

YAMHILL COUNTY PLANNING COMMISSION

Thursday March 5, 2009- 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Matt Dunckel, Michael Sherwood, Daryl Garrettson, Dave Polite, John Abrams. Absent: Marjorie Ehry, Alan Halstead and Bob White **Staff:** Ken Friday

Review of the **minutes** from the Planning Commission Hearings of November 20, 2008 and January 8, 2009. Michael Sherwood moved to approve as written. Seconded by Matt Dunckel. Passed unanimously.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: PAZ-06-08/P-14-08
REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from EF-80, Exclusive Farm use to AF-10, Agriculture/Forestry. An exception to Goal 3 has also been requested. The application includes a request to divide the 23 acres into two lots of 11.5 acres each.
APPLICANT: Wallace Lien, Attorney representing D. Maxine Noble Family Trust
TAX LOT: 5316-2800
LOCATION: 16201 SE Fairview Road, Dayton
CRITERIA: Sections 402, 501 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. The partition is subject to the Yamhill County Land Division Ordinance.

Chair Garrettson opened the public hearing.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: None.

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

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

Questions of Staff: John Abrams asked about the soils on the subject parcel. Ken replied the entire parcel is composed of high-value soils. Chair Garrettson asked about the PALF zone on the neighboring parcel. Ken gave some background information regarding the zoning on the parcel.

Proponent’s Case: Wally Lien, 1775 32nd Place NE, Salem 97301: Represents the applicants. Gave a brief background of the history of the property and described the applicants proposal. Mr. Lien discussed the applicable criteria specifically addressing the exceptions process.

Questions of Proponent’s: Michael Sherwood asked about the land to the north and west that are zoned EF-80 and are also adjacent to the road and the airstrip and whether they are being farmed successfully. Mr. Lien replied that he believes it is in farm use.

David Polite asked why is the airstrip interfering with farming. Mr. Lien replied that you couldn’t spray.

Chair Garrettson asked when the last time a plane or helicopter was landed on the airstrip that wasn't the landowners. Mr. Lien replied he wasn't sure. Chair Garrettson stated that it may be zoned PALF but it is a private airstrip and a pilot flying over would not find the airstrip and there are no facilities or hangers and the Shelburne's don't invite the general public to land there. Mr. Lien replied he's not so sure that there aren't hangars there but agrees the Shelburne's should be the one's to reply to that question

David Polite asked what Grand Island Junction consists of. Mr. Lien replied the area is home to the Oregon Truss, PGE substation, a general store and garage, and some houses. David Polite asked if that development was done prior to land use planning. Mr. Lien replied it was and that Oregon Truss has recently expanded and showed the area on a map. David Polite asked if the area was developed prior to zoning that area cannot be used as "irrevocably committed." Mr. Lien described the distinction that puts these in the category of neighborhood and regional characteristics and can be used. Ken clarified what David Polite was referring to and said he thinks this area can be used.

Chair Garrettson cited Yamhill County case *Ruxburg v. Armstrong* in 1977 said that size alone could not be used to determine the practicality of farm use and asked if that was still the applicable law. Mr. Lien replied that it was and stated DLCD focused on just one of the six criteria. Chair Garrettson asked Mr. Lien if his argument was that he doesn't have to meet all the criteria but instead the criteria can be balanced and decide that the applicant meets some but not all then the application can be approved. Mr. Lien said there has to be findings for all the criteria but it is up the Planning Commission to decide the various factors. Chair Garrettson asked how many are non-farm dwellings vs. farm dwellings. John Abrams pointed to page 10 of the application for the answer. John Abrams asked if a Goal 3 exception is required. Mr. Lien said according to Ken and Gary Fish it is required and Mr. Lien explained his position regarding taking an exception to Goal 3 for this application. There was discussion regarding taking an exception to Goal 3.

Ken Friday asked Mr. Lien for a copy of Ordinance 202 for the commission.

Judy Noble-Bennett, 16201 SW Fairview Rd, Dayton: Gave a personal history of the reason for the application.

Terry Noble, 1339 SW 39th, Pendleton, OR: Gave personal history of growing up on the farm.

Harley Noble, 15280 SE Fairview Rd, Dayton: Gave personal history of growing up on the farm.

Questions of Proponents: Michael Sherwood asked Harley where his house is located and if he is farming the land and how large it is. Harley Noble pointed to the map for the location of the home and said he is renting the land to a farmer and it is 13 acres.

Chair Garrettson asked if there are any questions from opponents in the nature of clarification. There are none.

Ken Finnigan, 21847 SE Grand Island Rd, Dayton: spoke in support of the application.

David Withee, 16832 SE Unionvale Rd, Dayton: spoke in support of the application.

Darren Shelburne, 7609 SE Wallace Rd, Dayton: spoke in support of the application. John Abrams asked if the land has water rights. The applicants replied that it does. Michael Sherwood asked about one of the homes on the map. Mr. Shelburne gave the history of the home. Chair Garrettson asked for clarification regarding the airstrip. Shelburne explained. Sherwood asked for clarification regarding the income off of what he farms and what the minimum size would be for a family of four to make a living farming. Shelburne described the operation and said you would need 800-900 acres.

Jim Shelburne, 17340 SE Wallace Rd, Dayton: supports the application. Garrettson asked if the airstrip is in use by other people that him and when the last take off was. Shelburne replied last summer and there are about 50 take off's and landings per year. Chair Garrettson asked if there is a hangar on-site. Mr. Shelburne replied yes, but he has farm equipment in there now.

Chair Garrettson asked the Nobles about the 130 acre property in Grand Island. The Nobles replied that there is property there in the grandfathers trust. Chair Garrettson asked if that property is available to build on. The Nobles explained their position regarding building there.

Opponent's Case: None.

Chair Garrettson called for a 7 minute break.

Public Agency Report: Ken Friday stated SWCD submitted a letter as well as DLCD. The Public Works Department, Dayton Fire Department and the Water Master did not respond.

Rebuttal: None.

Staff Recommendation: Ken Friday gave his staff recommendation which was a recommendation for denial based on the findings and conclusions in the staff report.

Questions of Staff: Matt Dunckel asked for clarification regarding how many PC votes are needed. Ken said five affirmative votes would be needed for a recommendation to the Board of Commissioners. David Polite asked about the option of doing a farm help dwelling instead of the PAZ. Ken explained the problems with the other options that were discussed.

Chair Garrettson closed the public hearing.

Deliberation:

John Abrams stated he was in favor of the application.

Michael Sherwood stated he was in favor of the application.

David Polite agreed with the staff recommendation.

Daryl Garrettson stated he is conflicted because he doesn't believe it meets the criteria.

Matt Dunckel stated he is in favor of the application.

MOTION: Matt Dunckel moved to approve PAZ-06-08/P-14-08 based on the findings and conditions contained in the staff report. Seconded by John Abrams.

Motion failed with a 3-2 vote. John Abrams moved to refer the application to the Board of Commissioners with no recommendation. Seconded by Michael Sherwood.

New Business: Ken Friday stated there have not been any interviews for the Planning Commission vacancy. Nine applications have been received.

Nothing on for the April Planning Commission hearing.

Adjourn: The meeting adjourned at 8:55 p.m.