

GILLIAN HEARST & PATRICK COLLIER

P.O. Box 614

Stayton, Oregon 97383

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February 26, 2015

Senate Committee on Judiciary  
Oregon State Capitol  
900 Court Street NE, Room 331  
Salem, Oregon 97301

**RE: Testimony in Opposition to Senate Bill 86 at February 26, 2015 Public Hearing before the Oregon Senate Judiciary Committee.**

To Chairperson Prozanski and members of the committee Senators Kruse, Burdick, Gelser, and Thatcher:

My name is Gillian Hearst and my husband, Patrick Collier, and I own and live on a farm zoned exclusive farm use (EFU) in the Linn County side of Stayton. We oppose Senate Bill 86 not because we oppose firearms training facilities. A responsible gun owner should definitely maintain a training schedule for as long as she or he owns a gun, and currently Oregon has plenty of authorized indoor and outdoor training facilities. That said, we would prefer all outdoor firearms training facilities be located at least four miles in radius from any type of residential area or environmentally-sensitive area for safety and noise pollution purposes. But, SB 86 doesn't address those concerns, nor did the 2013 bill SB 713. We oppose SB 86 because it's an inadequately written bill and does not take into account the fiscal and administrative burdens placed upon Oregon counties to approve or enforce the denial of a conditional use permit for a firearms training facility on EFU land, nor does it take into account the damage and contamination to EFU land from that type of facility.

For almost five years, our area has been blighted because our county cannot enforce its denial of a conditional use permit (CUP) on Queener Ridge Hunting Club, LLC of Scio (herein referred to as "Queener Ridge"). In June 2010, Queener Ridge applied for a CUP on EFU land it recently purchased, land that had been a working family farm for decades. Queener Ridge's application was unanimously denied by the county because the applicant wanted to operate a firearms training facility, surrounding neighbors who also live on EFU land were greatly concerned about safety, noise pollution and the detrimental affect on their farming operations, and the county found that "the proposed hunting preserve would significantly change and significantly increase the cost of accepted farm practices on surrounding farm uses."

Unfortunately, the county's denial did not dissuade Queener Ridge and ever since 2010 there has been almost daily, constant gunfire on the EFU land where the CUP was denied and released pheasants from Queener Ridge's property have damaged other farmers' crops. We know this because it's only three miles from our farm and we drive through that area often to visit friends, gravely aware of the gunfire at Queener Ridge. One dear friend of ours, Gisela Cowger, lives adjacent to Queener Ridge and she has lived on her EFU land for over 50 years, raising a family, being a local schoolteacher, and enjoying her retirement years doing what she loves most, gardening, playing with her German Shepherd and having her grandchildren visit. Gisela is unable to be here today, so I've brought her written testimony to submit to the committee, and she has authorized me to include in my testimony one of the more recent terrorizing experiences. On May 5, 2013, Gisela's 11-year-old grandson went to the creek running through her property to go fishing, but soon after he ran back to her house because he saw two men wearing orange hunting vests and firing their shotguns about 20 yards from him. Lastly, directly quoting from Gisela's letter to the committee, "For the last 4.5 years, I have endured the noise of almost daily gunfire, often lasting from morning to night. It has taken the joy out of working in my garden, and you can hear the gunfire even indoors."

Lastly, I'm fortunate to be here and to have been alerted to this unfortunate piece of legislation. There are EFU landowners, particularly hard-working farmers who couldn't be here today or who may not be aware of this harmful bill. Their voices and all those impacted by SB 86 need to be heard on such a detrimental change to Oregon's land use law. Please vote against Senate Bill 86.

Thank you for the opportunity to testify before you today and thank you for protecting the welfare and well-being of Oregonians and our environment.

Sincerely,  
  
Gillian Hearst & Patrick Collier

Enclosures: 16

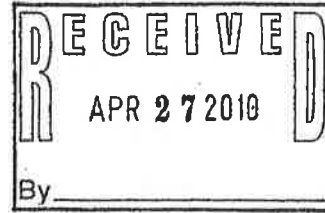


**Queener Ridge**  
**Pheasant Co.**

**Gary & Maureen Bochsler**

485 Queener Dr Phone: 503.932.5196  
Scio, OR 97374 Fax: 503.769.2476  
www.qrpheasants.com gary@qrpheasants.com

April 26, 2010



Linn County Planning & Building Department  
Linn County Courthouse  
300 SW 4<sup>th</sup> St. Rm. 114  
P.O. Box 100  
Albany, OR 97321

Re: Queener Ridge Hunting Club

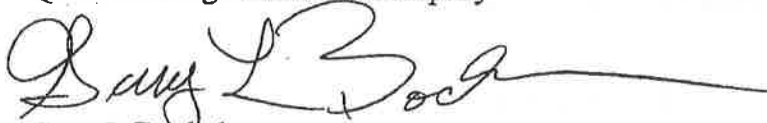
Subject: CUP Application for approval

Gentlemen,

Please see the attached revised CUP map for the proposed Queener Ridge Hunting Club. The proposed hunting club will be a secondary use to the existing farming operations.

Should you have any questions or require any additional information, do not hesitate to contact me.

Sincerely,  
Queener Ridge Pheasant Company

  
Gary L Bochsler

RURAL RESOURCE ZONING DISTRICT  
CONDITIONAL USE PERMIT APPLICATION

LINN COUNTY

MAR 24 2010

Application Fee: \$400.00/\$500.00/\$850.00

Planning & Building  
Department

Application Check List (for departmental use only)

Date Received: 3/24/10 Receipt number: PD10-0047 Fee paid: \$1000.00

Application accepted by: DVP Completeness reviewed by: \_\_\_\_\_

Proposed use of property hunting preserve

Other applications included: \_\_\_\_\_

Date deemed complete: \_\_\_\_\_ Review procedure type: II III

\_\_\_\_\_ Environmental Health Program approval.

New system \_\_\_\_\_ Existing system \_\_\_\_\_ Plan Review required: Yes \_\_\_\_\_ No \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_ Legal Properties

\_\_\_\_\_ Owner(s) signature \_\_\_\_\_ Applicant(s) signature

\_\_\_\_\_ Complete Site Plan

\_\_\_\_\_ Property contains: Sewage system and repair area \_\_\_\_\_ Access \_\_\_\_\_

\_\_\_\_\_ Property development standards can be met:

Property Size \_\_\_\_\_ Setbacks \_\_\_\_\_ Coverage \_\_\_\_\_ Width \_\_\_\_\_ Depth \_\_\_\_\_ Frontage \_\_\_\_\_

\_\_\_\_\_ Proposal is located within:

Zoning District EPV Plan designation \_\_\_\_\_

UGB (identify) \_\_\_\_\_ Planning area \_\_\_\_\_

Airport notification area \_\_\_\_\_

mapped ✓

I. BACKGROUND INFORMATION (to be completed by applicant in ink or typewritten)

- A. Applicant's name Queener Ridge Hunting Club  
Address 40485 Queener Dr  
City Scio State OR Zip code 97374  
Phone number (home) (503) 769-2476 Work (503) 932-5196 (Cell)
- B. Property owner (if different than applicant) Gary & Maureen Bochsler  
Address 40485 Queener Dr  
City Scio State OR Zip code 97374  
Phone number (home) (503) 769-2476 Work (503) 932-5196 (Cell)
- C. Applicant's representative (if any) Ben Childers benchilders@wvi.com  
Address 41390 Sunset Way SE  
City Stayton State OR Zip code 97383  
Phone number (home) (503) 767-4120 (work) \* (503) 428-3957
- D. Legal description of property  
Township 9s Range 1w Section 26 Tax Lot(s) 200 169.88 acres  
Site address (if any) 41030 Kingston Jordan Rd Scio OR 97374
- E. Zoning designation EFU Comp Plan \_\_\_\_\_
- F. Size of parcel 169.88 acres
- G. Additional parcels in contiguous ownership:  
Township 9s Range 1w Section 23 Tax Lot(s) 802 40 acres
- H. Is the property located within a rural fire protection district? If so, what district?  
Stayton Rural Fire district

II. VERIFICATION OF OWNERSHIP

If the person submitting the application and the owner of the property are not the same, then only the owner of the property should complete this section.

A. The application does not violate any recorded codes, covenants, or restrictions that are attached to the subject property.

B. I have the following legal interest in the property: owner of record Yes, land sales contract purchaser \_\_\_\_\_, holder of a recorded exclusive option to purchase \_\_\_\_\_.

Owner/applicant signature Gary L Bochsler

Owner/applicant signature Maureen Bochsler

### III. DEVELOPMENT REVIEW

- A. Describe in detail the proposed use and your development plans for the property. Include a description of the number and type of buildings and their intended use, roadways, driveways, parking lots, signs, landscaping, drainage plans and outdoor lighting. A site plan is also required (see attached site plan requirements).

The property will continue to operate as a crop producing farm as it has in the past; adding in a secondary element as a Hunting Preserve primarily for hunting upland game birds. Habitat food plots will be planted throughout where the soil is deep enough for no till drilling. An existing small farm house will be used as the caretaker's quarters and clubhouse for the foreseeable future. A parking sign will be located at the existing gravel entrance off of Queener Dr. A no parking sign will be placed in the paved driveway off of the Kingston Jordan road. Landscaping, out door lighting and drainage will not change from existing. A hunting preserve sign will be installed in the front yard off of Queener Dr. directing traffic to the gravel entrance off of Queener. One small existing building will be used to house 50 to 100 birds at a time for use on the preserve. Other buildings consist of an old sheep barn, machine shed and two pump houses. There will be a safety range and training course established to train youth and verify shooter competency. The safety and training range will utilize clay targets and emphasize properly trained sportsmen and sportsmanship.

- B. Please describe the operating characteristics of the proposed use.

As a preserve operator we will insure safe and secure hunting preserve operations for the benefit of humans, dogs and game birds. We will develop an improved hunting and shooting preserve for the benefit of its users, conservation and the general public. To assure a prosperous future for the game bird hunting preserve we will encourage improvement of hunting and shooting skills of customers to insure humane and safe harvesting of game birds as well as safety in the field. We will lead by example to participate in and provide educational programs for all hunters, including young men and women, in reducing the number of wounded birds and maximizing the number of clean shot opportunities. As an operator we will comply with all applicable game laws and accept my obligation to provide all possible assistance to all law enforcement officers. We will employ professionally recognized programs, techniques, and operations for harvesting of game birds that are well adapted for release into the wild. As a preserve operator we will provide leadership in preventing poaching and employ only legal and humane methods in preventing and controlling predation on game birds. We will provide legal game bird preserve hunting that permits opportunities for expanded game bird bag limits, we will balance this circumstance to ensure that all birds harvested shall be marked and retrieved and made available for human consumption including donations to programs for the needy. We will endeavor to protect the purchaser and consumer of game birds and the hunter so as to deserve patronage through fair and honest trade practices, accurate and truthful advertising the sale of healthy birds. The game birds to be released will exhibit their natural flight and survival instincts to insure that the hunting experience provides standards of fair chase. As an operator of a game bird hunting preserve, we must provide available and ample amounts of cover, food and water at all times. We will encourage and promote hunters to shoot within their ability to make clean and consistent shots and will endeavor to ensure that birds are presented within the capability of the hunter. We will lead by example in providing hunting opportunities that represent positive conservation of renewable wildlife and ecosystems and foster honorable and

ethical hunting in the field with emphasis on sportsmanship, fair chase and responsible hunting practices.

- C. Will any other permits from local or state agencies be required? If yes, please list permits needed and if they have been secured.

Oregon State Department of Fish and Wildlife (ODFW), which has been recently submitted for ODFW review and approval. Currently as owner and operator of Queener Ridge Pheasant Co. we have a propagation license required by the state and have the holding facilities required for the operation of the preserve. At Queener Ridge we are propagating 10,000 ring neck pheasant for sale to preserves in Oregon for the 2010- 2011 preserve season which runs September first thru March. The location of Queener Ridge Pheasant Co. is 2500 feet west of the proposed hunting preserve.

- D. How much land area will be used for the proposed activity? Will the proposed use generate wastewater and if so, how will it be disposed?

The proposed preserve will encompass the existing 209 acres of farmland, excluding those areas of Public Right-of-Way. Restroom accommodations will be available by providing a temporary restroom that will be professionally managed by a licensed sanitation company on a weekly basis. No additional wastewater will be generated.

- E. Will the proposed use require a water supply? If so, how much will be needed and how will it be supplied?

Yes water is required: an existing domestic well supplies the house and yard. We have water rights with the Kingston Irrigation District that is utilized for watering the existing farm ground. The existing farm irrigation program will remain in place as it has in the past. If we have extreme dry months we could pump our water from the Santiam River to supply water for the game birds. This amount of water would be a lot less than the current use for watering live stock. It takes three gallons of water per 350 birds per day. There may be 10 to 29 wild birds living on the preserve at one time, 29 birds would need approximately one quarter of a gallon so this could easily be supplied from the North Santiam if necessary. This water will be supplied through the Kingston Irrigation District paid for by the proposed Game Bird Preserve which has sufficient water rights for much more water than this.

- F. Please describe the types of vehicles, machines and/or tools to be used. Please estimate the amount of vehicle trips per day that will be generated by the proposed use.

Farming equipment, ATVs, food plot planters, standard farm equipment as required to successfully operate the existing farming operations. During hunting season traffic will be intermittent. For example if eight hunters were to hunt they would probably bring two vehicles and park in the parking lot off of Queener Drive which is gravel. If there were two hunters they probably would arrive together meaning one vehicle. If our maximum capacity is 12 at a time or 4 people in a group we probably would have 3 vehicles per hunt. If we have 3 hunts per week, one vehicle with two people each trip you have a total of three vehicles a week.

- G. What are the proposed hours and days of operation? Will any products be offered for sale on the property? If products are sold, what will be sold?

Hours of operation will be day light to 30 minutes prior to dusk 7 days a week, reservations only. Products being offered will primarily be game birds although we will offer shotgun shells should a customer need them. Also hunting vests will be available should a customer need them. Safety glasses and ear plugs will also be available for sale or loan for the hunters.

- H. How many people will be employed including the applicant? Please indicate whether the employees will be full or part-time. Will anyone live on the property? If so, who?

In addition to the existing employees required to maintain the current farming operations, the applicant and preserve caretaker are the only present employees. The caretaker will live on the property, both being part time. Future maintenance & operational staff will be added as required.

- I. Does the property front on a county road or public road? Which one? Is there an existing driveway and how is it improved (gravel, asphalt, concrete)? Is access to the property provided by a roadway easement? If so, when was the easement recorded with Linn County? Please provide a copy of the recorded easement.

The property currently has two driveways. One off of Kingston Jordan being asphalt concrete and one off of Queener Dr. which is gravel leading to the parking area, both are county roads.

- J. How is the property now used? Are there any unique features on the property such as a creek, steep topography, or wetlands?

Currently the property sustains grass seed farming and sheep grazing. There are no wet lands present on the property, most of the land is lightly sloped. A drainage ditch at the North West corner runs in the wet months as well as many small drainages throughout the property. Very shallow soil makes tilling improbable in many areas but supports a stand of native prairie grass which is very attractive upland bird habitat. Also there are oak groves on the property that will provide a natural sound barrier between the parcel and any neighboring houses.

- K. Please describe the land uses on adjoining properties.

A dozen or so beef cattle, a few horses and a Lama grazing, some grass seed farming, row crops and residential houses are the uses on adjoining properties.

- L. Will your proposed use be compatible with the surrounding area? Explain the reasons for your answer.

Yes, The largest portion of the preserve which borders Kingston Jordan to the east and Queener Dr. to the North, 169 acres, has property to the south and north of the proposed preserve that is exactly the same native prairie grass in the extensive local vicinity. The native habitat is very conducive to upland game birds and their healthy re-establishment.

- M. Explain how the proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

There will be not only no significant change; there will not be any change whatsoever to the surrounding lands. There is a possibility that some upland game birds will fly onto surrounding lands. However, there are existing wild pheasants located in the area and pheasants tread very lightly and do not cause damage. Our game bird preserve will result in no significant change to the surrounding lands, because preserve practices will be more attune to the native state of the property. The mitigation of the grazing lands, the installation of feed plots and land use practices associated with game bird preserves will provide viable livestock-like management methods that are similar to, if not identical to, current surrounding land use practices

- N. If the property is located within a forested area, explain how the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

The parcel is not located in a forested area, there is a small patch of fir on tax lot 802. There is a fire suppression pond adjacent to this tax lot that is on the proposed preserve property. This pond remains full in the dry season by the Kingston Irrigation District. Therefore if there is a fire in the area this pond could be used for fire suppression. All this water is paid for by the Irrigation District, any fire suppression personnel would be volunteers from the Stayton rural fire District. There is a small oak grove located at the West end of the property that acts as a natural sound barrier and will remain as-is.

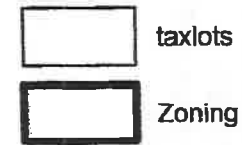
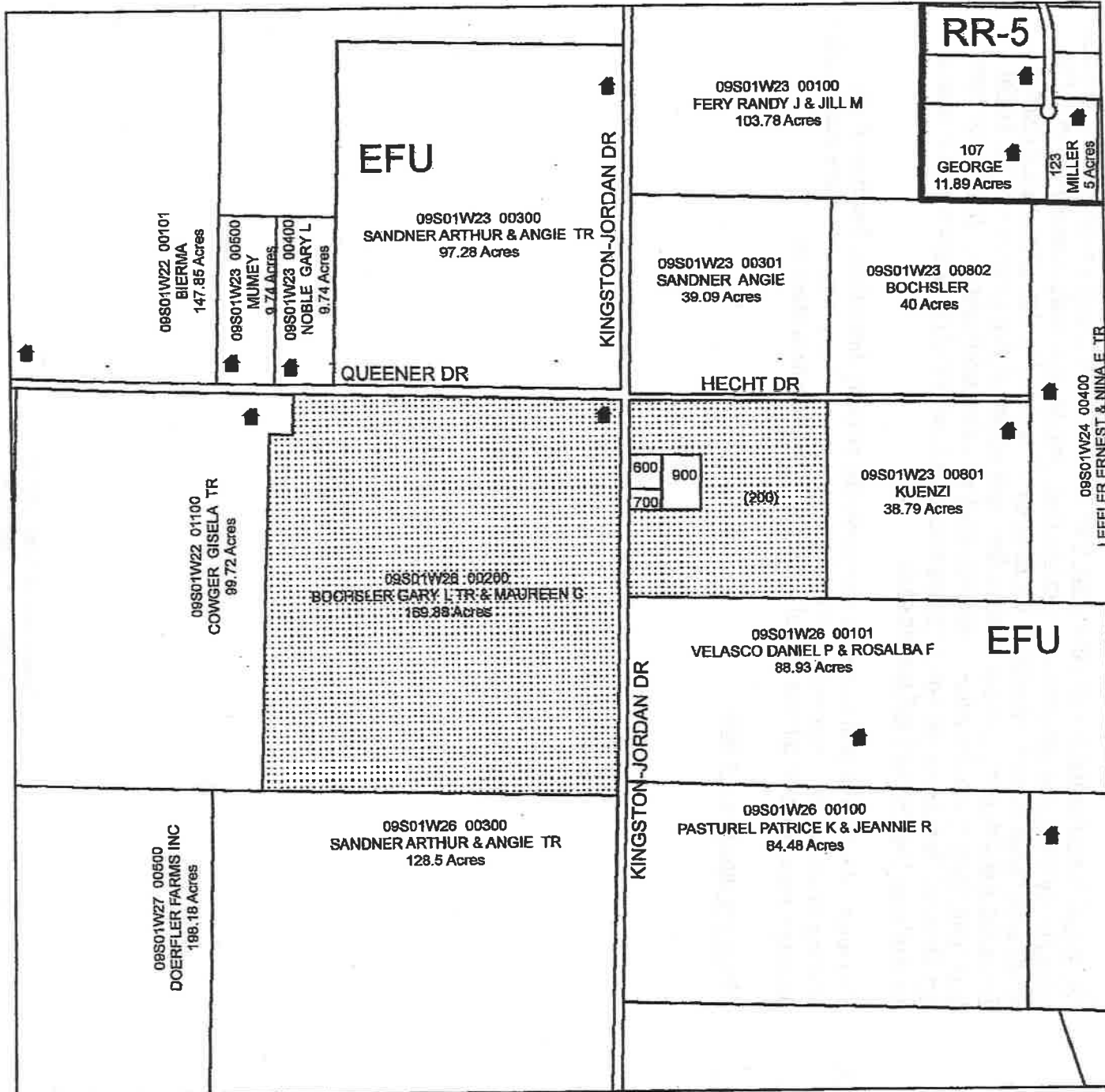
- O. You must submit a site plan (drawing) that shows the property dimensions, location of any existing structures, the proposed location of new structures and any natural features such as hills, drainage ways, and streams and natural vegetation. An example is attached.

Please see attached site plan

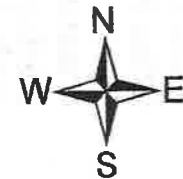


# Linn County Planning & Building Department

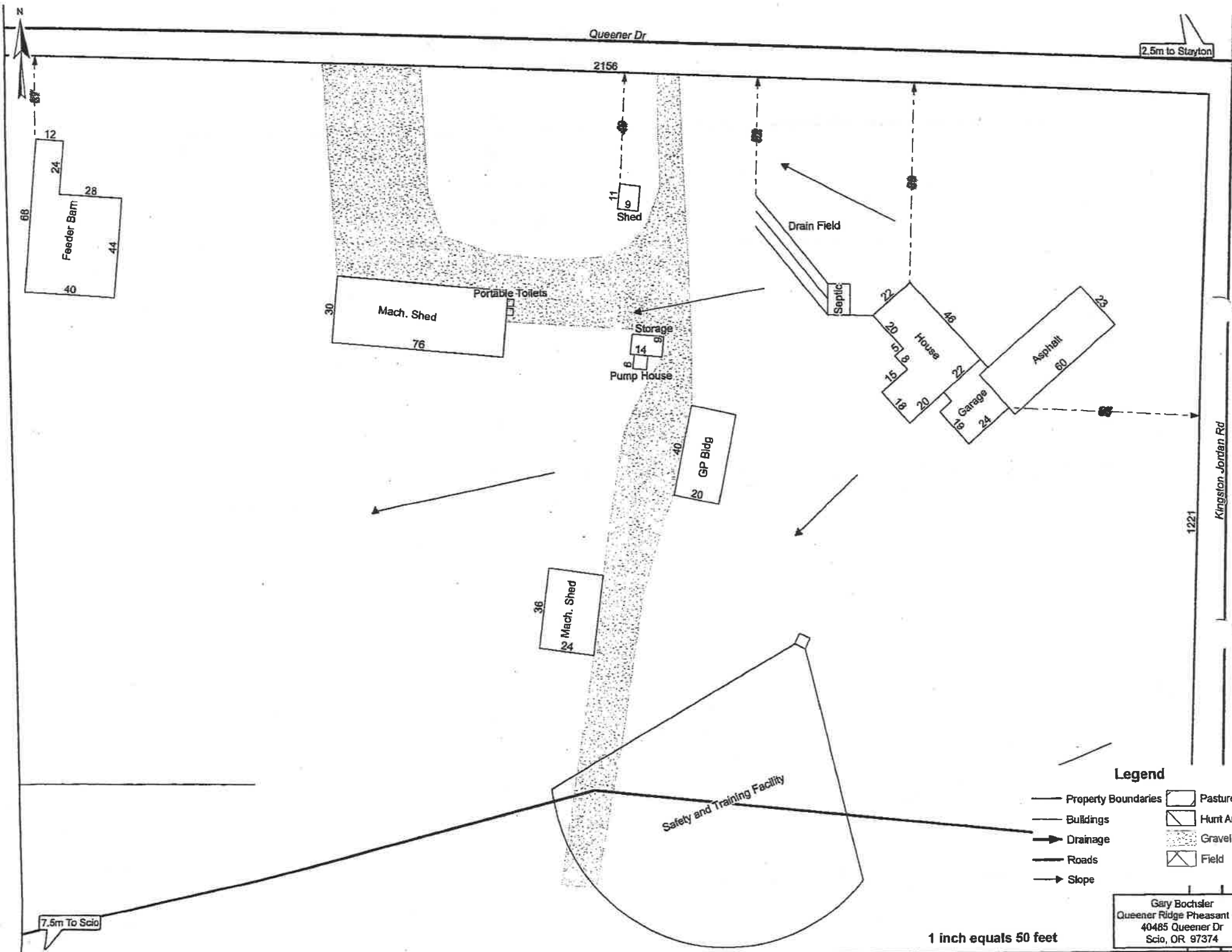
# Notice Map



PD10-0047  
 Queener Ridge Hunting Club  
 T9S, R1W, S26, TL200  
 169.88 acres



Date: 04/09/2010



**Legend**

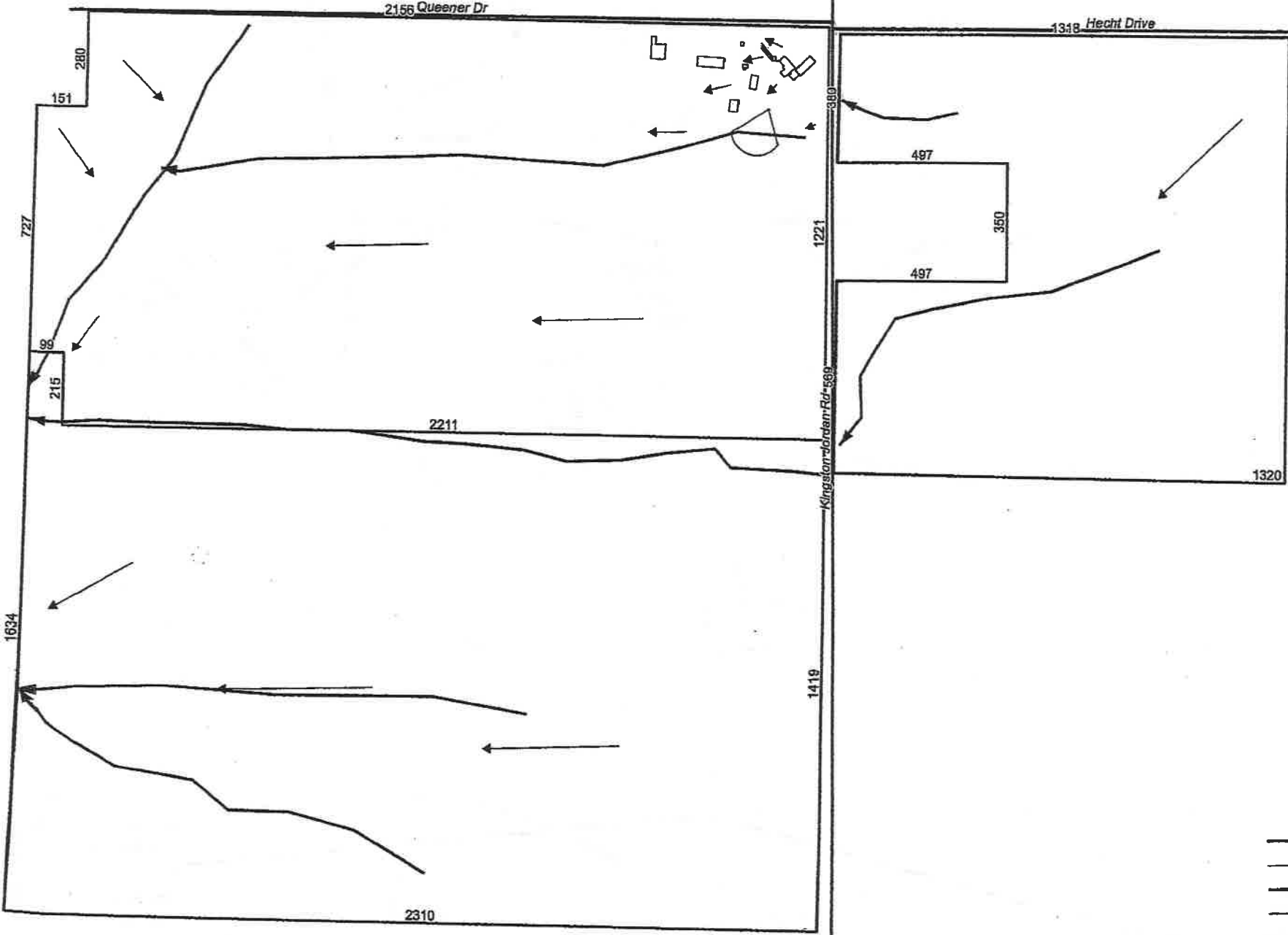
- Property Boundaries
- Buildings
- ➔ Drainage
- Roads
- ➔ Slope
- ▨ Pasture
- ▨ Hurt Area
- ▨ Gravel
- ▨ Field

1 inch equals 50 feet

Gary Bochsler  
 Queener Ridge Pheasant C  
 40485 Queener Dr  
 Scio, OR 97374



2.5m to Stayton



- Legend**
- Property Boundaries
  - Buildings
  - Drainage
  - ↘ Slope
  - Roads

Gary Bochsler  
 Queener Ridge Pheasant Co  
 40485 Queener Dr  
 Scio, OR 97174

4 inch equals 400 feet

5m To Scio

STAFF REPORT

June 8, 2010

TO: Linn County Planning Commission

FROM: Linn County Planning and Building Department

RE: PD10-0047; an application by Queener Ridge Hunting Club for a conditional use permit to operate a private hunting preserve on a 169.88-acre property, zoned Exclusive Farm Use (EFU). The property has an address of 41030 Kingston-Jordan Drive, Scio and is described as Tax Lot 200 on map T9S, R1W, Section 26. The property is located south of Hecht Drive and Queener Drive, east and west of Kingston Jordan Drive, and about 2½ miles south of Stayton. LCC 933.310(B) contains the applicable decision criteria.

## I. INTRODUCTION

### A. PROJECT SUMMARY AND ANALYSIS

The applicant is requesting conditional use approval to operate a hunting preserve on a 169.88-acre property zoned Exclusive Farm Use (EFU). The property is located on both the east and west sides of Kingston Jordan Drive. The applicant indicates in the application that the existing dwelling will be used as caretaker's quarters and the clubhouse for the foreseeable future. An existing building will be used to house 50 to 100 birds at a time for use on the preserve. The applicant also proposes a "safety range and training course established to train youth and verify shooter competency. The safety and training range will utilize clay targets and emphasize properly trained sportsmen and sportsmanship." In addition, the applicant is proposing to "provide educational programs for all hunters, including young men and women,..."

The applicant states that the farm use of the property will continue, which is grass seed production and sheep grazing. Habitat food will be planted throughout where the soil is deep enough for no till drilling. The dwelling on the property is proposed to become the caretaker's quarters and a clubhouse. The applicant indicates their maximum capacity is 12 hunters at a time, four people in a group, and three hunts per week.

The applicant owns two tax lots in the area (T9S, R1W, Section 26, Tax Lot 200 and T9S, R1W, Section 23, Tax Lot 802). His application discusses the proposed use occurring on both tax lots (209 acres). However, because the two tax lots are not contiguous, the current conditional use permit is proposed for only tax lot 200 at 169.88 acres. A separate conditional use permit would be required if the applicant proposed a hunting preserve on tax lot 802.

The EFU zoning district does not allow the establishment of new shooting ranges. OAR 660-033-0120, Table 1, identifies uses allowed on both high-value farmland and non-high-value farmland subject to Goal 3. The table states that a "Firearms training facility as provided in ORS 197.770" is a use that may be approved on either high-value farmland or non-high-value farmland after the required review. The use requires notice and an opportunity for a hearing. ORS 197.770 reads as follows:

**197.770 Firearms training facilities.** (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

(2) For purposes of this section, a "firearms training facility" is an indoor or outdoor facility that provides training courses and issues certifications required:

- (a) For law enforcement personnel;
- (b) By the State Department of Fish and Wildlife; or
- (c) By nationally recognized programs that promote shooting matches, target shooting and safety. [1995 c.475 §2]

A portion of what the applicant is proposing appears to be a shooting range or firearms training facility. Any part of the proposed use that involves a safety range, training courses or range, shooter competency, clay targets, or educational programs is a use that cannot be authorized in the EFU zoning district.

Many comments in opposition to the proposal have been received. They are attached as Exhibit C. The concerns expressed are to the impact gunshot noise will have on surrounding

farming practices and the ability of certain farming practices to continue, surrounding livestock, the livelihood that is made from farming and raising noise sensitive animals, safety of those traveling the county roads, and the impact on people visiting the adjacent cemetery and on funeral services that are held there.

## **B. DECISION CRITERIA**

**CRITERION:** The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system and an adequate supply of potable water.

**FACTS:** There is an existing sewage disposal system on the property that serves the dwelling. The applicant has indicated that temporary restrooms will be provided for use by customers of the hunting preserve. The restrooms will be maintained weekly. The applicant has indicated on the site plan that there is also an existing well. However, quality and quantity information regarding the well has not been provided. The Linn County Environmental Health Program (EHP) has commented that the applicant may need to contact their office because the EHP has no records for the existing sewage disposal system and depending on the use, may need to become a public water system.

The applicant has stated that 350 birds require three gallons of water per day. At any one time, there may be 10 to 29 wild birds living on the preserve. Twenty-nine birds would require about  $\frac{1}{4}$  gallon of water daily. The applicant also indicated the property has a water right from the Kingston Irrigation District, which is used to irrigate the property. No information has been provided regarding the amount of water provided by the water right. He states there is a sufficient water right to provide water for the game birds.

The property has frontage on Queener Drive, Kingston Jordan Drive, and Hecht Drive. Access to the home site is from Kingston Jordan Drive and access to the proposed hunting preserve is from Queener Drive. All three roads are county roads.

**STAFF ANALYSIS:** This criterion can be met.

**CRITERION:** The development will not be located within a mapped geologic hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements.

**FACTS:** The 169.88 acres is not within any designated base flood area. No mass movement topography is identified on the property in the Environmental Geology of Western Linn County, Oregon.

**STAFF ANALYSIS:** This criterion has been met.

**CRITERION:** The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.

**FACTS:** The 169.88 acres is not located within an identified big game habitat area. There is no identified sensitive fish or riparian habitat on the property.

**STAFF ANALYSIS:** Because the property is not within an identified big game habitat area and the property does not contain any identified sensitive fish or riparian habitat, this criterion has been met.

**CRITERION:** The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

**APPLICANT'S COMMENTS:** The applicant states there will be no change to surrounding lands. He states there is a possibility that some upland birds will fly onto surrounding properties, but that there are existing wild pheasants in the area and pheasants tread lightly and do not cause damage. He further states that preserve practices will be more attune to the native state of the property. The mitigation of the grazing lands, the installation of feed plots and land use practices associated with game bird preserves will provide viable livestock-like management methods that are similar to current surrounding land use practices. The full conditional use permit application is attached as Exhibit A.

**FACTS:** The Department has received several comments in opposition to the proposal (Exhibit C). Many of the comments address the sudden and unexpected noise generated by gunfire and the potential impacts on surrounding farming activities. One of the area property owners stated they own a horse facility and breed, train and sell horses of national caliber. They are also a USDA approved and Oregon State licensed Import Quarantine Facility. They are concerned about the noise associated with a hunting facility on their stock, on their ability to successfully breed mares, on the safety of the animals and their riders, and on their reputation as a quiet and tranquil place for horses quarantined after they have been imported.

Additional comments in opposition state concerns about other livestock in the area and the impact gunshot noise will have on them. There is concern for cows, calves, and bulls that are pastured on property in the area. Other comments suggest that gunfire can create a nervous condition that could result in a reduction in the number of eggs a chicken may lay.

**STAFF ANALYSIS:** Many of the comments submitted indicate the proposed use could force a significant change in or cost of the farming practices in the area or the practices that occur on surrounding properties. Before the Planning Commission can conclude the proposal meets this criterion, the applicant must provide additional information addressing those concerns.

**CRITERION:** If in the forest area of the F/F or in the FCM zoning districts, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

**FACTS:** The subject property is zoned Exclusive Farm Use (EFU).

**STAFF ANALYSIS:** This criterion is not applicable.

**CRITERION:** The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of nearby property. The proposed use will be reviewed with respect to scale, bulk, coverage, density, the availability of necessary public facilities and utilities, traffic generation, road capacity and safety and to other related impacts of the proposal.

**APPLICANT'S COMMENTS:** The applicant states that the maximum capacity for the preserve would be 12 hunters at a time, during hunting season. The proposed hours of operation would be day light to 30 minutes before dusk, seven days a week. He states the proposed use would be compatible with the surrounding area because the preserve is the same native prairie grass in the vicinity. The native habitat is very conducive to upland game birds and their healthy re-establishment. He states that some birds may fly onto surrounding lands, but the birds are light and would not cause damage. The proposed facility would provide viable livestock-like management methods similar to current surrounding land use practices (Exhibit A).

**FACTS:** Many of the comments submitted in opposition to the proposal identify gunshot noise as a substantial concern, both on the livestock in the area and on the residents' ability to enjoy their property and surrounding area. Other comments express a concern about the safety of those traveling the county roads, the impact on people visiting the cemetery and funeral services that are held there, the ability to continue existing farming activities on surrounding properties, and the ability of the county roads to support the amount of traffic anticipated to be generated by the hunting preserve. Some of the comments referenced a day in this past March where shooting occurred all day until dusk on the property without any notice to them and indicated the noise was very disturbing (Exhibit C).

**STAFF ANALYSIS:** Based on the comments received in opposition to the proposal, there are several concerns that have not been addressed by the applicant. Before the Planning Commission can determine this proposal meets the compatibility criterion, more information must be obtained from the applicant to address all the concerns.

**CRITERION:** If in the forest area of the F/F or in the FCM zoning districts, a written statement recorded with the deed or written contract with the county is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for the following uses.

- (a) parks and campgrounds;
- (b) reservoirs and impoundments;
- (c) medical hardship dwellings;
- (d) home occupations; and
- (e) private accommodations for fishing.

**FACTS:** The subject property is zoned Exclusive Farm Use (EFU).

**STAFF ANALYSIS:** This criterion is not applicable.

### C. EXISTING AND PROPOSED CONDITIONS

- |  |   |
|--|---|
| 1. Zoning designation: Exclusive Farm Use (EFU)  | 1. Zoning designation: No change  |
| 2. Plan designation: Agricultural Resource   | 2. Plan designation: No change  |
| 3. Parcel: T9S, R1W, Section 26, Tax Lot 200; 169.88 acres   | 3. Parcel: No change  |
| 4. Access: Frontage on Queener Drive, Hecht Drive, and Kingston-Jordan Drive; existing driveways on Queener Drive and Kingston-Jordan Drive. | 4. Access: The site plan indicates access to the proposed use will be from Queener Drive. |
| 5. Land use: One dwelling, several out-  | 5. Land use: An upland game bird hunting  |



Buildings, septic system, well, grass seed production and sheep grazing. preserve would be an added land use.

**D. ZONING AND DEVELOPMENT BACKGROUND**

Tax lot 200 has been zoned Exclusive Farm Use (EFU) since March 22, 1972. There has been one land use action affecting the property. It was a property line adjustment (PLA-12-95/96) in which tax lot 200 increased in size from 136.58 acres to its current size of 169.88 acres.

**II. PHYSICAL CHARACTERISTICS OF PROPERTY**

**A. SOIL TYPES**

Soils. The following is based upon information in the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), publication Soil Survey of Linn County Area, Oregon, July, 1987:

| Soil Type   | HVFL type | SCS type | % of parcel | # of acres | Cu ft/<br>ac/yr |
|-------------|-----------|----------|-------------|------------|-----------------|
| 104E Witzel | Non       | VI       | 19.17       | 32.57      | 106             |
| 105C Witzel | Non       | VI       | 38.93       | 66.13      | 100             |
| 72C Nekia   | 1         | III      | 19.66       | 33.40      | 158             |
| 51D Jory    | 2         | III      | 2.74        | 4.65       | 164             |
| 51C Jory    | 1         | II       | 7.85        | 13.34      | 164             |
| 66B McAlpin | 1         | II       | 9.99        | 16.97      | 150             |
| 72E Nekia   | Non       | IV       | 1.66        | 2.82       | 158             |
| TOTAL       |           |          | 100%        | 169.88     | 21344.04        |

- B. TOPOGRAPHY** – The property generally slopes to the west. The elevation in the northeast corner of the property is approximately 630 feet above MSL and approximately 475 feet above MSL along the western property line.
- C. NATURAL FEATURES AND IMPROVEMENTS** – There is a dwelling and several outbuildings located on the property. In addition, there is a wetland in the far northeast corner of the property and a wetland in the northwest corner of the property. A drainage way crosses the approximate middle of the property.
- D. NATURAL AND/OR GEOLOGIC HAZARDS** - Tax lot 200 is not within any designated base flood area. No mass movement topography is identified on the property in the Environmental Geology of Western Linn County, Oregon.

### III. ENVIRONMENTAL FACTORS

- A. **WILDLIFE HABITAT** – The property is not located within any identified big game habitat area. There is no identified sensitive fish or riparian habitat on the property.
- B. **WETLANDS** – The property does contain inventoried wetlands. The Department of State Lands (DSL) has been provided notice of the proposal. As of the writing of this report, no comments have been received from DSL.

### IV. AVAILABILITY OF PUBLIC FACILITIES AND SERVICES

- A. **FIRE** - Fire protection is provided by the Stayton Rural Fire Protection District.
- B. **POLICE** - The Linn County Sheriff's Department provides police protection.
- C. **SCHOOL** - The parcel lies within the North Santiam School District, the Willamette Regional Education Service District and the Linn Benton Community College District.
- D. **OTHER DISTRICTS** - This parcel is within the Linn Soil and Water Conservation District.
- E. **SEWAGE DISPOSAL** – There is an existing sewage disposal system that serves the dwelling on the property. However, Linn County Environmental Health states they have no records of the system. They also state that depending on the proposal, the applicant may need to contact their office regarding a public water system or sewage disposal facilities (see Exhibit B).
- F. **WATER SUPPLY** – There is an existing domestic water well on the property serving the dwelling. The applicant indicates the property has water rights with the Kingston Irrigation District which provides water for the farm ground. Water from the irrigation district would provide water for the game bird preserve. The applicant has not provided either quality or quantity information regarding the existing well on tax lot 200.
- G. **ACCESS** – The property has frontage on Queener Drive, Kingston-Jordan Drive and Hecht Drive. Access into proposed hunting preserve would be from Queener Drive.

### V. POSSIBLE CONDITIONS

If the Planning Commission votes to approve the hunting preserve conditional use permit, the following conditions should be included:

- A. **CONDITIONS:**
  - 1. A hunting preserve for pheasant hunting only is authorized as a conditional use on a 169.88-acre property described as Tax Lot 200 on map T9S, R1W, Section 26. This conditional use permit does not authorize any other property to be used as a hunting preserve. A safety range, a training course, clay target shooting, educational programs and a firearms training facility are uses requested by the applicant that are not authorized by this conditional use permit. A separate conditional use permit is required to operate a hunting preserve on any land other than the 169.88 acres described above.

2. The hours of operation of the hunting preserve may not exceed dawn to 5:00 p.m. or 30 minutes before sunset, whichever time is earlier.
3. All required permits and/or licenses shall be obtained from the Oregon Department of Fish and Wildlife before the hunting preserve may operate. All required permits and/or licenses shall be maintained as long as the hunting preserve remains in operation.
4. A safety area, at least 200 feet wide, shall be provided along the perimeter of the property and along the county road right-of-ways where no shooting is allowed. The safety area shall be marked and signed to prevent hunters from shooting in the area.
5. Prior to the operation of the hunting preserve, the applicant shall submit a parking plan to the Planning and Building Department for the Department's review. Before the preserve may operate, the Department shall approve a parking plan.
6. A maximum of 12 hunters are allowed to hunt on the property at any one time.
7. Only items incidental to the hunting preserve may be sold on the property. These items may include safety classes, ear plugs, and shotgun shells.
8. This conditional use permit does not authorize the sale of food or beverages for on-site human consumption.
9. Prior to the operation of the hunting preserve, the applicant shall obtain a commercial road access permit from the Linn County Road Department. Please contact the Road Department at (541) 967-3919 for information on the access permit.
10. Prior to the operation of the hunting preserve, the applicant shall contact the Linn County Environmental Health Program regarding the potential need for a public water system to serve the use. If such a system is required, it shall be obtained prior to operation of the preserve.

## VI. NOTICE TABLE AND PROCEDURE

### A. NOTICE

Property owners within 1000 feet of the boundaries of the property were provided notice of this application. There are 11 property owners within the notification area. The following agencies have been provided notice and responded before this report was written.

| AGENCIES               | PROVIDED | RESPONDED | AGENCIES               | PROVIDED | RESPONDED |
|------------------------|----------|-----------|------------------------|----------|-----------|
| Environmental Health   | x        | x         | Linn County Parks      |          |           |
| Linn County Assessor   | x        |           | Linn Bldg. Official    | x        |           |
| Linn County Road Dept. | x        |           | Linn County Sheriff    | x        |           |
| Linn County Surveyor   |          |           | Linn Floodplain Admin. |          |           |
| Dept. Environ. Quality |          |           | DOGAMI                 |          |           |

|                          |   |   |                         |   |  |
|--------------------------|---|---|-------------------------|---|--|
| Dept. State Lands        | x |   | Or. Dept. of Trans.     |   |  |
| State Parks Department   |   |   | Dept. Land Cons. & Dev. | x |  |
| Or. Fish & Wildlife      |   |   | Or. State Hwy. Division |   |  |
| Linn SWCD                |   |   | Ag. Extension Service   |   |  |
| RFPD: Stayton            | x | x | City:                   |   |  |
| Dept. of Water Resources |   |   | Or. Dept. of Forestry   |   |  |
| School Dist:             |   |   | Other: St. Fire Marshal | x |  |
| GIS                      | x |   |                         |   |  |

**B. PROCEDURE**

The Planning Commission must hold at least one public hearing on the above matter to take testimony from the applicant and interested parties. All testimony must be directed toward the applicable decision criteria including applicable criteria in the *Comprehensive Plan* or other land use regulations. Failure to raise an issue before the close of the record or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue. If additional documents or evidence are provided by any party, the Planning Commission may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the Planning Commission grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the initial hearing.

The Planning Commission may grant or deny the request, require modifications or conditions of approval, or table the discussion if additional information is found to be needed. The decision may be tabled for up to 35 days. The Planning Commission's decision is final unless appealed to the Board of Commissioners.

**VII. EXHIBITS**

- A. Conditional use permit application
- B. Agency comments
- C. Comments in opposition



# Friends of Linn County

*Protecting and preserving our farms, forests, and communities*

Linn County Planning Commission  
c/o Deborah Pinkerton  
PO Box 100  
Albany OR 97321

June 4, 2010

## **RE: PD10-0047, Queener Ridge Hunting Club**

Dear Members of the Commission:

Friends of Linn County (FOLC) is a charitable organization whose mission is to protect, preserve, and enhance the livability and sustainability of Linn County's farms, forests and cities. FOLC is appearing in these proceedings on behalf of its membership in Linn County. Mr. Just, 39625 Almen Drive, Lebanon OR 97355, is also appearing on his own behalf.

### **I. Introduction**

This is a request for conditional use approval to operate a hunting preserve on a 169.88-acre property zoned Exclusive Farm Use (EFU).

The property is identified as 9S-1W-26 Tax Lot 200 and is located on both the east and west sides of Kingston Jordan Drive.

The applicant owns two tax lots in the area (T9S, R1W, Section 26, Tax Lot 200 and T9S, R1W, Section 23, Tax Lot 802) and the application discusses the proposed use occurring on both tax lots (209 acres). However, because the two tax lots are not contiguous, the current conditional use permit is proposed for only tax lot 200 at 169.88 acres. A separate conditional use permit would be required if the applicant proposed a hunting preserve on tax lot 802.

The application narrative states that the existing dwelling will be used as caretaker's quarters and the clubhouse for the foreseeable future. An existing building will be used to house 50 to 100 birds at a time for use on the preserve. The applicant also proposes a "safety range and training course established to train youth and verify shooter competency. The safety and training range will utilize clay targets and emphasize properly trained sportsmen and sportsmanship." In addition, the applicant is proposing to "provide educational programs for all hunters, including young men and women[.]"

## II. Criteria applicable to the request

Uses in the EFU zone are governed by ORS 215.283, Linn Code chapter 928 and OAR 660-033-0120 and 0130.

ORS 215.283(2)(c) authorizes counties to approve "[p]rivate parks, playgrounds, hunting and fishing preserves and campgrounds." ORS 197.770(1) does not authorize new firearms training facilities:

(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

(2) For purposes of this section, a "firearms training facility" is an indoor or outdoor facility that provides training courses and issues certifications required:

- (a) For law enforcement personnel;
- (b) By the State Department of Fish and Wildlife; or
- (c) By nationally recognized programs that promote shooting matches, target shooting and safety.

OAR 660-033-0120 lists "Private parks, playgrounds, hunting and fishing preserves and campgrounds" as uses allowed only on non-high value lands. OAR 660-033-0120 lists "Firearms training facility as provided in ORS 197.770" as a use that may be approved after required review without regard to soils.

LC 928 does not include "firearms training facility" as a use allowed in the EFU zone.

Approval of the use requires findings of compliance with ORS 215.296:

1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The requirements of ORS 215.296 are implemented by LC 933.310(B)(4) which requires findings that:

"The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use."

### III. Analysis

#### A. The proposed firearms training facility may not be approved.

As the staff report points out, part of what the applicant is proposing is a firearms training facility, which is not allowed by state law or Linn Code:

"A portion of what the applicant is proposing appears to be a shooting range or firearms training facility. Any part of the proposed use that involves a safety range, training courses or range, shooter competency, clay targets, or educational programs is a use that cannot be authorized in the EFU zoning district."

#### B. The proposal will have a significant impact on farm uses.

Many of the neighbors have described in detail the significant impacts they believe the proposed activities and especially gunshot noise will have on their farming practices and their ability to maintain their livelihood from farming.

These comments indicate the proposed use will force a significant change in and significantly increase the cost of the farming practices in the area. The required findings of compliance with ORS 215.296 and LC 933.310(B)(4) cannot be made.

### IV. Conclusion

The proposed firearms training facility may not be approved.

The proposed hunting preserve cannot be found to comply with ORS 215.296 and LC 933.310(B)(4).

Therefore the application should be denied.

Friends of Linn County and other parties whose addresses appear in the first paragraph of this letter request notice and a copy of any decision and findings regarding this matter.

Respectfully submitted,

  
Jim Just



# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse  
PO Box 100, Albany, Oregon 97321  
Phone 541-967-3816  
Fax 541-928-2060 www.co.linn.or.us

## NOTICE OF DECISION

June 11, 2010

Queener Ridge Hunting Club  
Gary and Maureen Bochsler  
40485 Queener Drive  
Scio OR 97374

CERTIFIED

RE: PD10-0047; an application by Queener Ridge Hunting Club for a conditional use permit to operate a private hunting preserve on a 169.88-acre property, zoned Exclusive Farm Use (EFU). The property has an address of 41030 Kingston-Jordan Drive, Scio and is described as Tax Lot 200 on map T9S, R1W, Section 26. The property is located south of Hecht Drive and Queener Drive, east and west of Kingston Jordan Drive, and about 2½ miles south of Stayton. LCC 933.310(B) contains the applicable decision criteria.

Dear Mr. and Mrs. Bochsler:

The Linn County Planning Commission completed review of your application on June 8, 2010. Your application was not found to comply with the specified decision criteria in Section 933.310(B) of the Linn County Land Development Code. A motion to deny your application passed unanimously. The findings and conclusions in the attachment respond to the cited decision criteria.

This decision is effective unless an appeal to the Linn County Board of Commissioners is filed with the Department before 5:00 p.m., June 25, 2010. Appeals will be accepted only when based upon identified inadequacies, omissions, or errors in the decision's findings and conclusions. A \$1000.00 filing fee must accompany an appeal.

Please contact Deborah Pinkerton in our Department at (541) 967-3816, ext. 2367 if questions arise or if we may be of assistance.

Sincerely,

Robert Wheeldon  
Director

RW: DJP

c: Linn County Assessor's Office, Linn County GIS, Linn County Road Department, Department of State Lands, Stayton Fire District, Ben Childers, Frank Walker and Associates, Pete Boucot, Gary Leroy Noble, Gisela Cowger, Tommie Van De Kamp, Pat Rausch, Margaret Lang, Dan Cooper, Ben Golding, Patrice and Jeannie Pasturel, Gillian



Hearst and Patrick Collier, Edward and Maura Callas, Carol Becker, DeHon Searles, Jodi Hack, Ted and Janet Highberger, Louise Bochsler, Mark Steele, Bob and Kay Pendleton, Betty J. Spencer, Friends of Linn County, North Santiam School District 29J, Robert E. Johnson, Lucinda E. Huntley, Jonathan Ehmgig, Leroy and Deborah Brokaw, Rachel Brokaw, Daniel Velasco, Randy and Jill Fery, Jim A. Sandner, Adrian and Marjorie Dickson, Cheri Plunkett, Gary Zolkoske, Bud and Nova Lee Johnson, Robert and Nancy Lindemann, Dale and Marilyn Bearstad, Letha Palle, Richard and Judith Frohreich, Kenneth and Sue Rich, Don Nash

Attachment

## DECISION CRITERIA, FINDINGS, AND CONCLUSION

### I. DECISION CRITERIA

Section 933.310(B) of the Linn County Land Development Code contains the applicable decision criteria.

### II. FINDINGS

- A. Criterion: The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Finding: Several written comments in opposition to the proposal were received. Many of the comments address the sudden and unexpected noise generated by gunfire and the potential impacts on surrounding farming activities. In addition, several people spoke in opposition to the proposal at the public hearing. Jeannie Pasturel submitted both written comments and testified at the hearing that she and her family own a horse facility (Mulberry Lane Farms) on nearby property. She has a Bachelor of Science degree in Animal Science, Equine Industry from the California Polytechnic University and the horse farm operation is her professional career. She and her husband bought their property 20 years ago, specifically because of the peace and quiet of the area and because of the EFU zoning, knowing that the surrounding land would not be developed. The quiet allows her to raise quality, calm, level-headed horses. There is an average of 60 horses on the property at any given time. On the farm, they breed and sell national caliber horses, including Gypsy Vanners, Friesian Horses and Fell Ponies, they offer live cover and artificial insemination (AI) breeding services to outside mares, provide riding lessons on her horses and outside horses, train and break young and/or green horses, and rent pasture for cattle grazing. They are also a USDA approved and Oregon State licensed Import Quarantine Facility.

The majority of the farm's income is from the sale of show horses. They recently sold a top national quality Gypsy Vanner mare for \$25,000. Ms. Pasturel testified she is concerned about noise associated with a hunting facility and the impacts it will have on her stock, on their ability to successfully breed mares, on the safety of the animals and their riders, and on their reputation as a quiet and tranquil place for horses quarantined after they have been imported. She further testified that horses spook easily and run from loud noise. Anxiety has been known to cause severe health problems in horses of all ages, including ulcers and colics, some of which can lead to surgery or death. She stated they have seen the horses' anxiety level increase during hunting season when shots are farther away than the proposed hunting preserve. She states that no amount of handling or time spent with a young foal will counter the anxiety and nervousness created and intensified by the gunfire from across the road. This will in turn produce a lower quality horse, making them less valuable and rendering them un-sellable or sellable at a substantially reduced price, which would then reduce the farm's income.

Horses are brought to their facility for artificial insemination and ultrasound pregnancy checking. Sudden and loud noises have caused mares to jump or kick, injuring the person examining the mare. Mares may not be able to be bred with the associated gun shot noise which then increases the cost to the farm's clients. Pregnant mares are brought to her farm to foal. Ms. Pasturel stated that if they are not able to breed a client's mare, they will lose the \$1000 stud fee and mare care revenue, which will reduce the farm's income and damage their reputation in the business.

According to Ms. Pasturel, the horse quarantine business is extremely competitive. News of a gun club adjacent to her property would force the horse owners to send their horses to Pasturel's competitors, which would then reduce the Pasturel farm income. Horses worth the cost of import and quarantine, including several that have come through her facility are typically high-value horses often exceeding \$100,000. Many mares are pregnant when imported. These mares require extra care. Ms. Pasturel stated her farm's competitive edge is that they can offer a quiet, tranquil place where the horses can rest and relax after a seven plus day trip (typically transported to an export facility in Europe, held for a time for the flight, transported to the United States by flight, quarantined at the Los Angeles airport for three days, followed by a 24-hour trailer ride to their facility). She further stated that the horses are monitored during transport and have shown signs of extreme stress and anxiety with heartbeats as high as 175 per minute compared to a resting rate of 40 per minute. She stated the horse owners specify her farm for the horses to relax and adjust before competition because they do so more quickly. She stated the sound of gunfire so close to her facility will not allow the horses to relax which will result in the farm to lose clients which will result in the farm losing income.

Ms. Pasturel stated that routine farrier work such as hoof trimming and cleaning stalls will become more dangerous with loud and intermittent noise resulting from gun shot. She further testified that they have invested over \$500,000 in the last several years in both livestock and a special trailer to haul the horses. A gun club across the road from her horse facility will result in direct economic harm to her farm.

Additional comments in opposition state concerns about other livestock in the area and the impact gunshot noise will have on them. There is concern for cows, calves, and bulls that are pastured on property in the area. Gunshot would potentially startle the cattle, agitate the bulls to the point that they might go through fencing onto the roadway, thereby creating a traffic hazard and a liability. Other comments suggest that gunfire can create a nervous condition that could result in a reduction in the number of eggs a chicken may lay.

Conclusion: The Planning Commission concluded there was compelling evidence that the location of a hunting preserve and the associated gunfire on the applicant's 169.88-acre property would significantly interfere with the existing farming activities in the area, specifically the horse facility across Kingston Jordan Drive and the ability of the farm operator to continue its current caliber of service. The Commission concluded the farm operator's ability to provide services that are currently provided on the farm would be significantly reduced should a hunting

preserve be located on the applicant's property and therefore, the farm's ability to earn income would also be significantly reduced.

- B. Criterion: The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of nearby property. The proposed use will be reviewed with respect to scale, bulk, coverage, density, the availability of necessary public facilities and utilities, traffic generation, road capacity and safety and to other related impacts of the proposal.

Finding: Many of the comments submitted and those testifying at the public hearing in opposition to the proposal identify gunshot noise as a substantial concern, both on the livestock in the area and on the residents' ability to enjoy their property and surrounding area. Other comments express a concern about the safety of those traveling the county roads, the impact on people visiting the cemetery and funeral services that are held there, the ability to continue existing farming activities on surrounding properties, and the ability of the county roads to support the amount of traffic anticipated to be generated by the hunting preserve. Some of the comments referenced a day in this past March where shooting occurred all day until dusk on the property without any notice to them and indicated the noise was very disturbing.

Gary Noble provided information regarding the deciBel level of a shot gun blast sound, depending on the gauge of the gun. He also provided information regarding the distance a gun blast sound would travel and the deciBel level at various distances from the muzzle. At 880 feet (1/8 mile), the deciBel level is 146, at one mile, it's 122 dB, and at two miles, it's 95 dB. Mr. Noble also provided a list of various sounds and their deciBel level as a comparison. As an example, a whisper is about 20dB, a normal conversation is between 60 and 70 dB, a heavy truck in city traffic is 90 dB, a noisy restaurant or business office is 70dB, and a jet engine is 140 dB. In addition, Mr. Noble provided information regarding the distance various shotgun ammunition will travel. The table provided indicates #9 shot will travel less than 250 yards while #1 buckshot will travel over 500 yards. He testified that 300 yards is the norm. Mr. Noble provided a map of the applicant's property that he believes is the only area that is safe to shoot on the applicant's property. It shows a relatively small area, approximately 800 feet x 1100 feet, that he identifies as the area in which it is safe to shoot to avoid shot traveling off the applicant's property.

Other comments expressed a concern about the safety of people walking and driving on the roadway, and the safety of children either waiting for a school bus or traveling on a school bus. A letter was received from Dr. Jack Adams, Superintendent of the North Santiam School District, stating he was opposed to a gun club in close proximity to a regular school bus route. He stated until there is a study done to verify that the students would be safe traveling the route, he believes the proposal should be denied.

Mr. Walker testified that all hunts would initially be done with a guide, but after a hunter became familiar with the property, they could hunt without a guide. This raised a number of concerns from the parties testifying and they reiterated a

concern about shot travelling off the applicant's property and either crossing roadways or onto adjoining properties. To counter this, Mr. Walker testified that it is unlawful to shoot across a roadway.

Gisela Cowger testified that she has lived on property immediately west of the applicant's property for 50 years. She spends a lot of time working outdoors in her garden, yard, and orchard. She stated a concern that the sound of gun shot will change her ability to work outdoors and ultimately reduce the value of her farm if shooting occurs next door. She testified that this past March someone was shooting on the applicant's property all day long, until dark. She had to go indoors because it was too noisy to be outside. The oak trees on the property did nothing to reduce the sound on her property.

Pat Rausch testified that he has made an investment to live in a rural, country area. When shooting becomes commercial, the land is not rural any more, it becomes industrial.

Carol Becker testified that she had her husband moved from a different cemetery to the Wisner Cemetery, across from the applicant's property, because it is a quiet cemetery. She owns six plots there and visits on a regular basis. She had a bench installed to be able to go there and meditate and reflect. Gun shots would impede her ability to do this. Others testifying and submitting written comments expressed a concern about the disturbance that would come from gun shot during funeral services that are held there.

The applicant's representative, Frank Walker, stated that the property owner has a letter of understanding with Weddle Funeral Services that hunting would be rearranged if there were a scheduled hunt during a funeral. However, a planning commissioner provided information that there is another funeral home, in addition to Weddle Funeral Services, that also perform services at the Wisner Cemetery.

In addition, testimony was provided that gun shot noise can have a deleterious affect on horses and cattle operations in the area. Many of the concerns regarding the affects of gun shot noise on surrounding farming activities and the incompatibility between the existing horse facility and a proposed hunting preserve have been provided above.

Conclusion: The Planning Commission concluded the testimony provided regarding the ability of the proposed hunting preserve to be made reasonably compatible with surrounding uses was insufficient to determine this criterion can be met.

### III. CONCLUSION

Based on the above findings, the Planning Commission concludes the proposal could not be made reasonably compatible with surrounding uses and that the proposed hunting preserve would significantly change and significantly increase the cost of, accepted farm practices on surrounding farm uses.

# Opponents of pheasant-hunting preserve win

## Linn County Planning Commission denies permit for hunting club

By Denise Ruttan  
The Stayton Mail

A group of neighbors who opposed a proposal for a pheasant-hunting preserve on Kingston-Jordan Road two miles south of Stayton won their fight at a June 8 hearing in Albany.

The Linn County Planning Commission denied the request by Gary Bochsler for a conditional-use permit for a "Queener Ridge Hunting

Club" that had been proposed for much of a 209-acre property in the Scio area. There was no discussion and the vote was unanimous.

"We saw too much conflict with the surrounding neighbors in the area," planning commission chairman Bob Bronson said. "The conditional-use permit is a case that deals with issues of potential conflict, which we have here."

Because he is chairman, Bronson did not vote on the issue.

Property owners who own land zoned for exclusive farm use must seek a conditional-use permit for certain activities. What the Linn County code calls "hunting preserves" are allowed in the EFU zone

if the use is shown to be compatible with the area.

According to the application, the preserve would cover 169 acres. An existing building would be used to house 50 to 100 birds at a time for use.

Bochsler also proposed initially "a safety range and training course established to train youth and verify shooter competency. The safety range will utilize clay targets and emphasize properly trained sportsman and sportsmanship," according to the application.

The maximum capacity would be 12 hunters at a time, four people in a group and three hunts per week. Grass seed production and sheep

grazing on the property would continue.

Bochsler purchased the property in January with the hopes of expanding his business. He has lived on nearby Queener Drive for 35 years and makes a living raising pheasants. Bochsler thought hunters would be drawn to the area for its convenient location and the quality of the habitat for pheasant.

A hunting preserve would have allowed an extended season beyond what the state permits. Hunting season begins Sept. 1.

But now it is back to the drawing board.

SEE HUNTING / 3A

## HUNTING

From Page 1A

"We'll just do something different. I don't know what's going to happen. We need to regroup," Bochsler said.

Bochsler has not yet decided whether he will appeal the decision.

People objected to the noise and said they had moved to the countryside for the peace and quiet. They were also concerned about the historic Wisner Cemetery, located in one corner of the property.

But Bochsler's consultant, attorney Frank Walker, said Bochsler was willing to

make concessions and work with planning staff to mitigate concerns. And Linn County does not regulate shotgun noise, he said.

Walker said the noise would be intermittent and the business would work with funeral homes to make arrangements when a service was taking place at Wisner Cemetery.

Testimony often turned emotional as neighbor after neighbor stepped up to speak.

Jeannie Pasturel, owner of Mulberry Lane Farms, a

horse ranch and breeding facility in Stayton, gave heated testimony opposing the project. Her ranch is located nearby and she thinks the nature of the area gives her operation its competitive edge.

"Our ability to achieve that success is due to the environment on and around our farm. It's a peaceful and tranquil location free from distractions and noises," Pasturel said.

The preserve had some supporters in the audience.

Kent Highberger said he had lived in the Kingston area for 25 years. Since that time, younger neighbors have moved in who like to

shoot. He doesn't think the noise is as bad as the increased traffic on the road.

"That's just a part of what we've got to get used to. We can't always live in a forestland and pristine area," Highberger said. "Maybe that's what we had 100 years ago, but we've got to get along with our neighbors and realize people have to try to live off the land."

Bochsler has 14 days to appeal from the date the county mails notice of the decision. If appealed, the case would then be considered by Linn County Board of Commissioners.

druttan@salem.gannett.com

Stayton Mail  
June 16, 2010

## ALBANY Democrat-Herald

### Planners say no to pheasant hunting

JUNE 10, 2010 4:00 PM • BY ALEX PAUL, ALBANY DEMOCRAT-HERALD

The Linn County Planning Commission has denied a request by a Scio-area farm owner for a conditional use permit to allow pheasant hunting on part of his 209-acre property, the planning department staff reports.

Gary Bochsler wants to develop the pheasant hunting business on 169 acres that is zoned exclusive farm use. The property is currently farmed and used to raise pheasants for sale throughout the state.

Bochsler wants to be able to provide hunting opportunities for groups of four hunters at a time, three days per week.

A few persons at Tuesday evening's planning commission hearing spoke in favor of the request, but numerous land owners opposed the plan. Most cited the loss of peace and quiet, as well as concerns for their safety.

Some are concerned that the noise from pheasant hunts would detract from the solitude and reverence at the historic Wisner Cemetery, which is surrounded by the farm.

Owners of a nearby horse breeding and boarding operation say the noise would affect the horses and have a negative effect on their business.

Deborah Pinkerton of the Linn County Planning and Building Department said Bochsler will have 14 days to appeal the decision from the date she mails notification. If an appeal is filed, it would be heard by the Linn County Board of Commissioners.

Feb. 27, 2012

To Mr. R. Wheeldon

Linn Co. Planning and Building Dept.  
Room 114 Linn Co. Courthouse  
P.O. Box 100, Albany OR 97321

Dear Sir,

I am of the understanding that a communication in the form of a letter that was written by you to Mr. Gary Bochsler on or about Dec. 1<sup>st</sup>, 2010. I am requesting a copy of this letter, as well as a copy of Mr. Bochsler's reply.

Your letter was in response to my concern about the legality of Mr. Bochsler's actions taking place on his property at 41030 Kingdon - Jordan Rd., Scio, OR 97374, which is adjoining mine at 40714 Queener Dr., Scio, OR 97374.

It is my understanding from my conversation with Butch Skoien that in mid-December of 2010, you were in the process of writing a second letter to Mr. Bochsler, a copy of which I am requesting.

In addition, I would like to receive copies of any other correspondence between the county and Mr. Bochsler and/or his attorney since the county planning commission's denial of his application for a conditional use permit.

Please call me as soon as possible to confirm receipt of this letter (503-769-5354).

Thank you for your attention to this matter.

Sincerely, Jisela Cowger

c.c. Butch Skoien





# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse  
PO Box 100, Albany, Oregon 97321  
Phone 541-967-3816,  
Fax 541-926-2060 [www.co.linn.or.us](http://www.co.linn.or.us)

## INITIAL NOTICE TO ABATE A VIOLATION OF LINN COUNTY CODE CHAPTER 240

November 19, 2010

Gary Bochsler  
40485 Queener Drive  
Scio, OR 97374

**RE :** Unauthorized land use activity (Queener Ridge Hunting Club)  
**Legal :** Twp 9S, Range 1W, Section 26, Tax Lot 200  
**Location :** 41030 Kingston-Jordan Road Scio, OR

Dear Mr. Bochsler:

Our office was recently notified that there is unauthorized activity (Queener Ridge Hunting Club) being conducted on the above mentioned property. On June 6, 2010 the Linn County Planning Commission denied you land use authorization to conduct this activity. You therefore are in violation of the Linn County Land Development Code 921.980.

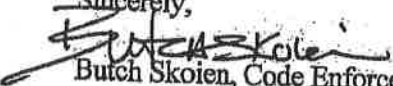
In order to bring the property into compliance with code you must immediately cease the activity, remove the the Queener Ridge Hunting Club sign from the property and cease all other media advertising. Failure to correct the violation within 10 days may result in further enforcement procedures including any combination of the following:

- Only one additional notice to abate (a FINAL notice to abate);
- An enforcement citation and prosecution including, but not limited to: payment of a fine and court costs and court orders to comply;
- Other civil actions in court; or
- Abatement by the County.

If the violation is not voluntarily abated, the County may seek from the court a judgment to abate the violation, which if not obeyed, could result in the County itself abating the violation and being awarded a money judgment by the court on the specified property for the expenses of abating the violation and administrative costs on the basis of which the County could file liens against all property owned.

If you need further clarification of the requirements, you may contact Planning at 541-967-3816.

Sincerely,

  
Butch Skoien, Code Enforcement



**Queener Ridge  
Pheasant Co.**

**Gary & Maureen Bochsler**

40485 Queener Dr Phone: 503.932.5196  
Scio, OR 97374 Fax: 503.769.2476  
www.qrpheasants.com gary@qrpheasants.com

November 22, 2010

Butch Skoien  
Linn County Code Enforcement  
P.O. Box 100  
Albany, OR 97321

RE: Unauthorized Land use activity

Dear Butch Skoien,

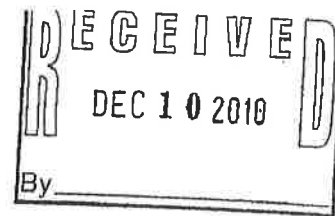
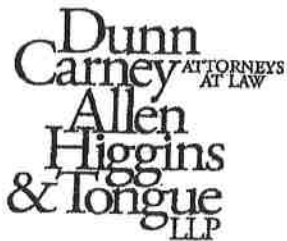
In regards to the certified mail sent and dated November 19, 2010. There seems to be a misunderstanding as to activities we are conducting on our farm on Queener Dr. You state that we were denied the land use activity of *hunting*, which is a protected right in the State of Oregon. What you are referring to is the CUP application required by the ODFW to have a state permitted *game bird preserve*. If you would have checked with the ODFW you would see that we are not permitted, therefore we are totally free to hunt on our own property as long as we comply with all Oregon State hunting regulations, which we are. We are leasing the property to hunters who wish to hunt, and we are free to lease our property without breaking any Linn Co. Code. If you are aware of any state laws that have been broken it would be ones that we are not aware of. As of the sign on the property, I don't find the code to remove it at all relevant, because we are not in violation of anything.

The letter that you have sent me is a follow up to the CUP meeting on June 6<sup>th</sup> 2010. During this hearing our true intention was falsely interpreted by the Linn County Planning Department, because if the true intention was realized you would know that the application was not for the *right to hunt on private property* but to *extend the normal season and to increase the bag limit*. Achieving a game bird preserve would have made it possible to turn the waste land into a revenue producing property. The planning commission chose to listen to and rule in favor of the barrage of lies about how the preserve would damage the surrounding area. You also apparently have decided, on your own, that we were applying for a hunting/gun club. This is totally wrong, what you are trying to do is deny us the *right to hunt on our own private property*. There are no county statutes that deny the ability of private land owners to hunt on their own property, provided that all the laws of Oregon are followed. We feel that we have been a target of discrimination by the County Planning Department because of their unfounded views of people that are not within the affected or immediate area. In any event, until it is proven that we are violating state laws; I will not remove the signage and will not stop hunting on the property until the state seasons are closed for the year. As to the advertising, I have no intention to cease any of it because of your false interpretation of what we are doing on private property.

Yours Truly,  
Queener Ridge Hunting Club LLC

CC: Mr. Robert Wheeldon, Director  
Mr. Dave Budeau - ODFW

Queener Ridge Pheasant Co.  
Gary & Maureen Bochsler  
40485 Queener Dr.  
Scio, OR 97374



December 9, 2010

TY K. WYMAN

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503-417-5478

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twyman@dunn-carney.com

ADDRESS  
Suite 1500  
851 S.W. Sixth Avenue  
Portland, Oregon  
97204-1357

Phone 503.224.8440  
Fax 503.224.7324

INTERNET  
www.dunn-carney.com

Butch Skoien, Code Enforcement  
Linn County Planning and Building Dept.  
PO Box 100  
Albany, OR 97321

Re: Queener Ridge Hunting Club, LLC  
41030 Kingston-Jordan Road, Scio, OR

Dear Mr. Skoien:

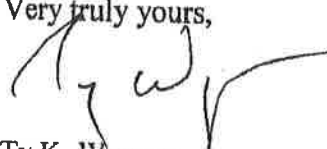
We represent Queener Ridge Hunting Club, LLC and are in receipt of your November 19, 2010 letter to Gary Bochsler, managing member thereof.

Your letter asserts that "unauthorized activity" has taken place on the subject property, but describes neither the activity nor how it lacks necessary authorization. Rather, it goes on to state that "[o]n June 6, 2010 the Linn County Planning Commission denied you land use authorization to conduct this activity." I assume that you intend to refer to the Planning Commission's June 8 hearing regarding a conditional use permit request "to operate a private hunting preserve" on the subject property (which request I understand the Commission summarily denied). Your letter goes on to demand that Mr. Bochsler remove a sign at the property and "cease all media advertising," but again fails to describe how the sign or any advertising is unlawful.

In speaking with Mr. Bochsler, I understand that he is not presently operating a private hunting preserve on the property. So that I might evaluate your assertion and advise the Club on how to respond, could you please specify for me the activity taking place on the site that you believe to be unlawful, when and where such activity has been observed, and the law that prohibits such activity?

Thank you for your assistance.

Very truly yours,

  
Ty K. Wyman

TKW:car  
Enclosure

cc: Gary L. and Maureen C. Bochsler  
DCAPDX\_0644065\_v1\_Letter.DOCX



# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse  
PO Box 100, Albany, Oregon 97321  
Phone 541-967-3816 Fax 541-926-2060

## FINAL NOTICE

### TO ABATE A VIOLATION OF LINN COUNTY CODE CHAPTER 240

December 9, 2010

Gary Bochsler  
Queener Ridge Pheasant Company  
40485 Queener Drive  
Scio, OR 97374

RE: VF-10-110; Violation Complaint; Queener Ridge Hunting Club; T09S, R01W, Section 26, Tax Lot 200; a 169.88-acre property in the Exclusive Farm Use (EFU) zone.

Dear Mr. Bochsler:

Thank you for your prompt response to the letter sent to you by Butch Skoien, Linn County Code Enforcement Officer, on November 19, 2010, regarding the Queener Ridge Hunting Club, which is located on the subject property. The Department has received a number of complaints that you are operating a private, fee-hunting operation (the Queener Ridge Hunting Club) on the subject property in violation of the Linn County Land Development Code (LCC) and Oregon land use regulations.

On March 24, 2010 you submitted an application for a conditional use permit (file number PD10-0047) for a "private hunting preserve" on the subject Exclusive Farm Use (EFU) zoned property. The conditional use permit application was submitted for review under provisions for "private parks, playgrounds, and hunting and fishing preserves" in the EFU zone, contained in Oregon Administrative Rules (OAR) 660-033-0120 and Linn County Code (LCC) 928.331(B)(4).

Your conditional use permit application was reviewed by the Linn County Planning Commission (Commission) in a public hearing on June 8, 2010. After considering the evidence and testimony presented at the hearing, including substantial testimony from area farm operators and other interested parties, the Commission voted unanimously to deny the application.

Subsequent to the Commission denial of your permit request to operate a fee hunting operation on your EFU property, the Department has received formal complaints and information indicating that you are doing so. You are advertising the "Queener Ridge Hunting Club" on an internet web site and on Facebook, and you have a sign on the property advertising the "Queener Ridge Hunting Club." Inquiries have confirmed that you allow, for a fee, persons to hunt and bag birds on your property, and to shoot trap on your property.

As I understand it, your response has been two-fold. First, that because you don't possess an ODFW license for a "hunting preserve" and because you are respecting the ODFW hunting season and bag limits, you are not a hunting preserve and therefore your activity is not regulated by land use law. Second, you have argued that you are "leasing" your land to hunters, albeit for a few hours at a time, and because they sign a "lease" to be allowed to hunt on your property you assert that your activity does not constitute a fee hunting operation.

As to your first assertion, under Oregon land use regulations and Linn County Code, private fee hunting operations are permitted in Forest zones [OAR 660-006-0025; LCC 928.610(B)], but are not an allowed or permitted use in Exclusive Farm Use (EFU) zones. Your property is in the EFU zone. Although private hunting preserves are a permitted use in the EFU zone, the Planning Commission denied your application for a permit for a hunting preserve. Therefore, you are currently not permitted to conduct any sort of fee hunting operation on the subject EFU zoned property.

As to your second assertion, that hunters are "leasing" your land for a limited duration, and therefore have the right to hunt on the property, it is my conclusion that there is no distinction between the fee-based system you have devised and any other method of charging a fee for individuals to conduct an activity (in this case, hunting) on your property. Hunters are paying to you and/or the Queener Ridge Hunting Club a set fee for the express purpose of pheasant hunting and trap shooting on the property.

It is my conclusion that you are conducting a private fee hunting operation on the EFU zoned property, which is a violation of Oregon land use law and Linn County Code. In addition, the fee-based trap shooting on the property constitutes a shooting range and is a separate violation of both state and county land use regulations. I have discussed the facts in this matter and your reasoning with representatives of the Oregon Department of Land Conservation and Development (DLCD) and with the Linn County Attorney. Both have concurred with my conclusions.

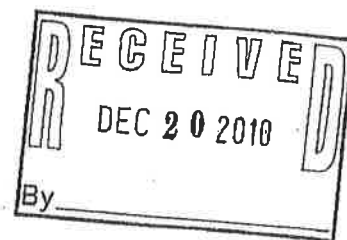
As to your assertion that the Department is prohibiting you from hunting on your property, that is most assuredly not the case. As I have stated to you repeatedly during our two previous phone conversations, the Department does not restrict your ability to hunt on your property or your ability to invite your friends and relatives to hunt on your property. The violation complaint and subsequent enforcement action are solely in regards to the activities of you and the Queener Ridge Hunting Club, and because you are operating a private, fee hunting operation in violation of Oregon land use regulations and the Linn County Land Development Code.

To bring the property into compliance with applicable land use regulations, you must immediately cease the fee hunting operation on the property, cease all forms of media advertising of the availability of fee hunting on the property, and remove the Queener Ridge Hunting Club sign from the property. The sign constitutes a separate violation of the Land Development Code because the sign is in conjunction with a use that is not allowed or permitted on the property [LCC 934.215(C)].

Failure to correct the violation within 10 days may result in further enforcement procedures including any combination of the following:

- An enforcement citation and prosecution including, but not limited to: payment of a fine and court costs and court orders to comply;
- Other civil actions in court; or
- Abatement by the County.





December 17, 2010

TY K. WYMAN

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Phone 503.224.8440  
Fax 503.224.7324

INTERNET  
www.dunncarney.com

Robert Wheeldon, Director  
Linn County Planning and Building Dept.  
PO Box 100  
Albany, OR 97321

Re: Queener Ridge Hunting Club, LLC  
41030 Kingston-Jordan Road, Scio, OR

Dear Mr. Wheeldon:

As you know, we represent Queener Ridge Hunting Club, LLC and are in receipt of your December 9, 2010 letter to Gary Bochsler, managing member thereof. This follows up on our phone conversation six days later.

Your letter reads as a "final notice" pursuant to LCC 240.320. For the reasons described in my December 9, 2010 letter to Butch Skoien of your office, his initial notice to Mr. Bochsler was materially deficient. Accordingly, your letter cannot effect final notice to the Club under the County's Enforcement Code. At best, it stands as an initial notice.

As to the substance of the matter, your letter includes a number of factual allegations regarding recent conduct on the subject property. For the record, Mr. Bochsler denies your assertion that he (or anyone else affiliated with the Club) "allow[s], for a fee, persons to hunt and bag birds . . . and shoot trap" thereon. As such, the balance of your letter (generally explaining why such conduct would violate the law) is a *non sequitor*.

As you and I discussed, clarifying the Club's future property rights would be a far more fruitful use of our collective time than would determining the legality of past conduct on the property. Mr. Bochsler tells me that, contrary to the statement in his November 22 letter to you, the Club will not lease the property for hunting. I am further authorized to say that, barring further notice to you to the contrary, the Club will not in any way accept a fee for allowing such hunting.

You demand that the Club remove a sign at the property and "cease all media advertising" of the Club. Because such advertising does not render any activity on the property fee-based, I do not see it as unlawful. Should you disagree, please explain and I will take the issue under further advisement.

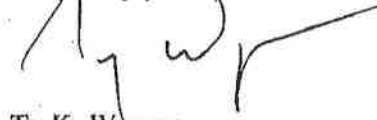
In conclusion, I appreciate your willingness to discuss the dispute over allowed use of the subject property with me in an open and candid manner. I believe that further such conversation is far more likely to resolve the dispute than would continuation of a code enforcement process. As mentioned, I contemplate submitting

Robert Wheeldon  
December 17, 2010  
Page 2

to you after the New Year documentation explaining the Club's plan for future use,  
and seeking approval of such plan to the extent required.

Thank you again for your assistance and please contact me with any questions  
or concerns about the matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ty K. Wyman', with a long horizontal stroke extending to the right.

Ty K. Wyman

TKW:car

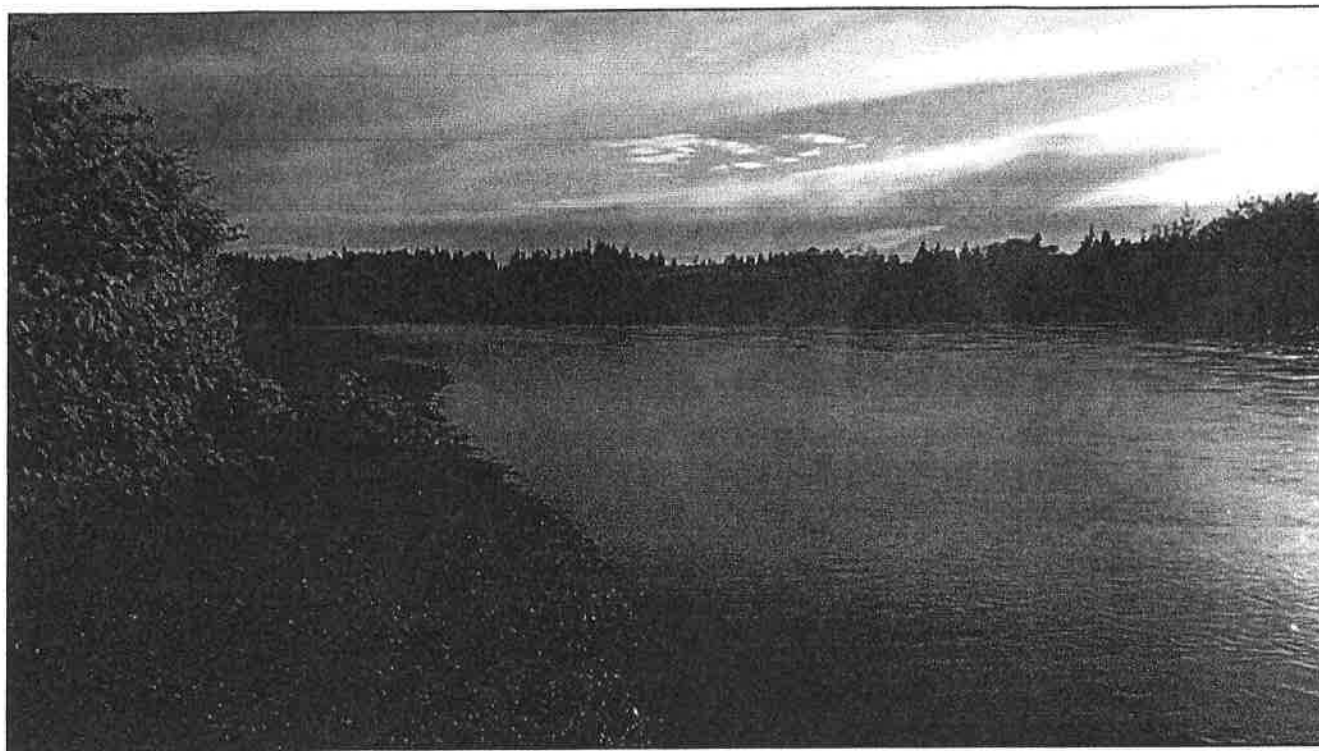
cc: Gary L. and Maureen C. Bochsler  
DCAPDX\_n644065\_v1\_Letter.DOCX





## Man arrested in connection with fatal Ferndale BBQ shooting

By KOMO Staff | Published: Feb 13, 2014 at 8:22 PM PST (2014-02-14T4:22:38Z)



FERNDALE, Wash. -- A Whatcom County man accused of inadvertently shooting and killing a Ferndale woman while she was attending a family barbeque more than a half mile away was arrested Thursday and could face a manslaughter charge.

Deputies say five people were shooting guns along the Nooksack River last June when one of the bullets hit 23-year old Alyssa Smith, who was at a barbeque at her dad's house in the 6100 block of Gadwa Road near Ferndale.

Smith and the rest of the party heard bullets flying over their heads and called police. As Smith walked toward the house to take cover, deputies say she was hit in the chest with a bullet.

She was taken to St. Joseph Hospital in Bellingham, where she died the next morning.

Deputies arrived moments later. They heard the gunfire and traced the shots to a group of five people on the other side of the Nooksack River, who admitted they had been shooting handguns and high-powered rifles.

Two members of the group, 40-year-old Douglas Quiding and 23-year-old Robert Lee, were arrested for unlawful possession of a firearm. Both men have been convicted of felonies in the past.

For the next eight months, deputies continued to investigate which of the five men actually fired the fatal shot. With help from forensic experts at the Washington State Crime Lab, deputies developed probable

Investigators believe Zylstra was firing a rifle from the hip in a method called "bump fire," which allows a "semi-automatic weapon to be fired in a manner that simulates fully automatic fire," according to deputies.

The bullet that killed Smith was also matched to the rifle that Zylstra had been firing.

On Thursday, Zylstra turned himself in at the Sheriff's Office and was booked into Whatcom County Jail on suspicion of first degree manslaughter. He's being held without bail.

# Brush Prairie woman hit by stray bullet feels 'blessed'

## Her home is near Clark Rifles shooting ranges



([http://media.columbian.com/img/photos/2015/02/03/515955\\_stray\\_bullet\\_follo9.jpg](http://media.columbian.com/img/photos/2015/02/03/515955_stray_bullet_follo9.jpg))

(<http://r>

Linda Sperling's son Andy Sperling walks in his family's yard Tuesday among orange flags that mark the locations where a metal detector has found objects in the ground, some of them bullets. (Steven Lane (/staff/steven-lane/)The Columbian)

Buy this photo

A bulle  
Brush  
lane/

By **Emily Gillespie**, Columbian breaking news reporter

9

Published: February 3, 2015, 5:05 PM

**Woman shot with stray bullet**

Linda Sperling considers herself blessed. Had she turned her head or stepped an inch to the side on the afternoon of Jan. 26, she may be dead.



The 65-year-old Brush Prairie woman was outside on her 5-acre property collecting

[\(/photos/galleries/2015/feb/03/woman-shot-stray-bullet/\)](/photos/galleries/2015/feb/03/woman-shot-stray-bullet/)



[\(/photos/galleries/2015/feb/03/woman-shot-stray-bullet/\)](/photos/galleries/2015/feb/03/woman-shot-stray-bullet/)

Bullet entered, exited her scalp; family mulls steps to make home near shooting range more safe

branches from a recent windstorm when she heard what sounded like an explosion.

"I didn't even realize I'd been shot," she said. She put her hand to her head and pulled it back to find blood on her gardening glove.

After she was rushed to an area hospital, doctors told her that a bullet entered and exited her scalp. She was treated and released, but continues to suffer from a concussion, memory and vision problems, and a constant headache. But she keeps in mind that she's lucky.

"What if it was a quarter-inch deeper?" she said. "It's just not my time."

The Sperlings' property, east of Hockinson, abuts Clark Rifles, a gun club that has two rifle ranges and a handgun range, according to its website. One of those 300-yard rifle ranges points toward the Sperlings' property.

The Clark County Sheriff's Office major crimes unit is investigating the incident, but a spokesman for the agency, Sgt. Fred Neiman, said that their involvement is only to determine if a crime occurred.

"It's really not looking like it's going to be considered any sort of criminal activity," Neiman said. "It looks like an unintended, unfortunate incident where she was injured."

Detectives haven't determined yet where the projectile Linda Sperling was struck with came from.

Dave Christie, vice president of Clark Rifles, said that he's aware of the situation but couldn't comment on the incident.

"There's no proof that it was from our range. ... We know about no rounds that left the range," he said.

But because of Linda Sperling's gunshot wound and the positioning of the range and their property, Sperling and her husband say it's pretty obvious that the bullet came from the range.

"It's been a fear always, but a fear I'd hoped would never happen," Linda Sperling said.

When the Sperlings first finished building their house in 1980, they said that the shooting range was somewhat dormant, with shots heard every month or so.

But around 1988, the Sperlings said the shots became more frequent. The rifle club already had a berm in place behind its targets and added a wooden backstop atop that.

Even so, the Sperlings said they have often found bullets in their yard.

At a Clark County Commissioners meeting in August 1988, Linda's husband, Michael Sperling, spoke at a public hearing addressing the gun club's license. At the time, he said he wasn't opposed to the range but added that stray bullets went over his house, according to The Columbian's archives. Now that his wife has been shot in the head, his attitude has changed a bit.

A month after that August 1988 meeting, commissioners approved the gun club's shooting range license.

"If that hadn't have happened, she wouldn't have been shot," Michael Sperling said.

Moving, Linda Sperling said, is not an option.

"This is home," she said. "We have our roots pretty deep here."

So, the family is taking the steps they can to keep their home of 35 years safe.

Michael Sperling has visited with an attorney but learned that a temporary injunction would cost \$10,000 in attorneys fees and other costs, which he and his family can't afford.

He plans to do some homework to see if there are any organizations willing to back his efforts.

"If we can drum up some money and fight them legally, we will," he said.

They're also reaching out to government officials about their safety concerns in hopes that someone will step up and help.

Michael Sperling said he's left a message with the current county council's office and has emailed state Sen. Ann Rivers, R-La Center, and state Rep. Brandon Vick, R-Felida, to find some sort of solution.

"I want this to be in the public's eye," Michael Sperling said.

The family argues that their issue with the range is not the noise from the gunshots, but rather that the range has grown and now uses every inch of its property, which is surrounded by private residences.

"Our right to safety outweighs their privilege," Andy Sperling, the couple's son, said. "We've always tried to be good neighbors, but at some point, you reach a limit."

He's hired a metal detector company to help him find more than 1½ pounds of bullets in his yard, an effort to find the bullet that struck Linda Sperling and to show how many bullets are on their property.

"I could go to any yard in Clark County and not find a bullet," Andy Sperling said. "It's kind of a danger zone ... Nobody deserves to be shot on their property."

The family said that they realize they're embarking on an uphill battle, but one they say is worth it in the name of safety.

In the meantime, Linda Sperling, who used to be full of energy and in the yard daily, has yet to spend more than a few moments outside.

"I haven't left the couch. I'm not a couch person," she said.



## **Emily Gillespie (/staff /emily-gillespie/)**

Columbian breaking news  
reporter

☎ 360-735-4522

👤 [@col\\_cops \(https://twitter.com/col\\_cops\)](https://twitter.com/col_cops)

✉ [Send an Email \(mailto:emily.gillespie@columbian.com\)](mailto:emily.gillespie@columbian.com)

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## Lewiston Gun Club plan hangs fire

By **KERRI SANDAINE** of the Tribune | Posted: **Wednesday, February 4, 2015 12:00 am**

ASOTIN - A standing-room-only crowd of shooting enthusiasts and landowners will have to wait at least another month before they know whether a controversial gun club will be built in rural Asotin County.

After listening to 90 minutes of passionate pleas from both sides Tuesday night, the Asotin County Planning Commission opted to table its decision, saying more details are needed on what is proposed by the Lewiston Gun Club at the site eight miles south of Asotin.

The advisory panel said the application for a conditional-use permit in an agricultural zone needs to be resubmitted, along with the state's environmental review, before any decisions are made on the proposal.

Eric Kopczynski, who lives closest to the site, said the effects on his home have been downplayed. The tranquility will be destroyed, along with property values, he said.

"I live right across the highway," he said. "There is no way I can sell my house with a gun club next door. The nuisance and economic impact is huge for me."

Ken Wareham gave a 20-minute presentation on the history and benefits of the club, which has been without a home since 2008. The club's former site was near the Lewiston-Nez Perce County Regional Airport.

Wareham said it would provide a safe and controlled environment for shooters, and he does not believe it would hurt farming or cattle ranching.

Jake Weiss, who was raised on a farm one mile south of the proposed club, gave the commission a letter from seven contiguous landowners who oppose the location. The potential noise, safety issues, land values and negative effects on farming are among the concerns of neighbors in the area, he said.

In addition, the Lewiston Gun Club did not contact neighboring property owners before applying for a permit to build a shooting complex and up to 150 recreational vehicle sites on 90 acres in the middle of farm ground, Weiss and other landowners said.

Wareham said the number of RV hookups would be closer to 35, and the rifle range could be dropped from the plans.

A land-use attorney from Spokane, Todd Hume, said the testimony didn't address why this site is worthy of a conditional-use permit, and the application can't be a moving target that keeps

changing. Hume is representing Joanne Bolick's farm, which is next to the gun club.

"Gun clubs are constantly in conflict with their neighbors," Hume said. "You will be inviting disaster if you site that gun club in that location. They do serve a purpose, but your job is to look at the code."

Mike Burns, who owns Grande Ronde Lodge and Cattle Co. to the north of the site, said a gun club is much too intense for the bucolic agricultural area. He's also hired an attorney to represent his interests.

"The reason I own property here is because it's such a beautiful place," Burns said.

Victor Dalosto, who owns the property where the proposed gun club is located, said there is no money in this for him. He said he's basically giving the land to the club because he believes it will be an asset to the community. He also said he's donating \$30,000 to the Wounded Warrior Project for shooting activities connected to the club.

Dalosto lashed out at Kopczynski, saying the reason his house hasn't sold is because it's priced too high.

The remainder of the night's testimony was non-confrontational. Some residents were emotional as they spoke of how long the land has been in their families and why a gun club doesn't mesh with farming and ranching. Many of the farms date back to the 1800s.

Trap shooters said it would bring a fun, recreational sport to Asotin County, along with people who spend money on such things as food, gas, guns and ammunition. They implored the planners to allow them to build a new club and resume activities.

Wareham said one of his favorite memories is shooting at the gun club with his son, and he hopes to have the opportunity again.

Karst Riggers, county planner, said he will seek legal advice on the application. Conditional-use permits are usually fairly simple applications, but Riggers said this one is more complicated.

Once a recommendation is made by the planning group, the Asotin County commissioners will have the final say on the issue.

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