

**YAMHILL COUNTY PLANNING COMMISSION**

Thursday, July 1, 2010 - 7:00 p.m.  
Yamhill County Courthouse, Room 32  
535 NE 5<sup>th</sup> St.  
McMinnville, Oregon 97128

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

The minutes from the Planning Commission Hearing of June 3, 2010 were unanimously approved.

Chair Garrettson opened the public hearing at the point of staff recommendation.

**QUASI-JUDICIAL PUBLIC HEARINGS:**

*The following public hearing was continued from June 3, 2010 at the point of "Staff Recommendation."  
No additional public testimony is scheduled to be taken for Docket PAZ-01-10/WRG-01-10*

- 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, Oregon  
**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 It should be noted that the local criteria to review the proposed zone change is superseded by the Oregon Administrative Rules.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.

Ken Friday gave the staff recommendation. Ken stated "An issue that was brought up a number of times during the last two hearings that the was the applicant needed to "demonstrated market need". While it is true that this use to be a criterion — the requirement to demonstrate market need has been superseded by the Oregon Administrative Rules related to Goal 5. One of the reasons the rules do not allow for the decision on aggregate to be made based on market need is because aggregate is a non renewable resource. Simply stated, high quality aggregate is where you find it. Once high quality aggregate is located, state law requires its protection.

There are specific steps to follow in reviewing a proposed plan amendment for an aggregate mining site. The first step is the need to determine if it is a significant site. It needs to have rock that satisfies ODOT specifications for base rock. The Oregon Administrative Rules require that if it is under Agricultural Class I and II soils, it needs to have an aggregate layer of 25 feet. The applicant has submitted information to demonstrate this property has an aggregate layer of over 40 feet in thickness. In addition, the applicant submitted tests of the aggregate and it satisfies ODOT specifications. Therefore, we believe that the evidence supports that this is a significant site. As a significant site it needs to be placed on the County's list of Goal 5 resources. When you get to a motion I would suggest making that as your first motion.

Under the Goal 5 Rule, Once a site is determined to be a significant resource, you need to identify the potential conflicts and determine if there are "reasonable and practicable measures" that could be used to minimize such conflicts. Minimizing the conflicts does not mean that there are no conflicts, but rather that they are minimized. An example of this would be for something like noise, if it is demonstrated that the noise from the operation can be mitigated to satisfy the DEQ noise requirements, then the conflict has been minimized. The applicant initially proposed 23 conditions. They have since met with interested parties and they have proposed significant modifications to those conditions. The 28 conditions were presented at the last hearing and are noted as being revised May 17, 2010.

Since the June hearing we have also worked with the county road department to come up with conditions related to the bridge and local roads. There have been extensive revisions to Conditions 12 and 13 to try and address the concerns related to these facilities. The final draft was just approved today by the County public works director. We believe the 28 revised conditions of approval will minimize the identified conflicts. Therefore we recommend approval with a limited use overlay zone that contains the 28 conditions of approval revised July 1, 2010." Mr. Friday noted that Figure 6 in conditions 21 24A and 26 should be changed to Figure 6, revised 5/17/10

**Questions of Staff:** Sherwood asked about the bridge condition. Ken and Mike explained.

Commissioner Ehry asked if the PC vote would stop the quarry. Mike said the vote would be a recommendation to the BOC. The system allows an appeal of any decision.

Commissioner Halstead asked what kind of conditions were placed on Bernert quarry regarding the bridge. Ken said it was a similar condition to the one proposed.

White asked about the staff report that lead to denial. Ken and Mike said the report didn't have a recommendation but had findings for denial if needed.

Garrettson asked about identifying it as a significant site.

Sherwood asked about the market need. Ken explained the fact that market need is no longer a requirement.

Dunckel asked about the limitations of authority regarding the public roads. Ken explained.

**Deliberation:** Is the site a significant Goal 5 resource?:

John Abrams: Yes

Alan Halstead: Yes

Michael Sherwood: Yes

Marjorie Ehry: Yes

Matt Dunckel: Yes

Bob White: No

Daryl Garrettson: Yes

**MOTION:** Alan Halstead moved to approve the site as a significant Goal 5 resource and Matt Dunckel seconded.

**Motion passed 6 - 1.**

Should the application be approved?:

John Abrams: Yes

Alan Halstead: No

Michael Sherwood: No

Marjorie Ehry: No

Matt Dunckel: Yes

Bob White: No

Daryl Garrettson: No

**MOTION:** Matt Dunckel moved to approve PAZ-01-10/WRG-01-10 with the revised conditions. Seconded by Alan Halstead. **Motion failed 2-5.**

**MOTION: Bob White moved to deny PAZ-01-10/WRG-01-10 based on the conclusions for denial in the staff report. Seconded by Marjorie Ehry. Motion passed 5-2.**

2.     **DOCKET NO.:**         PAZ-03-10  
       **REQUEST:**           Approval of a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Industrial; a zone change from AF-10, Agriculture/Forestry to LI, Light Industrial.  
       **APPLICANT:**         Mike Daniel  
       **TAX LOT:**            3335-203  
       **LOCATION:**           20801 NE Neiderberger Road, Dundee  
       **CRITERIA:**           Sections 501, 702 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 660-12-0060 Transportation Planning Rule. The Unincorporated Communities Rule in OAR 660-022-0030 and Statewide Planning Goals 11 and 14.

Chair Garrettson opened the public hearing.

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

Mike Brandt read the “raise it, or waive it” statement required by ORS 197.763.

**Staff Report:** Stephanie Armstrong gave the staff report.

**Proponent’s case:** Mike Daniel, 20929 Neiderberger Rd, Dundee, 97115. Gave an explanation for the purpose of the application and the background for the property. The Commissioners asked a few questions for clarification.

**Opponent’s case:** None.

**Public agency report:** Stephanie Armstrong gave the public agency reports.

**Staff recommendation:** Staff recommended approval of the application with the conditions listed in the staff report.

Chair Garrettson closed the public hearing.

**Deliberation:**

- Bob White: Concurs with staff
- Matt Dunkel: Concurs with staff
- Marjorie Ehry: Concurs with staff
- Daryl Garrettson: Concurs with staff
- Michael Sherwood: Concurs with staff
- Alan Halstead: Concurs with staff
- John Abrams: Concurs with staff

**MOTION: Alan Halstead moved to approve PAZ-03-10 with the conditions listed in the staff report. Seconded by Michael Sherwood. Motion passed 7-0.**

3.     **DOCKET NO.:**         PAZ-04-10  
       **REQUEST:**           Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Agriculture/Forestry Small Holding; a zone change from AF-20, Agriculture/Forestry to AF-10, Agriculture/Forestry. An exception to Goals 3 & 4 is required.  
       **APPLICANT:**         Terrence and Jill Buckmaster  
       **TAX LOT:**            3205-105  
       **LOCATION:**            27805 NE Mountain Top Road, Newberg

**CRITERIA:** Sections 403, 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 of Jurisdiction, Ex Parte Contact:** None.

Everyone already heard the "raise it, or waive it" statement required by ORS 197.763.

**Staff Report:** Stephanie Armstrong gave the staff report.

**Proponent's case:** Eric Bosse, PO Box 1210, Newberg, 97132, representing the applicant: Provided an explanation of the application and addressed some of the criteria relating to the application and why it should be approved. The Commission asked questions of the proponent.

**Opponent's case:** None.

**Public agency report:** Stephanie Armstrong gave the public agency reports.

**Staff recommendation:** Staff recommended denial of the application due to the fact that there has not been adequate findings to justify an exception to Goals 3 and 4.

Chair Garrettson closed the public hearing.

**Deliberation:**

Matt Dunckel: Approve  
Marjorie Ehry: Approve  
Daryl Garrettson: Approve  
Michael Sherwood: Approve  
Alan Halstead: Approve  
John Abrams: Approve  
Bob White: Approve

**MOTION:** Alan Halstead moved to approve PAZ-04-10 with the limited use overlay to limit the parcel to one 20 acre lot and one dwelling. Seconded by Michael Sherwood. **Motion passed 7-0.**

4. **DOCKET NO.:** Z-03-10  
**REQUEST:** Zone change from AF-80, Agriculture/Forestry to F-80, Forestry.  
**APPLICANT:** Old Elk Mt. Tree Farm, LLC  
**TAX LOT:** 5725-1000  
**LOCATION:** East of the intersection of Willamina Creek Road and Tindle Creek Road  
**AREA SIZE:** The entire parcel is 415.3 acres. The area proposed to be rezoned is approximately 300 acres  
**CRITERIA:** Sections 401, 403 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

Chair Garrettson opened the public hearing.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** Matt Dunckel stated he has done work on the property

in the past, however, it will not affect his decision.

Everyone already heard the "raise it, or waive it" statement required by ORS 197.763.

**Staff Report:** Stephanie Armstrong gave the staff report.

**Proponent's case:** Bruce Vincent, 416 Laurel Ave, #3, Tillamook, OR 97141, representing the applicant. Gave background information and addressed the reasons for the application.

**Opponent's case:** None.

**Public agency report:** Stephanie Armstrong gave the public agency reports.

**Staff recommendation:** Staff recommended approval of the application.

Chair Garrettson closed the public hearing.

**Deliberation:**

Bob White: Concurs with staff

Matt Dunckel: Concurs with staff

Marjorie Ehry: Concurs with staff

Daryl Garrettson: Concurs with staff

Michael Sherwood: Concurs with staff

Alan Halstead: Concurs with staff

John Abrams: Concurs with staff

**MOTION: Alan Halstead moved to approve PAZ-03-10 based on the conclusions in the staff report. Seconded by Michael Sherwood. Motion passed 7-0.**

5.     **DOCKET NO.:**        C-08-10  
       **REQUEST:**         Conditional use approval for the following commercial activities in conjunction with farm use: (1) Private member events; (2) One private event per day; (3) A culinary arts program located within the winery; (4) A kitchen used in conjunction with the culinary arts program; (5) Sales and promotion of items and goods produced in conjunction with the winery and vineyard; and (6) Educational seminars provided in conjunction with culinary arts program. The number of private members shall be no more than 330.
- APPLICANT:**        Grand Cru Estates, LLC  
       **TAX LOT:**         3401-1000 and 1001  
       **LOCATION:**         17090 Woodland Loop Road, Yamhill, Oregon.  
       **ZONE:**             EF-80 Exclusive Farm use  
       **PARCEL SIZE:**     51.21 acres (the farm tract is approximately 131.5 acres)  
       **CRITERIA:**         Sections 402.04(G), 402.07(A), 402.10(B) and 1202.02 of the *Yamhill County Zoning Ordinance*. Comprehensive Plan policies may also be applicable.

Chair Garrettson opened the public hearing.

**Abstentions, Objections of Jurisdiction, Ex Parte Contact:** There were no abstentions or objections to jurisdiction.

Mike Brandt read the "raise it, or waive it" statement required by ORS 197.763.

**Staff Report:** Ken Friday gave the staff report. He noted that he and Mike Brandt had visited the property and it

was explained in detail a much lower number of patrons than had been estimated in the staff report. Daryl Garrettson: What uses have we found to be commercial activities in conjunction with farm use and do they include a restaurant? Ken: None of them include a restaurant. The closest to serving food are winemaker dinners. Daryl Garrettson: What did we do on Brookside Inn? Ken: The difference is that the property had 22 acres of exception land zoned PRO Parks, Recreation and Open Space. Mike: Also that property did not have farm use, it was a rezoning. John Abrams: Is there a different requirement for an easement to a commercial use? Mike: No. Matt Dunckel: Didn't this commission vote to recommend a committee to look at commercial uses on farmland? Mike: Yes, and Commissioner Stern is leading a task force to look at commercial activities in conjunction with farm use.

**Proponent's case:** Charlie Harrell, of Buckley LeChevallior, P.C., 3 Centerpointe Drive, Suite 250, Lake Oswego, OR 97035 and Laurent Motileau, 17100 Woodland Loop, Yamhill. This is a winery, primarily and foremost. Please put out of your minds the huge gatherings that are depicted in the staff report. We would like a continuance so we can better address the number and style of events. The different areas of the winery have limits. Yamhill County is the epicenter of the wine industry in the state and there will be events, but want to do this right. The winery is limited in size. The kitchen is limited in size. Daryl Garrettson said that their had been problems with kitchens at wineries in unregulated competition with local restaurants. The question then is the selling of a meal necessary for the sale of a bottle of wine. Mike Brandt explained that even with a limited service restaurant, the health department required a kitchen. This type of cross regulation is what the state task force is trying to reconcile. Mr. Harrell offered a tour of the property. The difficulties with touring the property was discussed.

Mr. Montileau said he was on the statewide task force to try and address some of these issues. He said first and foremost he ran a winery and they do produce wine, 6,000 cases last year. The main purpose is to sell wine. As an added benefit he would like to allow the members of his wine club to use the facility once a year. The use of the winery is not how they derive their income. The member needs to buy wine in order to be part of the wine club. The idea of the culinary part is to showcase wine. We have a very limited facility as far as a sit-down for dining. The dining area can only hold 49 people and the cooking class could only accommodate 8. The events that we would provide would be put on by the members. It is not open to the public, that is not an option. It is strictly for the members to create their own events. We are a full farm. We have 35 acres are planted to grapes. We have 29 goats, 23 chickens and 400 sheep so this operates as a real farm. The size of our building limits the size of the events. They are, by necessity, small. We are not going to have 300 members there at one time. We have members from all around the country. We had one member that recently had an event with her and four of her friends. She had a barrel tasting then sat near the fireplace for a few hours and had tea and snacks with her four friends. That was her "event." People are really excited about making their own wine and having their own label so the wine comes first. It is a perk to be part of the club and to have some of the other things we are trying to offer. We currently have 45 parking spaces.

**MOTION:** The commission discussed visiting the site. Alan Halstead moved to continue this issue to August 5, 2010, 7:00 PM, Room 32. Motion passed unanimously.

**Other business:** None

**Adjourn:** Planning Commission hearing adjourned at 9:00 PM.