

## YAMHILL COUNTY PLANNING COMMISSION

Thursday, August 2, 2007 · 7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 NE 5th St.  
McMinnville, Oregon 97128

**Roll Call:** Matt Dunckel, Bernie Diefenderfer, Marjorie Ehry, Michael Sherwood, Daryl Garrettson, Alan Halstead, John Abrams, Robert Smiley, David Polite (7:05 p.m.) **Staff:** Ken Friday, Michael Brandt.

**Minutes** from the Planning Commission Hearing of July, 19, 2007 will be reviewed at the September 6, 2007 Planning Commission Hearing.

### QUASI-JUDICIAL PUBLIC HEARING:

**DOCKET NO.:** C-19-07  
**REQUEST:** Conditional use approval to allow small agricultural and manufacturing business to be conducted inside an existing 3456 square foot shop building to be operated as a home occupation.  
**APPLICANT:** Craig K. Lapp  
**TAX LOT:** 4512-2400/3700  
**LOCATION:** 13770 NW Orchard View Road, McMinnville, Oregon 97128  
**ZONE:** VLDR-2.5, Very Low Density Residential  
**CRITERIA:** Sections 502.03(B), 1004.01 and 1202.02 of the Yamhill County Zoning Ordinance

Chair Smiley opened the public hearing.

**Abstentions, Objections to Jurisdiction, Ex Parte Contact:** Robert Smiley knows many in attendance. He has had no discussion with those individuals pertaining to this docket item. This will not effect his decision.

Ken Friday read the “**raise it or waive it**” into record.

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

**Proponent’s Case:** Mark Cottle, Land Use Consultant & Attorney, P.O. Box 1124, Sherwood, OR 97140: Mr. Cottle stated he received an extensive packet from Mr. Squires’ attorney and noted their comments are not applicable and don’t address the law. Utilizing the staff report it clearly shows the Lapp’s have satisfied all the criteria except for one or two. This is zoned for agricultural use; there is a neighbor who has 97 acres and conducts agricultural uses, a neighbor who has a dog kennel across the street, neighbors who have a dump truck yard on the property, and neighbors up the street who run back hoes on the property. The property allows for extensive agricultural use. Mr. Lapp was concerned with the noise issue and hired Precision Arts Corporation (PAC) to do a noise study which shows he’s well within the range of what’s allowed and Mr. Cottle handed out the noise study to the commissioners. The law clearly states what is reasonable and they comply with those requirements. The use can be made compatible with the area. Reasonable conditions can be placed on the applicant if the commission so chooses. The air conditioning unit located outside can be boxed in to keep the sound from traveling beyond the property line. Some neighbors suggest the statute only allows one home occupancy, since his client also runs a nursery, but that is a permitted use and doesn’t require a home occupancy permit.. One thing to consider is change is hard and his client understands neighbors are concerned with the property values, but that is not a condition. The only other condition Mr. Cottle stated as a concern is the staff’s recommendation of limiting to 3 employees. The code allows 5 employees and they have a right to that. **Questions:** Daryl Garrettson: Given the fact the occupant has operated this business for 2 years without appropriate approval, what would lead us, as a Planning Commission, to believe they will

comply with conditions we impose? Mark Cottle: Staff has to check that the conditions are met, which is true for any home occupancy. Stringent conditions need to be placed on this since the county can't operate on a trust system. Daryl: What happened to the caterpillar turbines? Mark: They only manufacture parts for them.

Craig Lapp, 13770 NW Orchard View Rd., McMinnville, OR 97128: With regard to the building permits, he hired a contractor and understood the permits were in process. The contractor went as far as rough framing and was waiting for inspection. When the property was purchased he didn't know he needed a permit to have employees or to run a home business. It wasn't until January that he received a letter stating he needed the conditional use permit. **Questions:** Daryl: What business has been operated since 2005 and where have you operated it? Craig: Precision Arts Corporation has operated in the same building. Daryl: When did you apply for the building permit? Craig: I would have to check the paperwork. Daryl: The application before us involves stone work. Craig: We're a contract small manufacturer and we look for specialty things such as parts for mosaic floors, parts from metals, surgery bone screws for back surgery, and some parts for solar turbines, but not for caterpillar engines. There is a certain amount of public right to understand what goes on in that building but I have a certain amount of privacy as to who I work for and what I do. I don't want to give up anymore information than I have to. Daryl: What type of metals do you work with? Craig: Primarily steel and stainless steels. Daryl: Any metals that would be a hazardous waste? Craig: No, we don't work with anything that's leaded, coppers or brass. Daryl: No chrome? Craig: All metals have a certain amount of chrome. Daryl: What do you do with your waste metal? Craig: We throw them away in the trash. Daryl: Does DEQ come out to review the manufacturing? Craig: Not here. Daryl: Why is it that you want to run this as a home occupation as opposed to locating to an industrial site? Craig: I've worked up to 40 employees before and I don't want the stress. My original intention was for this to be for me and my sons but as we grew busier, had friends who wanted p/t work and I hired them. Daryl: How much space does the machinery take up? Craig: 3500 sq. foot building and it takes up 80% of the building. David Polite: What have your gross sales been since 2005? Craig: We've grown 10% in total dollar value. David: You want to keep it small but aren't you pushing the envelope for home occupation? Craig: If the business grows we'll have to move into an industrial area. David: How would we set those targets? Mark: Your criteria allows for that since the business can't have more than 5 employees. David: Machinery can replace employees. Mark: The code allows conditions of employees, size and use of the building. Michael Sherwood: There are two home businesses in the immediate area? Mark: Yes. One fellow parks and utilizes his property for a dump truck business. Michael: You mean he parks his equipment there? Mark: Under Oregon Law once you leave your home and go out to your truck your operating a business because you're doing it for profit. Michael: Doing business on site and off site are two different things. Mark: I don't think so under your code. Daryl: That has never been the county's interpretation of the code. Mark: LUBA also interprets it the same way. Michael: How many UPS pickups do you have? Craig: UPS once a day. Michael: In your written statement you don't mention semi trucks. Craig: I'm pretty sure I did. On an average there are 2 a month. We have a circular driveway. Alan Halstead: You have 12 major machines? Craig: Yes. Alan: If you were limited to no more than 12 major machines would that be a hindrance to you? Craig: It would be hard for the county and commission to enforce that. Limiting the machines won't help limit the growth of the business. David: Do you utilize independent contractors? Craig: We do. David: Is that included in the employee group? Craig: No, we don't use them on site.

**Questions of Proponent's:** Catherine A. Wright: You mentioned two deliveries this month, as in August? Craig: In July.

**Opponent's Case:** Catherine A. Wright, Attorney, P.O. Box 625, McMinnville, OR 97128: Ms. Wright is representing Bob Squires who is the immediate neighbor. The zoning ordinance requires that this be consistent with Comprehensive Plan. On pages 2 and 3 it clearly deals with home occupations relating to agriculture and forestry businesses and limits on size, scale, location, etc. The metal and stone manufacturing is not in any way related to forestry and agriculture which is common in this area. This is an industrial use. There are adverse impacts in terms of traffic, noise, and visibility. The zoning ordinance requires a suitable location and this is very close to the road and the Squires property, with a sharp corner. Catherine showed

pictures, Exhibit 6, attached to the letter showing the blind corner and the driveway in relation to the corner, which is not suitable to that level of traffic. Further, the septic system was designed for a single family residence. Exhibit 8 shows it's clear this is a permit for a single family dwelling and does say it's to put a bathroom in a shop building. It does not discuss in any detail or mention the possibility of employees. It sound like there are 3 - 5 employees now and is that septic system adequate. There are zoning ordinance provisions that require the development be compatible with the surrounding neighborhood with no adverse impacts. This is a daily operation with constant operations and there are concerns about it being conducted late at night. Additional pictures were passed out to the Commissioners by Catherine, showing significant lights on late at night, with a large number of vehicles parked on the property. The applicant has seen the staff report issued in May and has been aware of these provisions, but doesn't look like he's complied with them to this point. Traffic is a problem given the trucks and the sharp corner, which Catherine pointed out in the photos. Anyone coming around that corner could find a semi-truck in the middle of the road. Vehicles are very visible, as are the operations. There is not a significant level of constant noise, but the forklift being used was using a back up alarm, which no longer happens, although Catherine believes it's a requirement to have that alarm. It would be appropriate in an industrial zone as an industrial manufacturing operation and there are listings noted in Exhibit 3. The lack of previous compliance or willingness to do as they've been told is a concern. Catherine is aware of documents in the planning file, which she has a copy, Exhibit 1, stating they needed land use approval for commercial activities and an enforcement letter was issued with deadlines. In a printout of the county permit status it shows there have been no final inspections on building, plumbing, or septic permits, based on the information she has. It does look like they have tried to comply with the screening of the property which Catherine showed in a photo, but could be within the county road right-a-way, which the County Road Dept. says they have concerns about it blocking drainage or falling in the road. Mr. Squires has spoken with some of his neighbors and those unable to appear at the hearing tonight have submitted letters they would like to have reviewed, which Catherine passed out to the Commission and to Mark Cottle.

**Questions:** Michael Sherwood: How long has Mr. Squires lived there? Catherine: Since 1971. David Polite: The activities of the business are visible? Catherine: There are employee vehicles parked there, business trailers, a fork lift that loads the trailers regularly over extended periods of time during the day, and also the storage on the back side of the building that is quite visible to Mr. Squires. Bernie Diefenderfer: Is there any documentation as to all the employee vehicles? Catherine: We have photos of multiple vehicles on the premises and if this was a single family residence it would make sense to have 2 or 3.

Bob Squires, 13850 NW Orchard View Rd, McMinnville, OR 97128: The applicant has taken away the peaceful country atmosphere. **Questions:** Marjorie Ehry: The beeping on the forklift as it backs up, it sounded like he had 2 semi trucks come in this past month, is that when you hear that or are they loading everyday? Bob: Sometimes the place is a beehive and sometimes it's quiet and he works a lot of nights. Bernie Diefenderfer: This is a rural area around there? Bob: Yes, all rural. Bernie: Do you ever hear tractors or combines? Bob: Yes, but the area that happens in is not zoned 2 ½ acres like we are. Michael Sherwood: Have you noticed an increase in the tempo of the business since 2005? Bob: Yes.

Donna Squires agrees with what has been said.

William Basham, 13801 NW Orchard View Rd., McMinnville, OR 97128: A letter is on file that he submitted before the last hearing was postponed. William added that on the activity level, he isn't always there but the activity is greater than 2 semi's a month and the forklift is out every day. It's very disturbing having people come to the area with complete disregard in every way. This is a pattern. Nothing would change if this is approved. William asked for denial of the application.

Linda Gay Basham, 13801 NW Orchard View Rd., McMinnville, OR 97128: agrees with what her husband has said.

Suzanne Farmer agrees with what has been said.

Larry Steward, 14200 NW Orchard View Rd., McMinnville, OR 97128: Traffic is his concern. The road is extremely narrow and the curve is dangerous.

Hershey Steward, 14200 NW Orchard View Rd., McMinnville, OR 97128: Concurs with her husband.

Christine Johnson: Concurs with what's been said.

Dean Moxley, 15548 NW Orchard View Rd., McMinnville, OR 97128: agrees with what's been said.

Colin Armstrong, 1819 Andrews Dr., McMinnville, OR 97128: Mr. Armstrong has an interest in property on the corner, which is approximately 1,000 feet south of subject property. His main concern is the traffic. The applicant doesn't have control of the truck drivers but they come in very fast. Safety and 2 blind corners are a concern.

Bonnie Wittrock, 13655 NW Berry Creek Rd., McMinnville, OR 97128: Ms. Wittrock had no intention of speaking at this hearing but the applicant's attorney brought up a dog kennel as a reason for their home business. She has 2 personal dogs and her dog training business is run out of a building on the other side of McMinnville. There is no dog kennel run as a business on her property.

Richard Nelson, 14300 NW Berry Creek Rd., McMinnville, OR 97128: Mr. Nelson has lived at his residence since 1976. One concern is retaining the integrity of the lifestyle of the area and he's afraid this business will establish a precedence.

Millie Armstrong, 1819 Andrews, McMinnville, OR 97128: Ms. Armstrong asked if one family is living on the property or two families. Chair Smiley stated there is one family.

Dale Depweg, 13815 Orchard View Rd., McMinnville, OR 97128: Mr. Depweg lives up the hill from Linda Basham and across the street from Bob Squires. He does not see the Lapp property due to the buffer of trees he planted in 1979 when he first moved there. He has previously entered a letter into record stating his concerns with the ground water pollution due to metals, solvents, and paints. He also hears grinding noises coming from the shed. The noise, lights, and groundwater pollution are all concerns. Mr. Depweg is also concerned with traffic since both his wife and himself and neighbors walk that loop on a daily basis and the blind corner is dangerous. **Questions:** Alan Halstead: You mentioned cars in the middle of the road? Dale: On the right going down the hill there is a huge ditch with no shoulder. Walking the hill, you have to cross over on the right hand side, since there is no room on the left.

Jon Triest, 15030 NW Orchard View Rd., McMinnville, OR 97128: Mr. Triest came from California in 1991 and also runs a home business as a Realtor, using his computer to look for listings. Mr. Triest stated his home business is very different from Mr. Lapp's. This use is incompatible with the current use. He is also concerned about the traffic impact.

Dan Armstrong: agrees with previous testimony.

Ken & Becky Harmer, 13600 NW Orchard View Rd., McMinnville, OR 97128: both agree with what's been said.

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

**Public Agency Report:** Ken Friday: The additional reports received were from the Public Works Dept. which Ken read to the commission. One email was received in opposition stating the application should be denied

which Ken also read to the commission.

**Rebuttal:** Mr. Cottle has done a lot of land use work and has heard the same issues in those settings. It's very important to understand the criteria is clear in the ordinance. There is weakness in the opponent's argument in reference to the Comprehensive Plan. The actual zoning code allows manufacturing of products. Use of forklifts and backup alarms is part of the use. Mr. Lapp will cease the business operations at 5 p.m. and shades for lights can be accommodated. There is no sense in approving permits until this process is finished. Concerns can be rectified with limits.

**Staff Recommendation:** Ken Friday: Staff recommends denial of the request based on the 2 conclusions for denial found in the staff report with the additional conclusion for denial the applicant has not demonstrated that a home occupation will not generate traffic and parking beyond what normally occurs in the VLDR zone as required by section 1004.02(B)

Chair Smiley closed the public hearing.

**Deliberation:**

Daryl Garrettson: I don't know what this business is. The applicant has the burden of proof that he meets the criteria. Where does the water come from for the water jet machine and where does it go; 4 slicing machines for rock and/or metal and where does the waste go? The applicant wants to protect his business and his sources so he doesn't want to tell us what he makes, but he needs to tell us if he wants us to approve what he does. Based on staff's recommendation and the fact the applicant hasn't met his burden of proof, I'll vote against this application.

Matt Dunkel: I'm inclined to agree with staff. I'm in favor of most home occupations, but a metal fabrication shop belongs in an LI zone.

Bernie Diefenderfer: I concur with staff

Marjorie Ehry: I'm ordinarily supportive of small business but this is already maxed out. I agree with staff.

David Polite: They are pushing the envelope. I agree with staff.

Michael Sherwood: I concur with staff and Daryl Garrettson said it best.

Alan Halstead: I can think of a few cabinet shops, an auto repair shop, a garage door installation company that all started as a home occupation. You can have a home occupation within a limited environment and be successful and I've always supported home occupations, but I can't see where this will be compatible with the surrounding environment. I support staff's recommendation.

John Abrams: Excused himself at this point of the hearing, due to the proximity of his residence to this facility and his knowledge of a good portion of those who testified at the hearing this evening.

Robert Smiley: Home based business is my life. I moved to a commercial location but still needs to be sensitive to the residents across from his business in Dundee. There is also much confusion on what is made and is concerned with what happens with the scrap metal, which is highly valued. I concur with staff.

**MOTION: Alan Halstead moved to deny docket C-19-07 based on the findings and conclusions found in the staff report. Seconded by Michael Sherwood. Passed 8 - 0 with John Abrams abstaining.**

Chair Smiley called a 10 minute break until 8:50 p.m.

**DOCKET NO.:** PAZ-08-07

**REQUEST:** Approval of a Comprehensive Plan amendment from Exclusive Farm use to

Agriculture/Forestry Small Holding; a zone change from EF-40, Exclusive Farm use to AF-10, Agriculture/Forestry use. An exception to Goals 3 and 4 is also being requested.

**APPLICANT:** Timothy D. Sweeney and Fred F. J. Tsang  
**TAX LOT:** 2322-4401, 4402 and 4403  
**LOCATION:** 23850 NE Bald Peak Road, Hillsboro, Oregon 97123  
**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 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule.

Chair Smiley opened the public hearing.

**Abstentions, Objections to Jurisdiction, Ex Parte Contact:** Matt Dunckel has done a survey for Mr. Sweeney on this property but it will effect how he views this docket item.

Chair Smiley asked if anyone had not been present to hear the original reading of the “**raise it or waive it**” statement or would like it repeated.

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

**Proponent’s Case:** John Pinkstaff, Attorney, 601 SW 2<sup>nd</sup> Avenue, Portland, OR 97204 & Tim Sweeney, Co-owner of the property, 10590 NW La Cassel Crest Ln., Portland, OR 97229: Mr. Pinkstaff stated that staff has done a good job at summarizing the material, but one error was made that needs to be corrected is, there are no on-site wells except for L.A. Water Co-Op and there are hookups available on site. He went on to describe the property as 58 acres in an EF-40 zone, currently in 3 parcels. They desire to make it an AF-10 zone and take the 30 acres in forest and 30 - 40 acres being farmed and put dwellings along the roadways, and in the materials in Exhibit 1 show where those dwellings will be located next to the road. There will be 5 lots, the fifth lot being a large lot. They proposed to have a Conservation Easement in place on the land for a continuation of the farming which is done by Unger Family Farms and has submitted a letter, Exhibit 8 in the packet. Mark Unger has farmed the property for 40 years and has been paying rent on this marginal farmland. Mr. Unger is okay with the proposal of this concept. Mr. Pinkstaff explained the reasoning in wanting to change it now is because the property isn’t profitable and the area in general is committed to rural residential. The property exhibits most of the same characteristics as the exception area due to the topography, soils, steepness, and the elevation at 1,500 feet. The best use for that land is as follows: First of all, the area is committed to rural residential, refining the exception area, and the area has changed a lot since the 1980’s which is described in the materials. It’s not reasonably practicable for these owners to operate the farm. The lease amount is barely enough to pay the taxes. The second point, this is AF-10 zoning that would allow 5 parcels and will not interfere with the farming because Mr. Unger is fine with this issue and the farming can be preserved for him.

Tim Sweeney explained this is a quarter century saga and quest that he and his partner believe in. As an Oregonian he hears both sides of the land use equation and as he did almost 27 years ago when he presented the proposal, Item 18, and feels it’s the right thing to do with this piece of property. They’ve modified it based upon issues that were raised in the presentation in 1981, but preserved the essence by providing access to a rural view property for those people who desire that kind of holding, but yet attempt to preserve the capable farming on dry land. The original proposal presented to the Planning Commission in 1981 received comments from the PC that it was the best proposal they had seen. **Questions:** Michael Sherwood: Mr. Pinkstaff stated that Mr. Unger was okay with this, but in the letter he stated he had no strong rejections. Does he have any objections? Tim: Mark and I discussed it in general terms, since it’s difficult for us to give

an exact placement of homes at this time and since we don't want to extend the engineering expense right now. Michael asked for clarification on the map where the farming would be taking place. Mr. Pinkstaff stated there is a provision in the ORS for Conservation Easements of this type of open space, wildlife, and also for agricultural. They haven't fine tuned it to exactly where it will be, but Mr. Unger has agreed with it. Michael: On page 27 of your application report on the Enterprise Budget Table, it shows a losing proposition to farm. Is there another report more recent than this one?

Tom Thomson, 1275 Oak Villa Rd., Dallas, OR: Mr. Thomson explained that at the time this was written, wheat was 6.20 cents a bushel and has since gone up. The budget would be increased now and changes from year to year. Mr. Unger told him the yields he gets up there are less than what he gets down on the lower ground. **Questions:** David Polite: I believe the LUBA position on this and as a commission, if we were to evaluate the properties we review based on the profitability, particularly in the EFU zone, we might not have a farm left and the particular profitability of a unit is not a sole ground for changing that zoning or amending the comprehensive plan. Mr. Pinkstaff: The rule for exceptions under goal 3 says is practicable to farm property for resource use. Our analysis has gone through each of the factors for practicability, which are in the application. Mr. Pinkstaff explained in detail. Tom: The high altitude is too high for grapes and there is no water for irrigation. The rental rate of \$1,200 a year works out to about \$40 an acre and the Farm Service Agency and Yamhill County said the typical non-irrigated ground rents in 2005 was \$90 - \$125 an acre. Mr. Sweeney increased the rent to the county average. David: Is there a well on this land? Tim: An aquifer at the bottom of the property but not sure if it's year round. The decommissioned well is on the prior owners property at 625 feet at approximately 2 gallons per minute. David: Is this too high for an orchard? Tom: I don't know but there might be a problem with frost due to the high elevation. Daryl: Does Mr. Unger lease or own the property to the north? Tim: He leases it from the Park family. Daryl: If someone wants to plant Christmas trees, given the slope, the first 3 parcels on your plan could cut off the back parcel. Mr. Pinkstaff: I didn't consider how he got his equipment there. Tim: He can use the access on my property. Daryl: Are you envisioning a conservation easement will require the property be maintained and farmed as a whole except where the residences are, and if so, that would require all 5 homeowners to cooperate on whoever the farmer is? Mr. Pinkstaff: I envisioned them buying the property subject to the easement already in place. We need to get the footprint of the easement nailed down. Michael: Some of the land was logged in 1993 and 1994 shown on page 28 of the report. Were you the owner? Tim: Yes, since 1978. Michael: How much was logged? Tim showed the harvested area on the aerial photo, approximately 16 acres. It has been replanted but no logging has occurred since that one time. Michael: Is all the property suitable for growing trees? Tom: Possibly. Mr. Pinkstaff: I don't know if we could put something about timber in the agricultural easement but that's not a steady income. Bernie Diefenderfer: What if the top parcel wanted to put livestock up there? Tom: The only problem with that is it would block the south access to the other parcels. It could be accommodated but depends on many factors. Daryl: One owner could certainly make decisions to affect the other parcels. Mr. Pinkstaff: We could have a neighborhood association. Tim: From a practicality standpoint we'd have to and the CC&Rs would be in place before the parcels were sold.. Matt Dunckel: I don't see the problem if you have one building permit per tax lot if this is approved. There are water hookups available from L.A. Water Co-Op? Tim: They are still accepting requests for water and there is a pre-existing certificate. Marjorie Ehry: I need clarification on why it has to be and if it can't be farmed, can other people buy it, cut it up and farm it? Tom: The intent is to guarantee Mr. Unger can farm it. Marjorie: People who buy would have to sign an agreement. Tim: Yes, it's in the deed. Marjorie: What happens the day Mark doesn't farm? Mr. Pinkstaff: The land will sit there unused but would be available for someone to farm.

**Questions of Proponent's:** Audience: Can an example be provided of an easement that will accomplish what this will? Mr. Pinkstaff: I can find one. Audience: Is there one that's been tested? Ken Friday: I don't know of others in the county, but that's not to say there are none.

Linda Sweeney stated that she doesn't know of a case where you're able to keep livestock, such as horses on

a significant slope, since they tear the land to shreds. That's why flat land is so valuable for horses.

**Opponent's Case:** Thad Dolyniuk, 23600 SW Bald Peak Rd., Hillsboro, OR 97123: Mr. Dolyniuk has mixed opinions about this. He's not opposed to 1 or 2 parcels on the property but is concerned with the placement he sees on the map and is concerned with where the water will come from and the serious issues with traffic.

Julie O'Toole, 23150 SW Bald Peak Rd., Hillsboro, OR 97123: Julie is a pediatrician and mother and pointed out where her 10 acre piece of property is located. Her main question is why. Farmland in Oregon is incredibly precious and the calculus can't be whether or not one individual person can make a living off a piece of property. The one issue that hasn't been brought up is what are people going to do with this property, when in fact, it seems that Yamhill County has a wonderful way of addressing this issue, in that, when you allow Mark Unger to farm your property, especially when it's contiguous with a lot of other properties, it's a benefit to the home owner to have a break on your property tax. **Questions:** Daryl: Does Mark Unger also farm your property? Julie: Yes he does.

Steve Nemirow, 23150 SW Bald Peak Rd., Hillsboro, OR 97123: Mr. Nemirow pointed out his property on the aerial map. He owns 10 acres, 8 of those are farmed by Mr. Unger. The commodity that Yamhill County has is farmland. It only takes one time to lose the farmland forever. He sent a letter in previously and addressed points made by the applicants. If this land is allowed to become a housing development, there's no way to fix it. There is no evidence in the application that they bought it to farm to begin with. A Conservation Easement is nice to talk about with attractive qualities, but where does it put the neighbors who receive a tax deferral? Would they have to hire a lawyer to enforce an easement if there's a problem? Who will bear the cost of enforcement? If Mr. Pinkstaff doesn't have an example, there will be a new law set here. He asked for denial of the application. **Questions:** Michael Sherwood: Did you have any indication when you bought the property of a possibility there would be a hearing here tonight? Steve: I was surprised to find the notice in the mail about this hearing. John Abrams: Is your 10 acre parcel also in the EF-40 zone? Steve: Yes it is.

Dean Killion, 19005 SW Vista Hill Dr, Hillsboro, OR 97123: Mr. Killion's concern is traffic and the access to Bald Peak. He's lived at his residence for 4 years and you can't grow anything but Douglas Fir up there.

**Questions of Opponent's:** None

**Public Agency Report:** Ken Friday: Water Master stated the property is within the Chehalem Mountain Groundwater area and Bill Gille stated he reviewed the file with no conflicts of interests and stated if a zone change is approved and the applicants proceed with their development plans, an infrastructure ordinance would be required.

**Rebuttal:** Mr. Pinkstaff: The Yamhill County Comprehensive Plan seems to suggest having rural residential sized property and the others who have testified already have their acreage and don't want to see anyone else have the same. The proposal will not throw away farming forever and Mr. Nemirow made it sound horrible. Frankly, it's not breaking it up by placing a Conservation Easement there. With some research, examples can be found like this. In Mr. Thomson's professional opinion, no one would buy this land and farm. The witnesses made many personal attacks on Mr. Sweeney which are irrelevant. The opponent's want to keep everything the way it is, having someone else keep the open space and pay the cost. Mr. Sweeney is the one trying to save the farming and has a good relationship with Mr. Unger.

Tom Thomson added that Mr. Nimero decided to buy a piece of property that was in a farm area to enjoy the benefits but to be taken care of by someone else, and in actuality it does work well for them because by putting the houses in it allows the rest of the property to continue to be farmed and allows access for Mr. Unger to farm it, which will benefit him. **Comments:** Alan Halstead: I would like more information on a Conservation

Easement and examples of them. Ken Friday commented on one done by the Soil & Water Conservation District that conserved about 140 acres of property. Matt Dunckel has surveyed 10 - 15 for Soil & Water and it's mostly in wetlands.

A request was made to keep the record open.

**MOTION: Daryl Garrettson moved to continue docket item PAZ-08-07 to September 6, 2007, Room 32, 7:00 p.m. at the Yamhill County Courthouse at the Staff Recommendation; the record be left open for written testimony and all parties will have until August 9, 2007 to submit any additional written testimony they wish to present to the office of the Yamhill County Dept. of Planning & Development no later than 5:00 p.m. on that date. All parties of record may then submit any rebuttal to the evidence submitted no later than August 16, 2007, 5:00 p.m., Yamhill County Dept. of Planning & Development and the applicant shall have until August 23, 2007 to submit any additional rebuttal by 5:00 p.m., Yamhill County Dept. of Planning & Development. Seconded Alan Halstead. Passed unanimously by voice vote.**

**New Business:** The Annual Planning Commission Dinner will take place on September 18, 2007 hosted by Robert Smiley & David Polite.

**Adjourn:** The meeting adjourned at 10:37 p.m.