

YAMHILL COUNTY PLANNING COMMISSION

Thursday January 3, 2008 - 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Matt Dunckel, Michael Sherwood, Daryl Garrettson, Alan Halstead, Dave Polite, John Abrams, Robert Smiley. **Absent:** Marjorie Ehry. **Staff:** Ken Friday, Stephanie Armstrong

Review of the **minutes** from the Planning Commission Hearing of November 1, 2007. Alan Halstead moved to approve as submitted. Seconded by Michael Sherwood Passed unanimously.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: PAZ-12-07

REQUEST: Approval of a Comprehensive Plan amendment from Commercial Forestry to Agriculture/Forestry Large Holding; a zone change from F-80, Forestry to AF-80, Agriculture/Forestry

APPLICANT: LaMinora Properties, Inc.

TAX LOTS: 3521-100 and 1800, 3516-1400 and 1600

LOCATION: North of the intersection of Panther Creek Road and Rex Brown Road

CRITERIA: Sections 401, 403 and 1208.03 of the Yamhill County Zoning Ordinance. Comprehensive Plan policies may be applicable.

Chair Smiley opened the public hearing.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: David Polite chose to abstain due to dealings with Mr. McLain and both matters this evening are in his neighborhood.

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

Staff & Committee Report: Stephanie Armstrong gave a brief review of the staff report.

Proponent's Case: Mike McLain, Albany, Oregon: Mr. McLain represents the owner of the property. His business is McLain & Associate Vineyard Properties; a real estate broker who sells nothing but vineyard properties. He is involved in this property because it's highly suited for a vineyard, and although it's currently in forest use, the soils, elevation and slope are all conducive to a vineyard. When he began to market the property he realized it should be zoned AF-80. This application meets the criteria for an AF designation.

Bill Hanson, 11799 NE Finn Hill Loop, Carlton, OR 97111: Mr. Hansen represents Liz Chambers who has a bid on the property. He wanted to be present to respond to questions in case of any objections.

Questions of Proponent's: None.

Opponent's Case: Diane Holmes, P.O. Box 696, Carlton, OR 97111: Ms. Homes lives on Panther Creek in Carlton

and believes the property is better suited for forestry. She has concerns on what will be done with the property if this is approved. **Questions:** Daryl Garrettson asked Ms. Holmes to point out her property on the map, which she did; her property is 10 acres, zoned forestry. Michael Sherwood asked if the entire property is forest land. Ms. Holmes replied all but one acre. Michael asked if this property is 100% forest land now. Ms. Holmes replied yes. Michael asked if the property is steep sloped on the west side. Mr. McLain replied yes. Ms. Holmes added yes, in some areas. Michael asked if her property has steep slopes. Ms. Holmes replied yes.

Wayne Fitzgerald, 11105 NW Rex Brown Dr., Carlton, OR 97111: Mr. Fitzgerald lives across the street from the parcel that is for sale. He's concerned with the criteria used to designate this AF-80. Also, it is sloped heavily on the west side. When it was logged around 1990, there were slides that slid into Panther Creek. Since the trees have grown back there have been no slides.

If this becomes a vineyard, what will keep that land from sliding back down again and asked how the erosion will be avoided. Also, in this area, Mr. Fitzgerald has water rights that go through this property and an easement along the water line. If chemicals are used, how will this affect his water and his water rights. He asked for this property to be kept forest land. Mr. Fitzgerald added that Panther Creek has been determined to be endangered by the Basin Council due to ecoli. Have any studies been done on this? **Questions:** Daryl asked Mr. Fitzgerald to point out his property on the map, which he did, and asked if he is currently zone AF-20. Mr. Fitzgerald replied yes. Daryl asked where the water easement crosses the property. Mr. Fitzgerald explained it goes under the road and showed it's location on the map. Daryl asked what his water source is. Mr. Fitzgerald responded from a spring, which he also showed on the map. It's a 1-inch PVC line that runs on the top of the ground along that route. Daryl asked how he keeps it from freezing. Mr. Fitzgerald stated he keeps it running all the time. Daryl asked the acreage of his parcel and Mr. Fitzgerald replied 3 acres. Michael asked if the spring dumps into Panther Creek. Mr. Fitzgerald answered yes. Michael asked when the ecoli detected. Mr. Fitzgerald stated it was reported in the newspaper last year.

David Holmes, P.O. Box 696, Carlton, OR 97111: Mr. Holmes lives on Panther Creek and would like to know if this is approved and a winery is placed on the property, will a fence be placed on the entire property. Also, the intent to put in a winery; what part of that parcel are they planning on putting that on. There is a large parcel there where it was logged in 1991 and timber has been replanted and all the trees are 15 - 20 feet high. Would those trees be cut down?

Questions of Staff: Daryl asked what are the differences in use between the F-80 and AF-80. Ken Friday explained the main difference between the two zones is that, although you can plant wine grapes in the forestry zone, you wouldn't be able to locate a winery in that zone. There is no application for the winery right now. Daryl added that the basic harvesting of trees, the manner in which the trees are harvested is subject to the Forest Practices Act; the County doesn't regulate that and the planting of grapes and any erosion that may flow from the planting of grapes to any extent is a Soil & Water Conservation issue; again nothing the County controls.

Robert Smiley asked about the easement. Ken Friday explained easements are private agreements and the County doesn't enforce easements. Also, the water rights are enforced by the Water Resources Dept.

Mr. Holmes expressed concern on the impact and movement of wildlife through traditional areas if deer fencing is placed on the parcel.

Ken Friday agreed there are concerns but there is no ordinance dealing with deer fencing

Jonathan Horlyk, 20270 NW Panther Creek Rd., Carlton, OR 97111: Mr. Horlyk stated he knows the area well since he borders the property and if it's fenced up there will be coyote and deer in his backyard. Elk come out of the Coastal Hills in groves in the fields right below his house to graze. The pesticides, if used, will be carried through his front yard and up the hill and he's concerned about a child who lives with him and the impact of those pesticides. Mr. Horlyk asked if he can get a read out of the pesticides used. Daryl Garrettson replied no, any resource utilization of either pesticides or herbicides, whether in a forestry use or agricultural use, do not have to reported to the County. There are some Federal regulations that apply, but no county regulations.

Questions of Opponent's: None.

Public Agency Report: Stephanie Armstrong stated notices were sent out to Public Works, SWCD, Yamhill Fire District, Carlton Fire District, Dept. of Forestry, and Water Master. The Public Works Dept. is the only response to date stating they have no conflicts with the zone change but any access improvements would be subject to their approval.

Ken Friday stated he was handed a map from Mike McLain and passed it around to the commissioners. Mr. McLain explained the topographical map of the parcel in detail.

Rebuttal: Mr. Hanson, who represents Liz Chambers, explained they do not intend to have a large winery but do want to secure their fruit sources and continue to make top end wines. The soils and slopes are clearly ideal for vineyards and they intend to be neighborly and farm sustainable, and perhaps even bio-dynamically. To address the steep slopes they're estimating 118 acres are plantable and won't plant on steep slopes. The timber that's there is a complicated issue since there are some mature timber in those ravines that the creeks run through and those can be left alone, but hope to thin it to reduce fire damage and have a park-like setting in that area. If the property is fenced, the grandchildren of the deer now will probably die fat and happy there since it's so big. They only plan to fence off portions. Mr. Hanson expressed interest in the easement and water situation which can be discussed at a later date and understands the concerns voiced tonight. Mr. Hanson stated he will be available after this meeting to speak with those who have concerns. **Questions:** Daryl asked if he's planning on fencing the actual grapes only. Mr. Hanson replied that's correct. Daryl: The animals will then still be able to move through the ravines? Mr. Hanson replied yes. Daryl asked if he plans on putting a winery up there. Mr. Hanson replied he wants the rights to do that; probably in 5 - 10 years.

Staff Recommendation: Stephanie Armstrong: Staff recommends approval based on the finding and conclusions in the staff report.

Chair Smiley closed the public hearing.

Deliberation:

John Abrams: As I understand the criteria, I agree with staff. As the wine industry grows we may see problems down the road of how they'll mesh with historic business that's around.

Alan Halstead: I agree with the staff report.

Matt Dunckel: I agree with staff.

Michael Sherwood: I concur with staff.

Daryl Garrettson: I concur with staff and agree with John's comments. As the wine industry grows it's moving into the coast range and those areas are prime timber producing area in Western Oregon and he hates to see in-roads to what is the fundamental resource in this state. The timber industry will always be here in some shape or form but at the same time

there is no criteria that would allow us to say no to this.

Robert Smiley: As this has been presented to us, I believe it will be a significant location into the Coast range; one of the furthest west vineyards. I concur with staff, but this is something that we need to start addressing.

MOTION: Daryl Garrettson moved to approve PAZ-12-07 based on the findings and conclusions contained in the staff report. Seconded by John Abrams. Passed unanimously 6 - 0 (David Polite abstaining).

Ken Friday explained the process that will follow tonight's hearing regarding this docket.

Daryl Garrettson made a suggestion to the opponent's; it's the Board of Commissioners that would initiate any effort to amend any ordinances that we currently have. Even though it doesn't fit the criteria, they should address their concerns if they would like to see the County move into regulation in this area.

DOCKET NO.: PAZ-13-07
REQUEST: Approval of a Comprehensive Plan amendment from Commercial Forestry to Agriculture/Forestry Large Holding; a zone change from F-80, Forestry to AF-80, Agriculture/Forestry
APPLICANT: LaMinora Properties, Inc.
TAX LOTS: 3514-400
LOCATION: Southwest of the intersection of Puddy Gulch Road and Old Soldiers Road, Yamhill
CRITERIA: Sections 401, 403 and 1208.03 of the Yamhill County Zoning Ordinance. Comprehensive Plan policies may be applicable.

Chair Smiley opened the public hearing.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: David Polite, as earlier stated.

Chair Smiley asked if anyone in attendance had not heard the "raise it or waive it" read earlier.

Staff & Committee Report: Stephanie Armstrong gave a brief review of the staff report.

Chair Smiley called for a 5 minute break.

Proponent's Case: Mike McLain, Albany, OR: Mr. McLain stated this property has a 680 foot elevation and described the surrounding properties and soils. This is the same criteria as the last docket.

Opponent's Case: Robert West, 11785 Old Soldiers Rd., Carlton, OR 97111: Mr. Smiley asked Mr. West to show where his property is located on the map. Mr. West did so and stated there is a vineyard located across the street from his property and they have not been good neighbors. It has created dust, dirt and noise. Once it was developed, his water went from 11 gallons per minute to 1 gallon per minute. He talked to them about it but had no success. Mr. West then went to Soil & Water and had no success there, either. Mr. West read a portion by the Oregon Board of State Environment Report. The vineyard fenced the property but leaves the gates open, causing the wildlife to enter in. Then the gates are closed, leaving the wildlife no way in which to get out. Mr. West saw a deer inside the fence; watching it beat against the fence. Elk are in that area all the time. This proposed vineyard will be a disruption in the area, as the other one has been. This is destroying their habitat. **Questions:** Michael Sherwood asked the acreage of his property and how long

he's lived there. Mr. West stated he has just under 5 acres and has lived there for 20 years. The well across the street is 350 feet from his own. Mr. West stated that many other neighbors have the same complaints.

Steven Broderick, P.O. Box 712, Carlton, OR 97111: Mr. Broderick pointed out his property on the map which is all forest land. He is against the destruction of the wildlife habitat. This piece is major forest land and Elk are there all the time. Just because you leave them a corridor to roam in doesn't mean you're not effecting their habitat.

Pam Wittenburg, 16030 NW Puddy Gulch, Yamhill, OR: Ms. Wittenburg expressed her concerns on the water issue. Two of her neighbors have drilled wells in the past year. She would like to know how much water the vineyard will be using, since water is such a major issue in that area. Access is also a concern since there's a rural area at the top of the hill and traffic could be a problem for the children in the area. Ms. Wittenburg also inquired as to where the grapes will be planted. There will be a large impact on the wildlife that travel through there. **Questions:** Michael Sherwood asked her well depth. Ms. Wittenburg replied 300 feet.

Proponent's Case: Robert Bailey, P.O. Box 354, Amity, OR 97101: Mr. Bailey is with NW Vineyard Service. His company installed the vineyard on Meadow Lake Rd. and wanted to address the water issue. Six wells were dug on that vineyard property that's been mentioned and most of them were under 5 gallons per minute or dry holes. One well sustained about 15 gallons per minute, but none are used for irrigation. They did irrigate a small nursery and built reservoirs around the property at great expense and got permits to fill those reservoirs out of the creek. **Questions:** Daryl Garrettson asked if they're not irrigating what are you using the well for. Mr. Bailey replied they're not using the wells. The volume of the reservoirs is the sum total of the amount of irrigation they can do. Michael asked for clarification on the wells. Mr. Bailey explained the original plan was to develop parcels for home-site wineries and drilled the wells to see what the water availability was. Only 1 well had any volume. The only structures on the entire property are 2 shops.

Questions of Proponent's: Mr. West stated he was told by one employee that they start pumping water out of the wells in June. Mr. Bailey asked when was he told that. Mr. West replied less than a month ago. Mr. Bailey stated the employee didn't know what he's talking about. Robert Smiley stated that's an issue for the Watermaster.

Public Agency Report: Stephanie Armstrong stated notices were sent out to Public Works, SWCD, Yamhill Fire District, Carlton Fire District, Dept. of Forestry, and Water Master. The only comment received to date was from the Public Works Dept. stating they saw no conflicts with the zone change but any access would be subject to their approval.

Rebuttal: None.

Michael Sherwood asked about the AVA. Mr. McLain explained the designations in Yamhill County.

Staff Recommendation: Stephanie Armstrong: Staff recommends approval based on the finding and conclusions in the staff report.

Chair Smiley closed the public hearing.

Deliberation:

Daryl Garrettson: One of my perpetual frustrations is that often we're not in a position to address water issues. They're outside the scope of our ordinances and in this case, the concern about the development with the vineyard and utilization of water for the vineyard is a permitted use in the AF-80 and is something we can't take into account in our decision. It

does fit the criteria. I support the staff recommendation.

Michael Sherwood: I support the staff recommendation.

Robert Smiley: I agree with staff.

Matt Dunckel: I agree with staff.

Alan Halstead: I don't think we have a choice but to support the staff recommendation.

John Abrams: I concur with staff.

MOTION: Alan Halstead moved to approve PAZ-13-07 based on the staff recommendation. Seconded by Michael Sherwood. Passed unanimously 6 - 0 (David Polite abstaining).

Ken Friday explained the process that will follow tonight's hearing regarding this docket.

Robert Smiley encouraged those in attendance to express their concerns to the Board of Commissioners

Election of Officers: Ken Friday provided each with a ballot for the election of officers. The bylaws state this is the way it should be done. Robert Smiley asked if this is the way the Commission would like this to be done. Daryl Garrettson suggested by nomination process.

MOTIONS:

Daryl Garrettson nominated Robert Smiley for Chair. Seconded by Alan Halstead.

Alan Halstead moved for nomination to be closed. Seconded by Daryl Garrettson.

Robert Smiley for Chair passed unanimously.

Alan Halstead nominated Daryl Garrettson for Vice-Chair. Seconded by Michael Sherwood.

Robert Smiley moved for nominations to be closed. Seconded by Michael Sherwood.

Daryl Garrettson for Vice-Chair passed unanimously.

New Business: Ken Friday stated Bernie Diefenderfer has resigned from the Planning Commission. The Board of Commissioners will likely be taking up the issue of who to replace him with in the next few weeks.

A letter was sent out today to all Measure 37 applicants asking them if they will be going through the vested application process. Ken Friday explained the application process.

Adjourn: The meeting adjourned at 8:30 p.m.