

YAMHILL COUNTY PLANNING COMMISSION

Thursday, October 4, 2007 · 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Matt Dunckel, Marjorie Ehry, Michael Sherwood, David Polite, Daryl Garrettson, Alan Halstead (7:02), John Abrams (7:02) Staff: Ken Friday, Rick Sanai. Mike Brandt

Review of the **minutes** from the Planning Commission Hearing of September 6, 2007. Michael Sherwood moved to approve as submitted. Seconded by Marjorie Ehry Passed unanimously.

QUASI-JUDICIAL PUBLIC HEARING:

DOCKET: Z-05-07
REQUEST: Approval of a zone change from EF-80, Exclusive Farm Use district to LI, Light/General Industrial district.
APPLICANT: Catherine Wright representing Philip and Judith Darling, Co-Trustees of the Darling Living Trust
TAX LOT: 5405-1202
LOCATION: Approximately 1,000 feet southeast of the intersection of Old Station Road and Highway 99W, McMinnville
REVIEW CRITERIA: Sections 402, 702 and 1208.02 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies. Section 904, the Limited Use Overlay zone may also be applied.

Vice Chair Garrettson opened the public hearing.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: Marjorie Ehry is acquainted with the Darlings and has had business dealings with them in the past that did not concern land or this docket. Marjorie stated she can make an impartial decision. Matt Dunckel has worked with the same clients as Catherine Wright but that will not effect his judgement in this matter. No objections to jurisdiction were stated.

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

Staff & Committee Report: Ken Friday gave a brief review of the staff report. Supplemental information was submitted by the applicant and an additional letter from ODOT.

Questions of Staff: Michael Sherwood questioned the 9.4 acre property size on page 2 of the Staff Report and asked for verification on the calculations. Ken Friday stated he would look into it. The Assessor’s Office in the late 1990’s got a new GIS program and did a lot of recalculations of acreage which could be the reason for the difference in calculation.

Daryl Garrettson: It appears from the Staff Report that goal 12 is inapplicable to this application? Ken Friday had an additional conversation with Gary Fish at the DLCD and he indicated that their position, concerning the land use regulation language, is that the zone change at different designations would be a land use regulation. Staff has always interpreted that as amending the language in our regulation. If the property is subject to Goal 12 then the next test is whether or not it significantly effects a transportation facility. That may be able to be limited and was suggested by ODOT to limit that through the limited overlay zone. Rick Sanai agrees that Goal 12 does not apply. However, if it does apply, this Commission

could impose limitations to comply with the Transportation Plan Rule.

Proponent's Case: Catherine Wright, Attorney, P.O. Box 625, McMinnville, OR 97128 & Phil Darling, Applicant, 13600 S. Hwy 99W, McMinnville, OR 97128: Catherine has previously submitted information and highlighted the following points. The initial Staff Report indicated that all of the potential uses had not been adequately specified or explained. Catherine submitted a letter today explaining the uses and added two additional at the this meeting. One is for antique vehicle restoration, and the other is providing a place where semi trucks can be parked overnight or a few days when they are not in service. A neighbor of Mr. Darling's allows parking on his facility for that purpose since there is a need for that use in the area. A number of letters have been submitted from people in the area who have demonstrated a need for this type of facility. One letter was from Rick Wright Construction, who is Catherine's husband. who There are also a number in attendance tonight who will convey their need as well. Catherine stated that they've worked extensively with ODOT from the beginning of this process; sharing both information and feedback. The intersection at Old Station Road is not nice intersection on either end and would be better to have one access. This is a suitable piece of property for this use and there in not much land available for LI in Yamhill County. The criteria has been satisfied in her opinion.

Mr. Darling bought the first existing building in 1986 and in the years that followed ran his business there, developing the property across the street which is a 3 ½ acre piece of property. During those years, that stretch of road was landscaped and taken care of by him. He has turned down many people since his facility is now full to capacity. Many people can't find a facility of this type. He previously submitted a concept drawing of the property and wants to make this an attractive business. He has worked with ODOT and Yamhill County on the traffic situation and has tried to improve it for the residents. **Questions:** David Polite: Please explain your reasoning for storing semi trucks. Phil: The City of McMinnville and the municipalities have taken a dislike to semi trucks parked on the streets and many who have them live in town and need a place to park them. His next door neighbor serves 6 of those now. This is one possibility of what may happen. Michael Sherwood: Can you point out on the map the property across the street where trucks are parked now? Mr. Darling pointed it out and Ken explained the long term idea and access. David: Since this use was just added to the list, is ODOT been made aware of this? Catherine: ODOT has not seen the list we've created at this point. ODOT is concerned with the number of trips per day. As long as we're in agreement and not above that amount of trips I don't think they're concerned. David: Cars and tractor trailer trucks are treated the same? Catherine: There was no differential between cars and trucks. Daryl Garrettson: Is the current development plan to maintain ownership of the property and lease out the building? Phil: It's a combination. The infrastructure of that concept would be if someone bought a piece of land and developed it, there will need to be a community system in place to share in taking care of the utilities, etc. The road itself will be developed and given to the public. Catherine: It will be dedicated to the county but will be privately maintained, and common property and the water system will be shared if a portion is sold off. Daryl: The way I read the DLCD letter, the 35,000 square foot limitation applies to each existing parcel? Ken: We don't read it that way because a 35,000 square foot limitation on a 9 ½ acre parcel will really limit any industrial uses on it and we have the ability in that zone to split it down further. What will be more resistive to the property is the 30% parcel coverage standard in a LI zone. Daryl: It would appear that if the parcel was in its entirety it's only allowed one footprint. Ken: They could separate that parcel within the limits of the LI zone. The 35,000 foot limitation would go with each parcel. Catherine: Whether my client keeps one building or not, he can still develop each parcel and lease those out if he wishes. Daryl: Do you have any leases or contingent earnest monies in hand? Catherine: No, because it's so tenuous at this point. Daryl: How would you propose that the 212 trips a day will be monitored? Catherine: I believe ODOT will come out and monitor that. ODOT placed a limitation on the neighbor with the storage facility next door and then came out and checked it. Phil: If in fact it does exceed, the worst thing that could happen is a left turn lane would be

installed on 99W. Rick: 210 trips a day is very low and with the uses Mr. Darling would like to have on the property these are not the type of uses that will be visited every day. Catherine: We're looking at maybe 4 - 5 parcels in the end.

Questions of Proponent's: Michael Calkins asked about the plans. Daryl asked if he had seen the application and the conceptual plan attached to it. Mr. Calkins stated he had not, but did come into the Planning Office and was not shown that plan. Is it a plan for access on 99W or Old Station Road? Catherine: With the permission of ODOT, access will be straight off 99W onto the parcel. Daryl handed Mr. Calkins a copy of the conceptual plan. Mr. Calkins: What about the big oak tree? Mr. Darling: The road divides and goes around it. Every tree on the property will be preserved except for one dead tree. Larry Weirich: Has ODOT given approval for the approach off the highway? Catherine: Not yet, but they're likely to approve it. Larry: Will both ends of that road be closed off? Catherine: That is my understanding. The wrecking yard will have a private drive. Larry: Does the number of trips include those of us living on that road? Catherine: Yes. Larry: If lots are developed will each have its own well? Catherine: There might be a large holding tank or separate wells Phil: That would be up to the county. The type of uses we have planned here will use little water. In the median, the roundabout there has to be fire suppression storage. Larry: On the proposed road that cuts across the property, will it be a private or county road? Catherine: It would be county owned but privately maintained. Larry: Who would be responsible for maintaining it? Catherine: All the people who live there. Larry: Is there a requirement for the road to be paved? Catherine: It has to be developed to county standards. Phil: It would have to be paved from 99W to where it meets Old Station Road. Greg Remington: Who would maintain Old Station Road now that the county won't? Phil: My understanding is from where the road is closed it would be given over to the adjacent land owners; abandoned by the county. Greg: The driveway into my place would go through my yard? Phil: I was trying to accommodate everyone around there and was trying to provide for you an access for your heavy motor vehicles, but because of the turn restriction that ODOT has put on us, it could be used for your trucks and business but not for the public access. That would have to come from the north end of Old Station Road which would belong to you. Mr. Calkins: What is the drainage plan? Catherine: My understanding is when we come to develop it, site design review will require a drainage plan at that time.

Jeffery A. Pomeroy, P.O. Box 119, McMinnville, OR 97128: He owns Team Pomeroy Moving & Storage in McMinnville and is an agent for Paul Arpin Van Lines which is a worldwide company. They provide a need to the county that has been missing since the Mayflower Agent closed over a decade ago. They have experienced tremendous growth due to the expansion of the county. Because of that, they are needing a facility to grow in and use as a storage facility. They don't need water, just storage and a low volume of traffic. **Questions:** Daryl: Where do you currently use as a warehouse and storage? Jeff: We have our warehouse facilities currently at the property Phil owns across the street and they have grown and taken over several sections. They have looked for other facilities but haven't found any available in Yamhill County.

Audience: Michael Calkins: There are two empty buildings across the street. Have you looked into leasing them? Jeff: The one building next to Phil's place would just be trading an orange for an orange so to speak. It's the same size as we're leasing now.

Tony Browne, 979 SW Goucher, McMinnville, OR 97128: Mr. Browne has been a resident in town for over 25 years and has been involved in many government agencies including the Budget Committee for 9 years. For the growth of McMinnville there is a silent industry which is what the moving company is. Everyone uses one at least once or twice in a lifetime. Mayflower left because they didn't have the capabilities to operate. Storage space is a must and the moving industry is bringing income into the area. It needs to be accommodated. Many businesses contribute to the liveability in the area and this is one of them. We need to keep thriving businesses in town. **Questions:** None.

Greg Huey, P.O. Box 233, McMinnville, OR 97128: Mr. Huey owns and operates G & S Maintenance & Carpet Cleaning and rents from Phil. He first started his business out of his home. Parking trucks in the street is a problem, especially when you have several. An electrician started a business in his neighborhood with a few trucks and the neighbors were calling in complaining. Greg looked for a shop to take on his trucks; meanwhile he's trying to hide his trucks so the neighbors would not be upset. Many business in the service industry are at the point of growing and have to move out of the neighborhoods. His service is all out in the field with no water storage at the facility. There won't be high traffic either. He has been on four waiting lists for a shop in the past. There are no vacant shops in the county.

Questions: None.

Johnnie LaRue, 2700 SW Redmond Hill Rd., McMinnville, OR 97128: Ms. LaRue grew up in Sheridan, went to Linfield College, and has known the Darlings through the Gallery Theater. The Darlings are highly involved in the community and are very considerate people. She has been to their shop which is well maintained and organized. Johnnie has a painting business and was wanting to expand and be able to paint the smaller box vans. She spent two weeks driving around the entire county and has been over toward Salem looking for a shop; finding none available. The shop owners she spoke with informed her that there was a waiting list. The orange building that the neighbor was speaking of was seized up and is over \$2,000 for rent. It would do the community very well concerning the great number of residential homes being built to have a LI commerce building to go in. Ms. LaRue has had to direct her business in another area due to lack of an available shop. **Questions:** None.

Greg Remington, 13341 SE Old Station Rd., McMinnville, OR 97128: Mr. Remington stated his questions were answered during previous testimony at this hearing this evening.

Opponent's Case: Larry Weirich, 13765 SE Old Station Rd., McMinnville, OR 97128: Mr. Weirich is opposed to the application and doesn't want this in his front yard. This was tried twice before and appealed the first time by the LCDC and again when Mike Lambert tried to do the same thing in 1998. The applicant is the only thing that has changed. There is property available on Riverside Drive for industrial uses. If you go across the road from the subject property, Valley Feed has a sign saying, "Will build to suit" which is a LI zone and the two properties mentioned earlier that are down from Phil's has an empty building up for lease. There is commercial property available and the businesses that have been mentioned here tonight can be located in other places other that allow commercial uses. Another issue is that if ODOT doesn't approve it, how can you give them a zone change? If ODOT does approve, then the owners on Old Station Road no longer have maintenance on the road and it becomes the neighbors responsibility to maintain. If each place needs a well then there is a water issue in supporting a neighborhood and the new lots that go in there. He urged the commission to oppose the application.

Questions: Michael Sherwood asked for clarification on where Mr. Weirich's property is located on the map. He has 2 ½ acres and is a co-owner of another parcel as well and he has grass seed crops. Daryl Garrettson: How deep is your well and what's the production? Larry: 98 feet deep but does not recall production. Daryl: Any water shortages? Larry: The low pressure switch has turned off, especially during dry times of the year. Daryl: Your access at this time is located from the southern portion of Old Sheridan Road? Larry: I can access either end. The road is gravel and maintained by the county.

Ken Friday reminded the commission that the access is not being voted on by this body. ODOT will be overseeing that and would be an issue during the subsequent site design review. The issue is whether or not it complies with the zone change criteria.

Michael Calkins, P.O. Box 117, Amity, OR 97101: Mr. Calkins showed where his property is located on the map. He has 3.7 acres along the river. He would like to know what has changed since 1998 and if this is re-zoned to LI do they have to pass other hurdles as well? Ken: There will be a limited overlay zone and

there would be a chance to appeal to the Board of Commissioners. If there is no appeal, they would have to apply for partitioning or site design review and then there would be an opportunity to appeal again to the Board. The sketch of the layout is not being approved or denied here. Rick Sanai explained in further detail.

Mr. Calkins asked the commission to deny this request. If approved, he will fight every step of the way.

Questions: Daryl: How deep is your well and what's the production? Michael: 110 feet and 38 gallons a minute.

Public Agency Report: Ken Friday: Two letters were received from the DLC, one from ODOT, a response from McMinnville Fire District which found no conflicts of interests, and a similar response from Doug Montgomery with the City of McMinnville. Tim Stieber from Soil & Water Conservation submitted a letter which Ken read to the Commission.

Vice Chair Garrettson called a 7 minute break.

Rebuttal: Catherine Wright: This is only a zone change to bring it in compliance with the Comprehensive Plan designation at this point. There was some talk about available property on Riverside Drive. Yes, there is a 10 acre piece zoned for industrial use and has been on the market for 11 months. Catherine spoke with the owner of the property and was told he won't sell to anyone who will use it for storage facilities, small warehousing, or offices. That is not compatible for the types of businesses we've heard here tonight. The Valley Feed sign that says, "Will Build to Suit", a lot of these people who testified here tonight do not have the funds to do that. They need a facility they can move into. There have been suggestions that the needs can be satisfied in the commercial district. Catherine has the County Ordinance with her and it shows you cannot have shop buildings, warehousing, etc. in the commercial district. Catherine passed out copy to the Commission. There has been some concern about water. There's a letter in the file and the application from Blue Water Drilling Company showing no problems of providing water to this site. The issue about ODOT and their statements in 1998 she is not familiar with but in her discussions with ODOT that did not come up. The comments received from the Soil & Water District; she spoke with Tim Stieber about that and he told her he has a short turn around time when he submits the comments from the time he receives a notice and he gives rather standard responses and he was not fully aware of the location of this facility and that it's surrounded by industrial uses on at least three sides. He indicated he would try to contact some of the board members to see if he could have permission to amend his comments. Obviously, that didn't happen in time for this hearing.

Staff Recommendation: Ken Friday: The question before the Planning Commission tonight is whether the property should be re-zoned to LI and as it has been stated tonight, the Comprehensive Plan designation for this property is Industrial and has been that way since the 1970's and therefore, because the applicant has made their case that there's a need for this, that this is a suitable location with other industrial uses in the surrounding area, Staff recommends approval with a limited use overlay that has the following limitations:

- 1) The access permit from ODOT must be obtained prior to any development of the property.**
- 2) The parcel and every parcel created from Tax Lot 5405-1202 shall be limited to no more than 35,000 square feet of building area per parcel.**
- 3) The traffic generated from the uses on Tax Lot 5405-1202 or parcels created from this tax lot shall be a total of no more than 210 daily trips. Should the trip cap be exceeded, the owner of Tax Lot 5405-1202, or owners of the resulting parcels, shall be required to apply for and obtain an updated approach road permit and install any necessary mitigation measures pursuant to the**

change of use provisions of OAR 734-051.

4) The uses are limited to the following:

A. Light industrial manufacturing of items such as medical and dental equipment, small machine parts, small electronic instruments and pallet manufacturing and repair.

B. RV and mini-storage facilities

C. Warehousing

D. Packaging or processing of locally produced fruits and nuts

E. Vehicle restoration

F. Parking semi-trucks

5) The new road that crosses Tax Lot 5405-1202 and connects Old Station Road with Highway 99W shall be dedicated to the public and maintained by the owner of Tax Lot 5405-1202, or owners of the resulting parcels.

6) Any additional traffic mitigation measures with the intersection onto Highway 99W shall be the responsibility of the owner of Tax Lot 5405-1202, or owners of the resulting parcels.

Vice Chair Garrettson closed the public hearing.

Deliberation:

John Abrams: Under the criteria and where the property sits, being sensitive to the neighbors, I feel it's appropriate. I concur with staff.

Alan Halstead: The zone change will bring it into compliance but am not enthusiastic about extending LI into rural areas.

Michael Sherwood: It's a natural fit to what is located across the street. There is a shortage of these lands and I am an advocate of businesses starting up. I'm leaning in favor.

David Polite: I'm inclined to support Staff's decision.

Daryl Garrettson: I'm having a hard time with the application and concerned with the compatibility. At some point it will be zoned light industrial but I haven't decided.

Marjorie Ehry: To me this is very compatible, no one complained about a wrecking yard being there and there is a need for these locations. I'm in favor of small business and as Ms. Wright stated, most will not invest to build. We need this in the area. It should be approved.

Matt Dunckel: I support staff recommendation.

MOTION: Alan Halstead moved to approve Z-05-07 with the conditions and the limited use overlay outlined by Staff. Seconded by Michael Sherwood. Passed 5 - 1 (Daryl Garrettson opposing)

Ken Friday explained the appeal process.

New Business: Mike Brandt discussed the State forms and reporting with the Commission.

Adjourn: The meeting adjourned at 8:50 p.m.

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