

YAMHILL COUNTY PLANNING COMMISSION

Thursday, May 6, 2010 - 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

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

The minutes from the Planning Commission Hearing of April 1, 2010 were unanimously approved.

Chair Garrettson opened the public hearing.

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

Rick Sanai read the “raise it, or waive it” statement required by ORS 197.763.

QUASI-JUDICIAL PUBLIC HEARING:

- DOCKET NO.:** Z-02-10
REQUEST: Zone change from EF-20, Exclusive Farm use to AF-20, Agriculture/Forestry
APPLICANT: Michael Robinson, Attorney representing Mills Development Co. LLC
TAX LOT: 3210-1000
LOCATION: Approximately 400 feet west of the intersection of Bell Road and Mountain Home Road, on the south side of Bell Road.
CRITERIA: Sections 402, 403 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

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

Proponent’s Case: Michael Robinson and Seth King, Perkins Coie, 1120 NW Couch, 10th Floor, Portland, OR: Attorneys representing the applicants. They presented a review of the application and explained how it meets the applicable criteria.

Questions of Proponent: David Polite asked for more clarification regarding Sections 1208.03 and 1208.04. Mr. King explained why Section 1208.03 is applicable and 1208.04 is not. Commissioner Polite asked for more clarification from staff. Mike Brandt explained the history.

Commissioner Halstead asked about a survey map that is in the application and if the lots that were on the map were the pre-existing lots. The applicants said they are.

Chair Garrettson asked if all six lots would qualify for a forest template dwelling. Ken Friday said only three of the lots look like they may be able to qualify and explained why.

Opponent’s case: Marilynn Hayley, 16300 NE Leander Drive, Sherwood: Gave testimony in opposition. Bob White stated she had mentioned the County lacked groundwater data, so Commissioner White asked how the County would get better groundwater data and who would do it. Ms. Hayley recommended contacting the Washington County Water Master. John Abrams asked where she lived and Ms. Hayley pointed on the map. Commissioner Abrams asked how big her parcel is and Ms. Hayley stated it is 2.7 acres. Commissioner Abrams asked why the water levels on the map she provided went up from 1975 to 1995. Ms. Hayley said she didn’t have an answer to that other than the fact that the sampling was seasonal which could affect the results.

Sid Friedman, 14286 NW Old Moores Valley Road, Yamhill: Testified regarding the applicability of Section

1208.04 and stated the application doesn't meet the criteria. Chair Garrettson asked staff to read Section 1208.04 to the Commission. Ken Friday read the section.

Chair Garrettson disagreed with Mr. Friedman and his interpretation that Section 1208.04 applies.

Barbara Richmond, 30765 NE Bell Road, Sherwood: Gave testimony in opposition. Michael Sherwood asked how big her property is and if she farms, if she has water problems and where she moved in from. Richmond reply she owns a 3.22 acre parcel with a house on it that was subdivided in the 1970's and she doesn't have any water problems.

Peter Schmidt, 31950 NE Canter Ln, Sherwood: Gave testimony in opposition, specifically, the lack of available water.

Barbara Schaffner, 30750 NE Bell Road, Sherwood: Gave testimony in opposition. Marjorie Ehry asked if she farmed and where she lived. Ms. Schaffner stated she has farmed peaches and now farms blueberries, raspberries, and has a garden.

Public agency report: Ken went over the public agency reports that were sent and no responses were received from these agencies.

Ms. Haley asked if the Planning Commission members are stewards of the land. Chair Garrettson replied that the Commission is obligated to make decisions based on what the law says and not what they think is best regardless of the law.

Rebuttal: Seth King and Michael Robinson provided rebuttal.

Staff recommendation: Staff recommended approval of the request with the modification to eliminate the wording "comprehensive plan amendment" from the approval.

Commissioner Polite said the Section criteria are still confusing to him so Mr. Brandt explained.

Deliberation:

The Commission agreed with staff.

Alan Halstead moved to approve Docket Z-02-10 and to strike out the comprehensive plan amendment language from the staff report. Marjorie Ehry seconded the motion. **Motion passed unanimously.**

Chair Garrettson called for an eight minute recess.

- 2. **DOCKET NO.:** PAZ-01-10/WRG-01-10
- REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Quarry; a zone change from EF-80, Exclusive Farm use to MR-2, Mineral Resource. The application includes a Willamette River Greenway permit. The purpose of the application is to establish a sand and gravel operation on the property.
- APPLICANT:** Baker Rock Resources, represented by Todd Sadlo
- TAX LOT:** 5326-600 and adjacent land north of Tax Lot 5326-600 which is identified on their legal description as being owned by Baker Rock Resources
- LOCATION:** North of and adjacent to the southernmost point of Upper Island Road, Dayton
- CRITERIA:** Sections 402, 404, 902 and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. It should be noted that

the local criteria to review the proposed zone change is superseded by the Oregon Administrative Rules. Oregon Administrative Rule (OAR) 660-23, in particular the section dealing with Mineral and Aggregate Resources of OAR 660-023-180 applies to the request. Also applicable is OAR 660-12-0060 Transportation Planning Rule.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: Matt Dunckel stated he has done work for Baker Rock in the past, however, that won't affect his decision. John Abrams stated the attorney representing the applicants has worked with him on a project in the past, however, it will not affect his decision.

Rick Sanai read the "raise it, or waive it" statement required by ORS 197.763.

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

Questions of Staff: Michael Sherwood asked Mr. Friday how the swale moved. Ken said the applicants have a geomorphologist available that would be able to answer that question and Ken pointed out the area on the map that was determined to be part of the applicants property due to the movement of the swale.

Alan Halstead said the email from the Yamhill County Farm Bureau deems it a continuance and at the appropriate time would like to recommend a continuance of the hearing.

Matt Dunckel asked if the site is designated as having mineral resources does that automatically make it an MR zone? Staff replied it does not.

Proponent's Case: Todd Sadlo, 1532 SE 36th Ave, Portland, OR 97214: Attorney representing the applicant. Reviewed the application. Spoke of the traffic concerns, protection of farm land for farm uses. Discussed what the site will be used for after it is mined. Discussed the Goal 5 rules relating to sand and gravel operations.

Chris Lidstone, 4025 Automation Way, Ft. Collins, Colorado: Geomorphologist. Discussed what was done under the Goal 5 analysis, which included the surrounding wells, what will be done with the top soil, how the site will be mined and reclaimed, stockpiling and berms, channel changes, looking at the impacts to the entire island, setbacks to the sloughs, the noise berm that is to be constructed and no net change in the floodplain.

Chair Garrettson asked Mr. Sadlo if he had seen the letter from 1000 Friends of Oregon. Mr. Sadlo said he has no problem addressing the farm uses on the entire island and the applicants have agreed to a condition relating to the bridge. Chair Garrettson asked about the site reclamation requirements and 1000 Friends claim that the County can require them to reclaim the site to agricultural uses. Mr. Sadlo said they are reclaiming to uses that are allowed under the rule. Chair Garrettson asked if it is even practical to reclaim the site to something that could be farmed after removing the gravel. Mr. Sadlo talked about how the Bernert site was a more appropriate site to reclaim to farmland and how the current site's location next to the state park makes it a good addition to the park for wildlife habitat and he is not sure if it is possible or not but it is not what they are proposing for this application and what they are proposing is allowed under state law.

John Abrams asked how deep the top soil is. Mr. Lidstone said it varies from four to fourteen feet and the total depth of the gravel is around 45 to 50 feet.

Commissioner Polite asked if the wildlife designation would reduce sedimentation to the river. Mr. Lidstone said compared to farming it would.

Commissioner Sherwood asked if there are areas of Grand Island that flood the way the subject parcel does. Mr. Lidstone stated there are other properties on the island of similar elevation and described the types of floods.

Questions of Proponent: Sam Sweeney, 1070 Ferry St, Dayton, asked if the applicants could show the audience what it would look like after reclamation and where the berms would be located. Mr. Lidstone and Mr. Sadlo showed the audience on a map.

Tom McKay, 20176 SE Grand Island Loop, Dayton, asked about the discrepancies regarding the lot size. Mr.

Sadlo explained the deed is old and describes the property line to the slough and the slough has moved since the deed was written.

William Grochell, 433 SW Brockwood Ave., McMinnville, asked about the hydraulic models used. Mr. Lidstone explained what model was used.

Angelo Spada, 7426 NE St. Paul Hwy, St. Paul, representing Mary and Arthur Spada, owns property near the site and is concerned about the proposed use impacting their wells.

Opponent's case: Casey and Katherine Kula, 18705 SE Upper Island Road, Dayton: They are concerned about the impact of dust on their farm products and the impacts of the operation to the floodplain associated with Skeeter Creek. They would like the trees to be planted on site throughout the process and not just at the end. Due to vandalism and the fact that the residents on Grand Island have been maintaining the state park they are concerned about the donation of the subject parcel after reclamation to the public for a park.

Commissioner Polite asked about what bisected the island. Casey Kula showed the site that would be bisected on the map and explained his concern.

Commissioner Sherwood asked how many acres they have and how long they have lived there. They said they manage 25 acres of farmland and have lived on the island for about 4 years.

Commissioner Abrams asked about the state law relating to surface water rights. Mr. Lidstone said there are prior appropriation water rights. Chair Garrettson said most of the water used is ground water and not surface water and ground water is not protected. Mr. Kula asked for further clarification regarding ground water rights and Chair Garrettson and Mr. Sadlo explained.

Linda Lamb, 21762 SE Grand Island Loop and Alice Schindler 21760 SE Grand Island Loop, Dayton: Gave testimony in opposition.

Tom McKay, 20176 SE Grand Island Lp, Dayton: Gave testimony in opposition, relating to the flood waters and addressed pesticides and water contamination and road construction in the floodplain.

Commissioner Sherwood asked how big the island is that he referred to. Mr. McKay said he thought it was about 4-5 acres of rock.

Charles Stephens, 22480 SE Upper Island Rd, Dayton: Gave testimony regarding the flood waters.

Bruce Chapin, 9965 Wheatland Rd, Salem: Gave testimony in opposition.

Harry Noah, 19415 SE Upper Island Lp, Dayton: Gave testimony regarding the effects on the rest of the island. Would like the county to retain its own third party hydrologist. Chair Garrettson explained the County does not have means to do this. Mr. Noah expressed concerns regarding who is liable for the bridge if/when it fails. Chair Garrettson said the County can put a condition on the application.

Glen Scoggins, 20115 SE Upper Island Road, Dayton: Gave testimony in opposition. Commissioner Sherwood asked if he farmed and how many acres. Mr. Scoggins said yes, he farms ten acres and pointed to his property on the map.

Laura Masterson, 18400 Lower Island Road, Dayton: Gave testimony in opposition. Commissioner White asked how she arrived at the three minute rule and the hours that she mentioned regarding truck traffic from the site. Said she read it in the application. Commissioner Polite asked about the bisecting issue. Ms. Masterson explained her concerns.

Sid Friedman, 14286 NW Old Moores Valley Road, 1000 Friends of Oregon: Gave testimony in opposition. Wants the County to require the applicants to reclaim the land to farming and says the County has the authority under the law to do this.

Commissioner Dunckel asked if DOGAMI was the agency that approved the reclamation plan. Mr. Friedman said the OAR's allow the local government to decide the reclamation plan.

Thomas Jackson, 2840 Kimberly Court, McMinnville: Owns a 20 acre farm on Grand Island. Gave testimony in opposition. He was very concerned about the dewatering from the operation going into the adjacent creek and raising the water level. He said if it raised the water level he would no longer be able to get to his eastern field, which is also one of his most productive fields.

Sergio Villasenor, 19775 SE Upper Island Road, Dayton: Gave testimony of concerns on behalf of Ernesto and Guadalupe Villasenor.

Motion: Alan Halstead moved to continue the hearing to June 3, 2010 at opponent's case. Seconded by Michael Sherwood. Motion passed unanimously.

Adjourn: Planning Commission hearing adjourned at 11:36 PM.