and worry about more using the water tables. We have all experienced limited water during the summer and some have lost all water. 22 years ago we had 6 gallons a minute, 3 years later we had 3 gallons a minute, and then for 5 - 10 years we had 1 gallon and ran out in the summer. We had a 300 foot well drilled 3 - 4 years ago and spent \$10,000 which we can't do again. Our property is rocky and their property must be the same. On the list of recommendations in the Staff Report, #4 refers to setbacks for drainage. I can see from our back porch 2 separate test holes. If this subdivision is to go forward, we would like to see an 8 foot deep walk and tile filled ditch to run along the side of the property line and at least 800 feet from the road. That would at least get it past our living space. There should be property line surveys before this project goes any further. The bulldozer driver has taken down the fence in several places and has knocked down an apple tree on someone else's property, as well as pushing over trees that have fallen on the fence. **Questions:** Michael: On the well you drilled, was it 300 feet? Kathleen: We were 300 feet on the first well and the second was 280 feet in a different location. Michael: How much water is it producing? Kathleen: 8-10 gallons per minute 4 years ago but I will tell you that the sulfur smell was coming back in the water again this past summer. The water is still going down. Marjorie: How long have you lived there? Kathleen: Since 1984, 22 years. Bernie: In regards to the road, which side of the property do you live on? On the East side before you get to the property on Tupper Rd. Bernie: Do you have a Road Maintenance Agreement for the property owner or is it left up to the county? Kathleen: I think the county has farmed the work out now. I used to clean out the ditch myself but I can't anymore. Bernie: Ken, the dedication of this road hasn't been accepted by the county has it? Ken: I believe Tupper Rd. is a county road.

Linda Taylor, 14620 NW Tupper Rd., Yamhill. OR 97148: We live in the first house on the left going up Tupper Rd. and there is a lot of traffic. I agree with both of these ladies. We've lived there since 1973. Our water well has gone down also. If there are more houses above us we're concerned we'll have no water. **Questions:** None.

Kathleen Yielding also mentioned that somewhere on those acres is a family burial plot and an Indian Burial Ground. That is something that the Bureau of Indian Affairs may want to look into.

Michael Freeman, 16100 NW Tupper Rd., Yamhill, OR 97148: I've only been there the last 5 years. My wife has owned it much longer. I have seen the water table drop down and I am aware that there is an Indian Burial Ground back there somewhere. The road is too narrow for much more traffic and the water is low. **Questions:** None.

Linda Freeman, 16100 NW Tupper Rd., Yamhill, OR 97148: I used to have a spring for water which dried up due to a house that was built above me and I had to put in 2 wells. The road is supposed to be county maintained. I have concerns also about the traffic. I will need a fence. We have a vineyard up there and have had to use the tractor to get up the road in the snow. It's not that much higher where the driveway

is being put in. **Questions:** None.

Joe Brown, 15000 NW Tupper Rd., Yamhill. OR 97148: I'm located across the road and down one property. The parcels were split up into 12 units because that's all the septic sites they could find at that time. Now they want to add 12 more. Will the additional 12 units seep into the Yamhill River? What happens to the fish and the wildlife if that happens? Why haven't they built on it prior to this? Is this the final hearing, or do we still have a recourse? Ken to Robert: This is a decision you will be making. If someone requests the record be left open, then it would go to the next PC meeting. If a decision is made tonight, there will be a 15 day appeal period to the BOC. **Questions:** Robert: How long have you lived there? Joe: 8 years. We wanted to be in the country and not in a subdivision.

Ilsa Perse, 5765 Mineral Springs Rd., Carlton, OR 97111: I don't live on Tupper Rd. but I've come because I attended many BOC hearings where we were told by the commissioners that the day would come to raise infrastructure or traffic questions which was pushed aside at the Measure 37 hearings. We were told it would be brought forward. This is the time when very valid concerns are being brought to your attention that was not allowed to be looked out when original Measure 37 claims were applied for. That brings us to what happens now that Measure 37 is going forward and there are tremendously important infrastructure issues that don't seem to have a place to go. Commissioner Polite raised very interesting questions about traffic. Who is in charge of traffic? I don't seem to see anyone willing to take responsibility for the safety and maintenance of the road. I'm not hearing anyone willing to take on the issues that we were told would be dealt with in the future. When no one has any water left, then it will become an issue. It doesn't sound as if Tupper Rd. has a neighboring water district that will be terribly useful to them. When will this finally get worked through? Waiting for the water to run out is foolish. The concern of the rights of the people who don't want to make the Measure 37 claims or are not entitled to a Measure 37 claim but whose lives will be impacted with subdivisions such as this. This seems to me a very serious problem. These people have been very eloquent dealing with all of this. What will the Measure 37 claims do to the quality of life of these people? **Questions:** Michael: How many times have you been before the BOC? Ilsa: Numerous occasions. 7 - 8 and I've heard neighbors talking about many issues, especially water and the commissioners have said there will be a time in the future when these issues will be raised. We were always told they are simply granting the Measure 37 waiver now because legally these folks are entitled to it. That does not mean that what they are applying for will happen because all the issues have to be taken into consideration. Michael: I believe that Yamhill County has had a fraction of what Washington County has had on Measure 37 claims. Is that correct? Ilsa: It has been my impression that Yamhill County is pretty high up there. Mike: The last I checked we're 3rd in the state. Clackamas County has had in excess of 500 and Washington County in excess of 400. Michael: This is a 2 year old law, which you understand. What kind of a time period in your mind do you think it takes to establish all the problems that Measure 37 will bring about and iron these out, catalog them, and address them? Ilsa: Some of it sounds like it could be researched and dealt with in settings such as this, if you can look at surrounding properties and see that everyone has had to drill 2 wells, it sounds like ground water may be a problem. Perhaps that means 12 new houses will be a bigger problem and some kinds of adjustments need to be made to the size of the claims. I have no idea about a time line because they will all be different, but there will be many that come along where water will really be the big issue. A lot will have to do with gravel roads and fire trucks may have problems on these roads. These are things that Yamhill County might want to grapple with sooner than later.

Quinten Kunzmann, 14290 NW Pike Rd., Yamhill, OR 97148: Looking out my front door I look up Tupper Rd. My well is far less shallow and I can run it dry. I gave up watering the gardens to have

domestic water in the house. There will be environmental impact with 12 septic fields on 50 acres of rocky soil. Has a study been done? Will there be paved roads going in there? Mike: There is a proposed road. Quinten: Where is all the water from the housing, roads and yards going to be drained to? Will there be drainage to the Yamhill River? Ken: There will be a drainage plan. Quinten: So there will be a high concentration of sewage going into drain fields with rocky soil? In the short time I've been out there, I have seen the Yamhill River on a downhill slide as far as the quality goes. **Questions:** Marjorie: How long have you lived there? Quinten: 7 -8 years. David: What quality issues have you noticed in the water? Quinton: The temperature of the water. I used to be able to catch fish just about any time and now I think I've caught 3 fish this year. There are crustaceans that I haven't been in prior years. I have family that lives there too, so I have been familiar with the area beyond the time I've lived there. The water level itself is low.

Merylin Reeves, Friends of Yamhill County, PO Box 1083, McMinnville, OR 97128: These are 2 rural subdivisions and we are in unchartered territory tonight. The applicant was given the chance to apply for a preliminary subdivision plat. All of the information that you have to follow comes under the Land Division Ordinance that was put into effect in 1992. Under the Oregon Statutes pertaining to subdivisions, which is chapter 92, I would like to point out that all these requirements need to be met by the applicant. The language is that you have to make certain that activities for the protection of public health and public safety be met. My information that I have for you is in 2 parts. The first part is what I put together looking at the Staff Report. I was sorely disappointed in its narrow view. Has anyone really looked at this in any depth? The only way to get the information out would be to have another hearing, but I believe you have enough information to turn this down tonight. Public hearings are necessary to inform people on the laws. Tupper Road. is a dedicated public road. You have the right as part of that approval that the county needs to maintain this road before the subdivision. If there is no money to maintain the road then the subdivision shouldn't be approved. Water: allowing scattered wells is not good long-range planning. Under no circumstances should any preliminary plats be approved. On the issues of septic tanks, Merilyn read the Staff Recommendation #12. These rural lands have received Farm & Forest Deferral over all these years, but now they're saying we want development rights on this land, which is a whole new zone. The deferrals go out the window. The State Attorney General ruled that waivers of land use requirements cannot be transferred because if you do you have a new date of ownership. It has not yet been litigated in Yamhill County. Also, the county has indicated that on any plat or any info that goes out, the county has required a statement that the county makes no warranties relating to the proposed lots in this subdivision. This docket contains so many issues for legal review. I believe there will be more litigation. Please justify what you want to see if you approve a preliminary plat. The second part of the information presented is a legal analysis. Merilyn asked the Goal One Coalition, a non-profit organization that provides assistance and support to Oregonians in matters that affect their communities, to look at this claim and to look at the Staff Report and the information provided, and would you provide me with information that I could give to our Planning Commission. The information you have here provides a legal basis for how you can deny this preliminary plat. The last page of that section of Goal One, the State Dept. said in a memo dated 8/21/06 concerning this docket, that the County said they would use Maude Youngman's in 1962, but the state says that's incorrect. The last page, the Dept. says accordingly the application for subdivision may not go forward as proposed. Instead, this application must go forth after being referenced by the goals, statutes, and rules that apply to Betty & Robert Janzen. It is the interpretation that this preliminary plat should not be approved and they documented it. This is again part of the confusion. The state says one thing, the county says another. Your staff has recommended an approval and I am urging you not to, unless you can fully justify it. I want the record to stay open. **Questions:** David: You know the Water Resources will be responsible for determining the impact of wells for this project? Are you asking us to

venture into that area? Marilyn: Yes, in two ways. First that this county won't approve any preliminary plats unless water is provided and the second to say in addition, subdivisions, whether they are 12 or 16, etc., must be provided with a community water supply. That doesn't tread into regulations of the Water Resources. You have the right to do that. The flood overlay zone isn't even part of the recommendations. David: This Measure 37 claim was approved, and so we're being told we can't base any decisions on that? You pointed out in your letter from DLCD that they are contesting the claim based on the transfers in ownership. I'm being told by staff that is not an issue here. Ken: We sent out a notice to Dept. of Land Conservation and Development and we usually list the applicant on the initial notice, we don't list all the owners, but we listed Robert & Betty Janzen on the notice as the "applicants" since they are listed on the application as applicants. The state got a copy of the notice and said they don't have a land use waiver back to 1962, which we agree with. It says, as noted above, the application has been submitted and the names of both Robert & Betty Janzen and reports to allow development under land use rules that dates back to May 1, 1962. The key phrase here is that ". . . the application has been submitted in the names of both Robert and Betty Janzen. . . However, because Maude Youngman is not a party to the instant application. . ." , is incorrect. Maude Youngman is a party to the application. If you look at the subdivision application, she signed the application. She is a party to it. On the first page of the application it lists the Youngman Family Trust as the legal owner of the property, which was not included in the initial notice. When we received a letter from the Dept. of Land Conservation we clarified it and the second notice listed both the applicant and the owner. Mike: I'd like to add on more thing. When I received the letter from the Dept. of Land Conservation and Development, I did bring this up with County Counsel, John Gray. John looked at the application and saw that Maude Youngman had signed the application and felt that she was a party to it and the DLCD's letter was irrelevant. Marilyn: What does the board order say? Mike read the information. Marilyn: In my opinion, this does not change the position that I'm telling you that you have to make certain that when you put requirements and conditions for approval of a preliminary plat, that you are looking at the future of the county and not just taking care of one applicant. Marjorie Ehry: Concerning Farm & Forestry Deferral; when the Janzen's or any other party does change the zoning to rural, those deferrals end? Mike: The zoning doesn't change. Marjorie: The use. Mike: Yes, the use. When people come in to apply for subdivisions, one of the first things we tell them there could be potential tax consequences and send them over to the County Assessor. The County Assessor along with several other County Assessors and several Planning Directors throughout the state, felt that if somebody is applying to subdivide lands that have been on either farm or forest deferral, that they should have to pay the back taxes and maybe re-qualify for farm or forest deferral. There has been a court case in Marion County that has ruled that we can't do that, so right now if somebody subdivides the property, they do not have to pay back taxes and they may still continue to be on farm or forest deferral. Now, there is proposed legislation to address that, but now it's the law Marjorie: What if it changes ownership? Mike: If it changes ownership it's just like any farm or forest zone now. It's the same thing. You have to qualify. Marjorie: If it changes use don't you have the new owner make up the back taxes? Mike: No. Marjorie: That's the way it was supposed to have been. Mike: Yes, you won't get an argument from me. Marilyn: Mr. Chairman, I believe that each of the county court cases that are going through only pertain to those counties. Mike: She is absolutely right, that this was a court case that had to do with the Dept. of Revenue and we've been ordered to not remove these properties from deferral.

Henry M. Reeves, 22250 Boulder Creek, Amity, OR 97101: Mr. Reeves wrote comments but had no oral comment.

Chair Smiley called a 10 minute break.
Meeting restarted at 8:55 p.m.

Questions of Opponent's: None.

Public Agency Report: Ken Friday stated a letter was received from the Soil & Water Conservation District; Public Works responded to the applicant, and lastly, Jason Abraham, County Sanitarian, stated that he is able to approve the proposed plat at this time. Lots 1 -8 and 11 are approved for a standard septic systems; lots 9 & 10 are approved for a sand filter, and more holes may be dug for further evaluation, and lot 12 has an unused septic system on the lot.

Rebuttal: Tom Tankersley: The staff explained that Mrs. Youngman is party to the application. Friends of Yamhill County wants you to change the rules. A subdivision is a use of the property and it's illegal to use our property for 12 lots unless you go through the subdivision process. They talk about the 80 acre zone and that still applies and you can't subdivide this. If you read it carefully, the argument is circular and we are allowed to divide into 12 lots under Measure 37. This requires that health & safety measures be met, and they will be met. We're not trying to get out of health and safety, we want to follow the ordinance and they want you to rewrite the ordinance now. I don't believe you have the power to do that. The ordinance requires us to have water or tell people we don't have water. The State Law gives every property owner the right to drill a well for domestic water use, unless you are in a groundwater limited area. The Staff Report is clear that there is no indication that this is not that kind of area. Just like their neighbors, the Youngman's have the right to drill wells. The State Law is clear. Friends of Yamhill County would have you say tonight, well lets force everyone onto a community water system. I would submit that you don't have the authority to do that and it's a bad idea. There are all kinds of requirements for a community water system and expenses. They are also asking you to require the county to upgrade the roads, but the report from the County Road Dept. tells you that there will be safe sight distances. The county, as I recall, had a systems development charge that would have required us to contribute to the general county road system by doing this, but the Commissioners voted not to do that. We have to follow the law. There is a subdivision law in place that deal with these issues. The Staff Report says that we meet all those rules. There are septic approvals now and we cannot sell lots without an approved plat. If you read the county ordinance, we've made an application and the county has imposed conditions. The Road Dept., the Surveyor, etc. have to be satisfied that we've met the rules. The Indian Burial Ground: When the applicants found out about that, they investigated it and the tribe stated they have no record of that. On the width of the road, the county is going to allow us to cut back berries for better sight distances. There have only been septic holes dug thus far. No other work has been done on the property. The road condition is a problem before we decided to do this. If you have enough people out there it makes sense to spend the tax dollars to fix the road. The county may take it more into consideration with more people out there. Please read the Staff Report carefully. **Questions:** Robert: Fire equipment to access the areas. That is an issue. What will your client do about that? Tom: How could someone get a building permit without the Fire Dept. signing off? We have not heard from the Public Works that the road could not handle fire equipment. Michael: Did you initiate contact with the Rural Fire Dept. or are you waiting on them to contact you? Tom: They get a notice of the application. Mr. Janzen stated that he initiated a number of contacts with the Yamhill Fire Dept. and they offered to bring one of the rigs up there to test the roads. Michael: Did he do that? Mr. Janzen: As soon as the roads are rocked up they will come up and test. Michael: Are you talking about Tupper Rd. or the roads within the subdivision? Mr. Janzen: The road off of Tupper Rd. Tom: Did he indicate that he had any concerns about Tupper Rd. being inadequate? Mr. Janzen: No sir, he did not. David: The project will take on the obligation of clearing the brush for visibility purposes. You will continue to do that? Tom: Our anticipation is to upgrade the county right away. Frankly, it should be maintained as every neighborhood road safety is done by a combination of calling the road dept. and yourself. David: I can think of arguments why environmental impact on a zone

along the area does impact health. So I would like to hear from you arguments why it doesn't. Tom: Clearly, it could. For instance, if you don't have the protections and a system where there was inflowing into the river, that would impact health and safety because people bathe and fish in the water, but we have dealt with that since the Sanitarian won't approve drain fields and septic tanks that will allow affluent flow into the river. That is one of the criteria that it's safely disposed of. I think that the county also has the limitation on what can be built and done in the flood plain area. There are federal rules that apply that the county can't waive under the Clean Water Act. David: Are there any development sites currently then where a proposed home would go that is in the flood plain? Tom: I understand where you're coming from. I was here several years ago when somebody wanted to do a subdivision that involved building into the flood plain and in the county and it wasn't allowed, which I agree with, but we won't do that.

Betty Janzen, 20555 SE Webfoot Rd., Dayton, OR 97114: Betty contacted the specialist down at the Grand Ronde Indian Reservation about the possibility of an Indian grave site there and he said that he would research it. He called back later and said they have no record of anything. Her father was a precise person and of Indian blood himself and he would have known about it. Marjorie: How long has your family owned the property? Betty: My mother and father purchased it in 1962. Michael: On Tupper Rd. there are areas where 2 cars cannot pass? Betty: I don't think that a person doing cautious driving would have any problem. That is a 60 foot right-away and my father had to research the property and he gave an extra 10 feet to the old railroad grade there to settle with the county so the title would be cleared.

Chair Smiley announced that since there was a request to hold the record open he would close the public hearing and asked Ken Friday for the correct dates.

Ken Friday: All written testimony and evidence shall be submitted to the Planning Department at 525 NE 4th St. The record is to be left open until 5 p.m., October 12, 2006 for the receipt of testimony from all parties.

The record is then to be left open until 5 p.m. October 19, 2006 for rebuttal to what was submitted during the first open record period.

Finally, the record is to then be left open until 5 p.m. October 26, 2006 for final rebuttal to be submitted by the applicant - at which point the record will be closed.

The Planning Commission will then reopen the application at 7 p.m. on November 2, 2006 at the point of Staff Recommendation.

MOTION: Michael Sherwood "So Moved". Seconded by David Polite. Approved 5 - 0.

DOCKET NO.: S-13-06

REQUEST: For a 12-lot subdivision on an 31.03 acre property. The proposed lot sizes are approximately 2.1 to 3.2 acres each. This application is being made subsequent to the approval of a Measure 37 claim which allows the applicant to apply for development under the land use regulations in effect on February 20, 1965. The details of the Measure 37 approval are found in Board Order 06-153 and State Claim M122329.

APPLICANT: Kroo Family Living Trust

TAX LOT: 2231-3900 and 4100
LOCATION: 18108 NE Bald Peak Road, Newberg, Oregon
ZONE: AF-20 Agriculture/Forestry Use
CRITERIA: Board Order 06-153 and the *Yamhill County Land Division Ordinance*

Chair Smiley opened the public hearing.

Abstentions, Objections of Jurisdiction, Ex Parte Contact: Matt Dunckel abstained.

Chair Smiley asked if anyone had not been present for the original reading of the “**raise it or waive it**” statement. Rick Sanai was asked to read the statement again.

Marjorie Ehry: I have a problem with the way the raise it or waive it statement is read. I think it’s rude that people cannot understand it. (Audience applause) They can’t understand what is being read. If it can’t be read loud enough I believe that he needs to stand up and read toward the audience and if that doesn’t work then someone else needs to read it. Rick: If you would like Commissioner, I can tape record it and we can play the tape before every docket. Marjorie: I’m not trying to be rude, but I know that so many people come to these meeting and they can’t understand it to begin with and then they are totally baffled by what’s going on. Robert: Is it proper under the rule that has required us to read that to provide written copies in replacement of having it read? Rick: You can do that as well. Ken: I don’t think you can replace it being read. Rick: No, it would be in addition to having it read. Marjorie: I just think people need to be able to understand it when it’s read and I don’t know if they would want to read the copy of it anymore than you want to read it. I just believe, in all fairness, that people need to be able to hear it. Rick: I will be happy to provide a recording. Robert: We will rectify that at the next hearing.

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

Proponent’s Case: Brent A. Veach, 2501 Portland Rd., Newberg OR 97132: Mr. & Mrs. Kroo are out of town and he is here representing the applicants. Brent waived the right to make a statement now and will speak at rebuttal.

John Kroo, P.O. Box 969, Newberg, OR 97132: John stated that he is available tonight to answer any questions.

Questions of Proponent’s: Beverly Davis stated that Mr. & Mrs. Kroo are not out of town but appear at home this evening.

Opponent’s Case:

Daniel Danicic, PO Box 970, Newberg, OR 97132: Daniel works for the Public Works City of Newberg. The city neither supports or opposes the development. We’re just interested in helping to insure a reasonable and responsible development. Adjacent to our spring, we have a number of springs on the Chehalem hillside. One of them being Skeleton Springs which is very close to this proposed development. Just for some background on that spring, it’s been in use since 1919; part of the city wide water source. Springs are very fragile and a delicate source of water, unlike a well you can’t drill it deeper you just get what comes naturally from the ground. Our interest is to protect that and the future residents of this subdivision. We request that you support and adopt the Planning Commission’s condition #8 which states to have a hydro geological report prepared and submitted for review and approval prior to the final plat

approval of the subdivision. The city would appreciate the opportunity to see and review that report in hopes that any proposed water system up there would not adversely affect our skeleton spring. **Questions:** Michael: I noticed on page 8 it refers to Parrot Mtn. Groundwater limited area. Is that correct for Chehalem Mountain. Dan: Yes. That is the designation of an area that begins at Parrot Mtn. And goes north and west along Chehalem Mountain.

Karol Susan Welch, 18201 NE Bald Peak Rd., Newberg, OR 97132: Karol requested that the record of this hearing remain open since they are anticipating receiving additional information pertinent to this application from the Dept. of Environmental Quality within the coming week. The proposed development of this subdivision has raised questions among the immediate neighbors and residents of the area regarding several health and safety issues. The primary issue is traffic safety. Bald Peak Rd. is classified as a rural road and feeds directly into Highway 219. Presently this is an extremely busy intersection. Traffic moves extremely fast both on Bald Peak Rd. and on Hwy 219. 1997 was when the last traffic report was done and traffic has increased substantially within the last 9 years. We request a current traffic study be conducted. The issue of street design has raised concern among the residents. Section 6.010 of the Yamhill County Land Ordinance raises the following issues of road requirements: Item 7-B states all streets designed for public dedication shall have a right of way of not less than 60 feet. Yet, the preliminary subdivision plat that has been submitted, shows a 50 foot wide strip to be dedicated to the public along the existing road. My question is, is 50 feet allowable and if so, why? Secondly, item 7F of section 6.010 allows street grades of up to 15% if the street does not exceed 200 feet in length and the overall maximum sustained grade shall not exceed 10%. We do know that the public road to be dedicated exceeds 200 feet in length but we do not know if the subdivision public road meets the grade requirements as there are no street grades shown on the preliminary plat as required by Section 5.010 item 1-O. Therefore, we cannot determine if it is in compliance or not nor can we determine if the grade of the public road is adequate to provide access to fire and emergency vehicles. Section 6.020 titled Access to Parcels & Home sites item 1 states each anticipated home site shall be capable of providing access to meet minimal requirements for access by fire protection equipment. Since fire safety is of paramount importance to all of the residence of the hillside, it is absolutely essential that this subdivision public road meet the required access and percentage grade standards needed to accommodate fire protection equipment. Otherwise, all of the surrounding property and environment up the hillside is imperiled by this subdivision. Concerning lots: In Section 6.030 Item 6 the issue of lot drainage is raised. This section reads lots shall be laid out to provide positive drainage away from all buildings. Individual lot drainage shall be coordinated with the general stream drainage pattern of the area. Drainage shall be designed to avoid unnecessary concentration of storm drainage water from each lot to other lots or parcels. Drainage systems shall be designed and constructed to the specifications that may be here after adopted by Board order and recorded in the Commissioners Journal. Since the submitted preliminary subdivision plat does not show the locations of the proposed housing structures, nor does it show contour lines to determine drainage and other topographical features, and it does not show existing and proposed drainage patterns showing the direction and volume of surface water flows as required by Section 5.010 Items 1 -L, 1-M, and 1-N we are unable to ascertain if drainage will present a safety hazard with possible damage to neighboring down slope properties. It is our fear that it will do so. We also believe that the proposed subdivision meets the definition of lands unsuitable for development due to steep slopes end of quote and possibly land mass instability as cited in Sections 6.070. This section further states that such lands shall not be developed for building purposes. We request that the percentage of slope of each lot be indicated on the final subdivision plat to be submitted for approval and it should be included on the preliminary plat. The next thing is a verbal addendum which is not included in my typed statement. I assume you will be able to get this from the recorder. We understand that this hearing pertains to the approval of this preliminary subdivision plat,

but we cannot understand how it can be approved in its present state since it fails to meet the requirements of the Land Division Ordinance which has just been cited. Therefore, we request that the Director attach as a condition to the preliminary plat approval, that these specifications and requirements as set forth in the Land Division Ordinance be shown on the preliminary subdivision plats required. It is important to note these items of non compliance because Section 4.080 title, Effect of Approval states that approval by the county of a preliminary plat shall be binding upon the owner and the county for the purpose of preparation of the final plat and the county may only require changes in the final plat that are necessary for compliance with the terms of its approval of the preliminary plat. We want to be certain that everything required by the Land Use Division Ordinance be shown on the preliminary plat as well as the final plat. We do not want anything excluded from the final plat because it failed to be illustrated or described adequately on the preliminary plat. In light of this concern, we request a public hearing or a public meeting be held at the time the final subdivision plat comes before this board for approval. In conclusion, I want to address a matter which is not considered a health or safety issue, but is a primary concern to myself and the other residents of Bald Peak. Given the applicant's past history of non-compliance with governmental agencies and ordinances, his manner of circumventing permits, inspections and other construction requirements, and a legal record of land disputes involving land owners from McMinnville to Bald Peak, we have little faith in his intent to institute high quality construction practices. Nor do we take it in good faith that he will submit to or comply with the rules, ordinances and requirements of Yamhill County or the State of Oregon. I have a well read copy of a Yamhill County Land Division Ordinance and I have in hand a copy of the Staff Report by the Yamhill County Planning Dept. Having studied these documents as carefully as the time allotted has allowed, I know what the developer is supposed to do. I know the requirements required of him and I know the studies and reports and information that he has been asked to submit. I know from whom he has to have permits and approvals. What I do not know is how my neighbors and I will be assured that he has in fact complied with , instituted and submitted each and everyone of these land use ordinances, additional requests for studies and information and requests for permits and application approvals. I ask you what is the process whereby my neighbors and I can have access to and obtain regular information regarding the progress of this proposed development. Advise us as to what steps we must take to ascertain that the laws and ordinance that are written for all are in fact followed by all and not circumvented by a select few. **Questions:** Michael: Could you cite that final preliminary plat information? Ken: It's 5.010 of the County Land Use Ordinance.

Beverly Davis, 18300 NE Bald Peak Rd., Newberg, OR 97132: My main concern is water and we want a water study done. We, as users of the spring, would like to be notified of the results and testing to be done. We would also like to have Yamhill County notified of this. I have been in contact with the Water Master and he has informed us that currently we are entitled to the first rights of this spring. If this water table should drop because of the usage from this development, we have the first water rights. We are requesting that the Kroo Family Trust Development abide by these rights. Option #4 on pg. 7 of the Staff Report concerning the water issue should not be a consideration. Fire safety is a major concern. We as neighbors all live in a timber area and request all rules and regulation governing our homes in timberland be implemented. We have already had at least 3 fires on this property. The Newberg Fire Dept. has had to respond to two of them. One was due to clearing of the land and the other fire was from a shop and apartment on this property that were allowed to burn to the ground due to lack of water to put out the fire resulting in a total loss. I was there myself when the pumpers could not pump water up the hill to this fire. There were laws in place before 1965 that addresses homes built in timber and forest land (ORE 215730 & OAR 665 Vision 6). Another major concern is the water reservoir he is planning. Will this be underground or a large tank? Will this be considered a public nuisance? Will it be required to fit in to surrounding landscapes? We would like this issue addressed as we are in wine country and everyday there

are tours going by. Now a comment on the drainage issue. I live down stream from what he's doing right now. I have contacted DEQ and have filed a complaint. They are in the process of coming out and checking the current site. I will forward that report to the county. Work has already been started on the project and they have ripped the side of this mountain apart. I have asked the county to come up and please look at this site. It's directly behind my daughter's, Michelle Michelsen house. Once the rains hit, we're are going to be devastated with running water coming right down our properties. Lastly, we as neighbors want all permits issued and followed through as the applicant has been known not to obtain the proper permits before beginning work on this property. **Questions:** None.

Michelle Michelsen, 18304 NE Bald Peak Rd., Newberg, OR 97132: I'm speaking to the board on behalf of my business. I own and operate a horse rehabilitation center located adjacent to said proposal of the subdivision being implemented by the Kroo Family Trust. I have been in business for 10 years and I specialize in the care of critically injured horses. It is imperative that these horses have a place that is quiet and serene for their recuperation, as is advertised in my brochure. Horses are a flight or fight animal when they become scared. Noise is a big factor on how they will be able to handle the recuperation period. These horses are allowed outside in a safe pasture when they are able to leave their stalls. These pastures are adjacent to the said development. I have direct concerns on the safety and well being of these horses in my care. There have been cases tried in the State of Oregon regarding people living adjacent to livestock that have been bitten, kicked, or hurt in other ways by livestock. This business is my livelihood. I am requesting that a solid barrier fence be placed directly next to the horse fencing already in place to insure the safety of both the horses and any persons on the side of the fence. Currently, there are Christmas trees and timber next door. These horses run in value from several thousands of dollars to half a million dollars. It is imperative that these horses are kept safe. I am also requesting that each occupant of the said development sign a waiver to relinquish all liability towards my business and my family. As with any livestock operation, there is an issue with manure disposal. Many people want to live in the country without the side effects of the country. I am requesting that in the waiver it also has a clause regarding that with livestock, there is side effects. Manure, flies, smells, animal noises, and other things that could potentially create issues for the new tenants next door. The other main concern I have is with soil erosion and the safety of the hillside behind my house. Excavation has already begun on the installation of the public road for the claimants development. My concern is that all permits be obtained and inspected by qualified inspectors prior to and after work is completed. I'm also requesting that a land grade analysis be done to ensure the safety of our home. With the steep grade directly behind our house, digging out and the removal of rock and soil can only leave instability on the hillside. This also leads to drainage and run-off issues that are also being addressed at this meeting. I need to know the setback distance between our property and the public road for this development, as it is directly adjacent to our property. Water usage is a major concern, which is intended to be used for this development, thus further lowering the water tables on this hillside, which is also being discussed at this meeting. **Questions:** Michael: Could you show me where your property is on the map? Michelle did so, explaining the run-off issue. Michael: Did you say they are already grading the property? Michelle: The road is in. Michael: You're below them? Michelle: Yes. Michelle also showed the area where the horses are in the pasture.

Linda Brackett, 24942 NE Mountain Top Rd., Newberg, OR 97132: Abstained from speaking but is opposed to the application.

Robert Migliori, 24745 NE Mountain Top Rd., Newberg, OR 97132: Robert put up a map for the commissioners to view. There is no doubt under Measure 37 that the applicant can develop this property. However, the proposed development is not exempt from standards regulating water, sewage disposal,

storm water, road development, grading, vehicular access and other regulations which any development is required to meet. The applicant must show compelling evidence that the development can satisfy the standards. The burden of providing this evidence is lacking in this application and for that reason, should be returned to the applicant incomplete. I would like to address two areas where the applicant will have great difficulty in meeting: Road development and septic systems. Robert referred to the map pointing out the slopes which he described in detail. This is very steep land. When you look at the cross sections of this property you see the particular characteristics which make development much more problematic. The road standards state the maximum sustained slope for public roads is 10%, the maximum intermittent slope is 15% for 200 feet, minimum sight distance is 300 feet in either direction. If you look at that, clearly there's no slope less than 11%. Septic systems cannot be located within 50 feet of road cover, which further restricts where the septic systems can go. Some of the steeper slopes exceed 40%. I have a neighbor who lives at the top of Mountain Hill Rd., which he referred to on the map. He built his house 15 years ago and applied to put in a drain field which the county said no to, due to the rocky and shallow soils. That combination forced him to put the drain field at the lowest elevation on his property. Part of the application should identify these features because it's not a flat parcel. There are no water features mentioned on the application. We get very heavy rains that flow down this hillside. **Questions:** None.

Stan Gaibler, 14045 NE Tangen Rd., Newberg, OR 97132: Stan is the Vice President of the Forest Spring Water System. Water concerns not only effect the families of Chehalem Mtn. but also 50 families that lie as far down on the valley floor as Tangen Rd. and Hwy 240. We depend directly on the water from Skeleton Springs which is part of the city water system granted in 1924 when the city legally took over the water rights on the mountain. If the spring is contaminated all will be affected. **Questions:** None.

Harry Potts, 18505 NE Bald Peak Rd., Newberg, OR 97132: I live a little further up the road. I have neighbors on the north side that are trying to do the same thing. I have a spring on my property that I share with the city of Newberg and the drainage I get from my neighbor on the left is pretty substantial during the rainy season. It comes down the mountain underneath a big duct under my driveway which comes down the pasture and into the pond. I have trees around me and in putting in this development up there you take away all hopes of stopping the drainage that runs off. It will effect the homes and the county road. The intersections and the traffic will not help it any. What about all of us that have been up there? I've lived there since 1975. What about my rights? Why should I have to make all the sacrifices? It should be made to work for everybody. It's greed. Why not put 4 houses instead of 12? I live on 24 acres and putting 12 more homes in takes away all I moved up there for. If I wanted to live in the city, I would have moved there. **Questions:** None.

Frank Bakanau, 24942 NE Mountain Top Rd., Newberg, OR 97132: Frank stated that he opposed to the application.

Merilyn Reeves, Friends of Yamhill County, PO Box 1083, McMinnville, OR 97128: The first part of my testimony is the evaluation of the Staff Report. Clearly this application for a subdivision brings many questions to the floor. If this was in the city it would be totally different. This would set a pattern for minimum and inadequate standards. I appreciate that Karol went through the Land Division Ordinance but there is one Karol didn't mention: Additional information deemed necessary for the evaluation of the application. Regarding Measure 37's language on activities about public health and safety, this subdivision in and of itself is not a use but a mapping exercise. They are the processes put in place to protect public health, safety, future buyers, fraud and misrepresentation which has been a big problem in many states. We are not giving enough credit to these requirements. The owner should be told there are many things they

need to do. The County has a responsibility. One section talks about the notice of the Land Development & Review Committee. I doubt they have ever been put in operation. Ken: It has been. Marilyn: How many years ago and when? Ken: I don't remember but we moved to the referral process instead. Marilyn: We have never had rural subdivisions and we need to use caution. It will require numerous litigation and legislation. You have the right to be more stringent in your requirements. I would urge to keep the record open. **Questions:** None.

Henry M. Reeves, 22250 Boulder Creek Lane, Amity, OR 97101: No oral comment but he does oppose the application.

Questions of Opponent's: None.

Public Agency Report: Ken Friday stated that the County Public Works said the applicant needs to have road approval from an engineer; lots 1 & 2 will need access permits; the Newberg Fire District said the road width must be wide enough to the point to serve all residences; City of Newberg also submitted a request for Skeleton Springs and potential water interference.

Robert Migliori asked if he could ask a question. Mike Brandt said that was fine. Robert: This application shows a few private easements going to these lots and I'm curious about that since Public Works with a subdivision of this size would have a road built to county standards to all the lots. Mike: I'm going to try to answer that in a couple of ways. Under today's criteria you can have roads that meet public road standards which are roads serving more than 3 parcels and then you can have roads that meet public driveway standards that serve less than 4 parcels. So they have the ability to do that and there are different standards that need to be met by the emergency service providers or by the county engineer. Having said that, when it comes to Measure 37, as I said at the first hearing, we're like Christopher Columbus on this. We don't know really how far we can tell somebody to go as far as the health and safety standards. It's possible for them to come in and say we feel that we meet the intent of a health and safety standard and by doing this it may be the obligation of the jurisdiction to approve the development.

Rebuttal: Brett A. Veatch: Let's start on various issues: The applicant is aware of the concerns on the parcel. In existence today, through the subdivision application process, are measures by which the public health and safety standards are taken care of. First of all, slope. There is a severe slope on some portions of this property. The depiction up on the wall gives you a picture of a narrow slice through the property but does not show the overall topography of it. There are places on this property where there are plateaus; areas that are quite less than 40% slope, even on the upper portions. Your zoning ordinance states that a dwelling cannot be built on a parcel or sited on more than 40% slope. There are areas of less than 40% slope where a dwelling could be sited. Furthermore, we have to show an engineering report to that effect and if there are areas that cannot present themselves to 40% slopes, then the applicant will realign the subdivision or reduce the number of parcels. With regard to the water, this property has an existing well on it and we are using that existing well as part of the community water district. The reason we're using it as part of the community water district is we feel the owner recognizes there could be shortages of water in this area. By using a community water district we can put controls on the usage of that water. We're able to offer financial incentives for conservation and financial detriments for somebody who uses over the quantity of water. There are CC&R's we can put into place, landscaping requirements that would require proposed builders and owners of the property to put in low consumption irrigation system around their house and well consumption landscaping around the house. It is actually a better stewardship of the water that's there to use a community water district then it would be to drill 12 holes in the ground. We have no

problem in doing the hydrological report to see what, if any impact, is on the springs. Fire suppression is also part of the water plan by having the reservoir on site we are able to provide the quality of water for the homes in the current development, but there will also be a fire hydrant down at the bottom of Bald Peak Rd. that can be accessed and utilized to fill up a pumper truck should any other property in the area have a problem with fire suppression. The drainage on the property: as part of the conditions of approval we are required to provide an engineered drainage plan for the property showing that no run-off adversely effects other properties or lots in the subdivision. Until we actually get up there and take some grades of the property and get an engineer on site, we aren't going to determine exactly what that entails

Traffic and roads: The county has recently passed an ordinance that says the public works director has the right to review any subdivisions for the potential impacts on roads. It's up to him to determine whether or not this subdivision has enough impacts on the surrounding roads to warrant a study of the road. He will also look at the roads in the subdivision to make sure that they're engineered to support adequate road for fire and emergency vehicles. Sanitation: Septic evaluations have already been approved on each one of those lots. Those systems need to be designed to meet the Sanitarian's approval and DEQ's approval. Farming Impacts: There are current setbacks and fire breaks that are currently available and required in this zone that will set us back from any of the surrounding neighbors. We're also looking at doing a set of CC&R rules that will be applied to the subdivision. Continue urbanization in this area is going to effect farm and forest. Tourist activities effect the surrounding areas.

Chair Smiley: Since future testimony will be delivered, you can continue this at the next hearing and we can stop the hearing here, leaving you further rebuttal at the next hearing.

Rick Sanai: What the Chairman is saying that since we have received a request to leave the record open you can submit additional evidence later on you can do it verbally today and then stop the verbal portion with the opportunity to respond in writing to anything that comes in, or you can preserve your right to make a verbal rebuttal, which you don't have to do, but it will preserve your right next month after you have seen any additional evidence. The applicant bears the burden of proof and the right to the last word.

Brett: Let me stop here then and just asked if there are any questions. **Questions:** David: Are roads being built currently and is that a permitted process? Brett: The applicant has spoken with the county and has gotten approval to extend the existing driveway that's on the property as far as lots 3 & 4. David: I assume that you are going to do the studies for drainage, etc. Have you given estimates at all to the budget required just to do this preparatory work? Brett: I don't know if we've established a budget for those items or not, but we are fully prepared to employ those experts to do those studies and prepare those reports for the county.

Chair Smiley: All written testimony and evidence shall be submitted to the Planning Department at 525 NE 4th St. The record is to be left open until 5 p.m., October 12, 2006 for the receipt of testimony from all parties.

The record is then to be left open until 5 p.m. October 19, 2006 for rebuttal to what was submitted during the first open record period.

Finally, the record is to then be left open until 5 p.m. October 26, 2006 for final rebuttal to be submitted by the applicant - at which point the record will be closed.

The Planning Commission will then reopen the application at 7 p.m. on November 2, 2006 at the

point of Staff Recommendation.

MOTION: Michael Sherwood “So Moved”. Seconded by Marjorie Ehry. Approved unanimously 5-0. (Chair Smiley did not ask for the secretary to read the roll.)

Adjourn: The meeting adjourned at 10:35 p.m.

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