

**YAMHILL COUNTY PLANNING COMMISSION**

Thursday November 5, 2009 - 7:00 p.m.

Yamhill County Courthouse, Room 32

535 NE 5<sup>th</sup> St.

McMinnville, Oregon 97128

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

The Commission reviewed and unanimously approved the minutes from the hearing of October 1, 2009.

Chair Garrettson opened the public hearing on Docket PAZ-01-09.

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

Ken Friday read the "raise it, or waive it" statement required by ORS 197.763.

**QUASI-JUDICIAL PUBLIC HEARINGS:**

**DOCKET NO.:** PAZ-01-09  
**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from EF-20, Exclusive Farm use to AF-10, Agriculture/Forestry. An exception to Goal 3 has also been requested.  
**APPLICANT:** Michael Robinson, representing Mills Development Co. LLC  
**TAX LOT:** 3210-1000  
**LOCATION:** Approximately 400 feet west of the intersection of Bell Road and Mountain Top Road, on the south side of Bell Road.  
**ZONING:** EF-20 Exclusive Farm  
**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.

**Staff Report:** Ken Friday gave a brief review of the staff report. Mr. Friday passed out contour maps that had been requested by Chair Garrettson. Mr. Friday explained to the Planning Commission that because this is a plan amendment, they needed five votes in order to forward on a recommendation to the Board of Commissioners.

**Proponent's Case:** Michael Robinson, attorney representing the applicant. He introduced the proponents who wished to speak, the first was Mr. Mills. Gale Mills described the property and how the family inherited the property in the 1990's. He indicated that 28 acres of the land is farmed. It is rented out for \$900 per year. Mr Mills stated that the family wished to sell the property and they feel that 10 acre home sites are in keeping with the development that has occurred in the area. Mike Robinson walked through the approval criteria and what had been submitted into the record. Mr. Robinson pointed out that if this application were approved it could result in five additional dwelling sites on the property. Mr. Robinson submitted a plat of the six subdivision lots that have been platted on this property. Mr. Robinson described the demand for this size of lots surrounding the city of Newberg. Mr. Robinson talked about the issues raised by the neighbors. First, approval of this application would not set a precedence, each land use request is judged on its own merits. Second, in terms of water, while this is in a groundwater limited area, domestic wells are an exempt use. Third, traffic, there is no adverse comments in the record regarding traffic. A standard rate of traffic for this rural road is 10 trips per day. Fifty trips per day should not adversely affect the roads

in the area. Regarding the alternative sites analysis, the applicant is not asking for anything different than what is already occurring in the area. Also, many of the alternative sites identified by the opponents are outside of the county and well outside of the study area identified by the applicant. The Planning Commission has the ability to decide the size of the search area. We do not believe that properties in Columbia County should be considered as available for development. Mr. Robinson said his client was offering to put down a conservation easement over the south side of the property for the benefit of Yamhill County and the SWCD. He said his client would still want the right to place dwellings on each of the lots, and to farm the clear area, but the conservation easement would protect the remainder of the property from development. Mr. Robinson then went through the zone change criteria and the four reasons exception criteria. Mr. Robinson said the evidence supports a finding for approval. He states that if the findings were adopted for approval there should be a note that the transportation planning rule would be addressed when the property was developed and that a conservation easement would be adopted to maintain the forested areas.

Mr. Halstead asked about the well depth. Mr. Mills said they drilled wells between 400 to 800 feet. How many gallons per minute? Mr. Mills said he didn't recall, but would get that to them in rebuttal.

Mr. Garrettson asked about the exceptions to Goal 3. He asked about the needs analysis on page 6 and 7 of Marty Stivends application. Asked if the analysis showed 13 different sites within the exception area. Mr. Robinson said that was correct. Mr. Garrettson asked how long those 13 had been vacant. Mr. Robinson didn't know but he would have Mike Cook answer about the demand for these sites. Mr. Garrettson: why weren't VLDR parcels included? Mr. Robinson: because the AF-10 sites provide for a much larger lot size. Mr. Garrettson: How many developed parcels were on the market in the study area. Mr. Garrettson: How would we determine that a 10-acre parcel has a different demand than a 5-acre parcel when we both know that the desire is to live in the rural residential area. Mr. Robinson: We looked at market timing and the size of lots. Mr. Robinson: Just because 5-acre lots is a desirable lot size does not mean that there is not a demand for 10-acre lots.

Mr. Cook, has been a local realtor for 28 years, mostly in the Newberg area. The search area covered most of north Newberg/Yamhill County. The 13-lots are not available for purchase. He felt the highest and best use for this property is for rural residential. He stated that his clients want choices and many want a rural lifestyle. The east side of Newberg is desirable so the resident does not have to fight the traffic. The need for this use is there. Daryl: How many parcels are currently up for sale in the study area? Mr. Cook: I only looked at bare ground because that is what I thought we were comparing to the application and that is what many of my customers are looking for.

**Opponent's Case:** Barbara Schaffner, 30750 NE Bell Road, Sherwood, she said she has lived there since 1989. She went over her written comments that had been previously submitted. Marjorie Ehry: how much land do you have? Ms. Schaffner: I have three acres, where I raise blueberries and goats. She said she thought there were so few lots available due to the zoning and the fact that it is an agricultural area.

Peter Schmidt, 31950 NE Canter Lane, Sherwood, he went over his letter of opposition. He noted 1202.02 (B) and (D) and stated the applicant did not show there was a need because there are rural residential lots available in the area. Goal 3 also protects this agricultural area and if it is divided up that agricultural use will go away. Goal 3 also notes the protection of water. This is a groundwater limited area and adding more wells will adversely affect the area. Lastly, if we continue to rezone the area we will lose the character of the area. Alan Halstead: Are you on a community well? Mr. Schmidt: Yes. Mike Sherwood: Do you see an increase in traffic on Bell Road? Mr. Schmidt: Yes, with the construction of Roy Rogers Road it has become a perfect corridor for a commute into Beaverton.

Jane Bardolf, 31950 NE Canter Lane, Sherwood, she reviewed her letter in opposition that was submitted at the October 1, 2009, Planning Commission hearing. She believed the application had not satisfied the Yamhill County

Comprehensive Plan as required by YCZO 1208.02(A). She believes there is a demand for the agricultural uses that these lands can be put towards so the use does not comply with 1208.02(B) and (D). Regarding 1208.02(C), the area is a groundwater limited area. Placing more homes will increase demand for that groundwater. She submitted her letter into the record.

Steven Shapiro, 30750 NE Bell Road, Sherwood, I would like to make two points about traffic and water. How many other lots are in the area that will potentially come up in the surrounding area. I don't think that you should look only at the affect of this one development but at the potential development of the entire area. If you approve this application, when will you choose to stop approving these rezonings?

Barbara Richmond, 30765 NE Bell Road, Sherwood, I have lived there since 1982. The area surrounding us was divided up, but that was all done prior to our buying our lot. These were sold off as Mt. Hood views. We chose this place because we were looking for something rural. When folks subdivide, we are now seeing the new residents put in large homes with large lawns. We don't irrigate our lawns because we know there is not enough water. Our well produces 6 gallons per minute. Our well is 120 feet in depth. The traffic has increased. I have lost three pets to cars so I no longer have pets. Matt Dunckel: Is there a depth to width ratio? Ken Friday: Yes, it is 4:1. Daryl Garrettson: If they already have six lots in the subdivision, could each of those lots have a dwelling? Ken Friday: Yes, they could sell them along the existing lot lines or replat those six lots. Daryl Garrettson: If they are a substandard lot in the AF-10 zone they could be developed. Ken Friday: That is correct, provided the lots were lawfully created and these lots were lawfully created.

Public Agency Reports: Mr. Friday reviewed the Public Agency reports.

**Rebuttal:** Mr. Robinson submitted the records of the eight well logs for the subdivision north of the subject property. Mr. Robinson stated that the need information they have submitted is consistent with previous decisions where they look at other AF-10 lots that are available. All of the neighbors have stated that they enjoy living in a rural area. That is exactly the opportunity that my client wants to provide. It is clear that there is a need for this type of zoning. It is clear that you can drill wells for domestic purposes and sometimes people initially drill wells that are too shallow and need to deepen them. If it gets to the point that water is not available then Water Resources can increase the protections in this area. It is clear that they have not done that so they must believe that there is water available in the area. The issue of high end housing was raised. We don't know what will be built there, but due to the economy, housing has changed. As for the agricultural use, the applicant receives \$900/year. Traffic has increased, but the public works department has not indicated that it has increased beyond what the road can handle. We are offering to limit the development to five lots.

Staff Recommendation: The applicant is requesting a reasons exception. I do not believe there is evidence in the record to support a reasons exception. If however, you do decide to approve the use then you should place a limited use overlay zone to limit the development to five parcels and require that traffic be evaluated when the development occurs.

Alan Halstead: The parcel is not a commercially viable farm by itself. I think it can meet the exception for Goal 3. I think I could support the proposal.

Mike Sherwood: I am old enough to recall Bull Mt. being 5-10 acre parcels and now today I cringe. I am not convinced of the "need". I am leaning against it.

Dave Polite: A reasons exception is difficult to justify. I am not going to say there is not a need, but I don't think there

is enough to support a reasons exception.

Daryl Garrettson: I, like Alan, am on the fence. This parcel does not connect to the larger farm parcels in the area. But then you get to the reasons exception and that is difficult to justify. Right now we have 13 lots available. Is that enough? At this point I am leaning against it.

Marjorie Ehry: I definitely agree with Commissioner Halstead on the agricultural use. Whoever is farming it is coming to an area that has little or no farm use. I think the EF-20 is the wrong zoning. There is not going to be production agriculture in this area. The big issue to me is water in this area. I really lean towards approval because I don't see anything happening as far as future agriculture.

Matt Dunckel: I think I am leaning towards approval based on the statements by Commissioner Halstead and Ehry. I don't think the neighbors will notice five more houses. In my mind they have met the test for the exception to Goal 3.

Alan Halstead moved to approve PAZ-01-09 with a resource conservation area provided with the subdivision plat and no more than 5-residential properties on the final plat. Matt Dunckel seconded the motion. Motion tied 3 to 3 (Michael Sherwood, Dave Polite and Daryl Garrettson voting against).

Alan Halstead moved to forward PAZ-01-09 to the Board of Commissioners without a recommendation. Michael Sherwood seconded. **Motion passed unanimously.**

Ken Friday explained the process before the Board of Commissioners.

**Other business:**

Daryl gave up smoking!

**Adjourn:** Planning Commission hearing adjourned at 9:20 PM.