

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Approval of a Zone Change from VLDR-2.5 to VLDR-1)
Very Low Density Residential, Applicant Mike Bowlin,) Ordinance 862
Tax Lot 4317-2600, Planning Docket Z-02-06, and)
Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 10, 2011, Commissioners Leslie Lewis and Kathy George being present, and Commissioner Mary P. Stern being excused.

IT APPEARING TO THE BOARD that Mike Bowlin applied for a zone change from VLDR-2.5 to VLDR-1 Very Low Density Residential for a 10 acre parcel known as Tax Lot 4317-2600, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on July 6, 2006, then voted to approve the application. That decision has not been appealed. The application should have been forwarded to the Board for approval in 2006 but this failed to happen due to an administrative oversight. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in Exhibit "A," the Findings for Approval, hereby incorporated into this Ordinance by this reference. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective immediately. A map is appended as Exhibit "B".

DONE this 10th day of February, 2011, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

(Excused)

REBEKAH STERN DOLY

County Clerk

Chair

MARY P. STERN

By: *Deputy Anne Britt*
Deputy Anne Britt



Leslie Lewis
Commissioner

LESLIE LEWIS

APPROVED AS TO FORM:

Rick Sanai

Kathy George
Commissioner

KATHY GEORGE

Rick Sanai
County Counsel

HEARING DATE: July 6, 2006

DOCKET NO.: Z-02-06

REQUEST: Zone change from VLDR-2.5 to VLDR-1 Very Low Density Residential. The purpose is to allow the property to be divided into five (5) rural residential home sites.

APPLICANT: Mike Bowlin

TAX LOT: 4317-2600

LOCATION: 14220 SE Foster Road, Dayton, Oregon

AREA SIZE: 10 acres

CRITERIA: Sections 502 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies may be argued to apply.

FINDINGS FOR APPROVAL (Exhibit "A"):

A. Background Facts

1. *Access:* Foster Road, County paved roadway outside the City of Dayton.
2. *On-site Land Use:* The subject parcel is located on the south side of Foster Road, in Dayton's Urban Growth Boundary (UGB). For the most part the property is wooded except for the small area in the center of the parcel that has been cleared. A residence was constructed on the parcel in the year 2000. The parcel is partially fenced for livestock. The eastern portion of the property is in the 100-year floodplain of an unnamed tributary of Yamhill River which runs from south to north across the subject parcel.
3. *Surrounding Land Use:* The surrounding area is primarily rural residential in character, with lots of approximately 1.0 to 3.0 acres and averaging 2.5 acres in size. There are several subdivisions that have been created in the surrounding area. The subject parcel is across State Highway 18 from the City of Dayton and it is the largest parcel in the center of small lots. The subject 10-acre parcel was a result of a previous subdivision to the west of the property. The subdivision was created with lot-size averaging provision, where smaller lots were created providing that the subject parcel remain undivided as long as the zoning remains 2.5 acres minimum. This is the reason the applicant is submitting this zone change application.
4. *Surrounding Zoning:* All surrounding parcels are zoned VLDR-2.5, Very Low Density Residential use and all are in the City of Dayton UGB. All parcels in the area have the

- Comprehensive Plan designation of Very Low Density Residential.
5. *Water:* The applicants indicated that the parcels are and will be served by drilled wells. The City of Dayton indicated that they will not provide city water to the site.
 6. *Sewage Disposal:* Septic systems are the only option in this area. The City of Dayton indicated that they will not provide city sewer to the site.
 7. *Previous Actions:* Previous eight lot subdivision was approved by Docket S-03-99 in September of 1999.

B. Ordinance Provisions and Analysis

1. The Board finds that the request complies with the standards and criteria in the *Yamhill County Zoning Ordinance (YCZO)* Section 1208.02. These provisions are as follows:
 - A. *The proposed change is consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan.*
 - B. *There is an existing, demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*
 - C. *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*
 - D. *Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors.*
 - E. *The amendment is consistent with the current Oregon Administrative Rules (OAR's) for exceptions, if applicable.*
2. Regarding criterion (a), a zone change to VLDR-1 is consistent with the Comprehensive Plan designation of Very Low Density Residential (VLDR). Comprehensive Plan policy (a) of Goal I.B.2 states:

Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers;....

The subject area complies with this policy because it is part of a large exception area zoned for residential use located in the City of Dayton UGB in close proximity to City of Dayton. The area is committed to residential use and there are a number of subdivisions adjacent to the subject area.

3. Regarding the need for additional residential lots in the area, the subject parcel is part of a rural residential area located in the UGB outside City of Dayton. This area has been in the UGB since its inception. Therefore it was not a part of the original Exception study. The following table shows the zoning designation, the total number of lots within the consideration area, and the number of lots that were developed and vacant as of June 1, 2000:

Zone	# of lots	built lots	vacant lots	% of built-out
AF-10	27	23	4	85%
VLDR-2.5	70	59	11	84%
VLDR-1	4	4	0	100%
Total	101	86	15	85%

This analysis showed that 85% of the existing lots within the exception area are already developed and 100% of the lots that are zoned VLDR-1 are developed. The county has tried in the past to use market availability as a measure of need for the property to be rezoned. In a similar land use request LUBA previously ruled:

"The number of VLDR-2.5 zoned properties on the market for sale at any given point in time is at best an indirect measure of the need or market demand for such properties."
(LUBA No. 91-200)

Therefore, the county cannot use market availability alone as a basis for a determination of need. The Board finds that market availability is an important indicator, though not determinative.

The 1990 Census reported the population of Yamhill County at 65,551. On July 1, 1999 the Center for Population Research and Census at Portland State University estimated the Yamhill County population at 83,100. This is an increase of 17,549 or 26.7% over a period of nine years. The overall county 2005 population estimate was 90,310 or approximately 9% more than six years ago. The increase in the rate and amount of development, combined with the relatively small number of existing vacant lots and an increasing population may indicate a demand and need for additional VLDR zoned lots in this area.

A sheet of information from the RMLS of Yamhill County as of May 8, 2006 available in support of another similar application shows the number of available VLDR lots in the county. It is of note that there are only 10 available lots out of a total of 437 active listings for all properties.

Additionally, staff reviewed Tax Assessor, Planning and Building office records for parcels located in the Dayton area, which includes development in the UGB. The review indicated that total of 33 new lots were created between 1990 and 2000. At that time, all these lots were sold and all lots were developed. This would tend to indicate that there is a fairly substantial market demand for VLDR lots in the area, as well as illustrating that few lots are available for sale.

If the zone change is approved, four (4) additional lots could be created.

The subject area appears to be as well suited for residential development as the other available lots in the area. Issues related to suitability will be discussed further in Finding B.5.

4. Regarding criterion (c), the proposed zone change is appropriate because the supply of VLDR-1 parcels in the Dayton area has been exhausted. Further, the adjacent parcels are small residential lots similar in size to the proposed subdivision and the majority of these lots have already been developed with residences. There are no large scale commercial farm or forest uses in the vicinity that would be impacted by the residential lots that could be created if the zone change is approved.

Changes which have occurred most recently in the vicinity, which support the request, include the approval, sale and development of 33 new lots. Most of these lots were created in two subdivisions along Foster Road and one subdivision south of Dayton. Usual services such as fire and police protection, schools, telephone and electricity are available to the site. Wells serve most of the subdivision lots. The County Sanitarian did not indicate whether the soils in the area are acceptable for a subsurface sewage disposal system, however, there are many parcels in the area with similar soils and on-site septic systems. In the event that water is not available or septic systems are not allowed the applicant would not receive subdivision approval. Foster Road is a County maintained roadway. An access roadway to the proposed lots will have to meet the County emergency vehicle standards.

5. Criterion (d) requires a finding that other VLDR designated land is either unavailable or not as well suited for residential development. As indicated in Finding B.3, it is indicated that there are only 11 lots that have not been developed in the immediate vicinity that are zoned VLDR-2.5 and no VLDR-1 lots are available in Dayton area and only 10 lots for sale were available in the entire county. The availability of lots appears to be low, and market demand appears to be fairly high. However, as noted in Finding B.3, if all the lots in the subject area were to be subdivided to the maximum density, there would be only four (4) more lots zoned VLDR 2.5. The demand for these lots outpaces the availability. The subject area currently has an access on Foster Road which is a county road. Except for the question of water and septic, as discussed in Finding B.4, the subject parcel does not appear to be any less suitable for residential development than any of the other lots in the area.
6. Regarding criterion (e), the subject area is in the UGB which was excepted as part of the UGB process, therefore, the area is not subject to Goals 3 and 4. The proposed lots are within the Dayton UGB, therefore, Goal 14 does not apply. No other Goals apply to this request, and no exception is required.

CONCLUSIONS:

1. The request is for a zone change from VLDR-2.5 to VLDR-1 Very Low Density Residential for a 10-acre area.
2. The request complies with the Comprehensive Plan Goals and Policies and is consistent with the Plan map designation of VLDR.
3. The majority of properties zoned VLDR-2.5 and all parcels zoned VLDR-1 in the area are already developed with residences, and there appears to be a market demand for new lots.
4. There was no information at the time of this writing about whether water and sewage disposal would be available to serve the 5 additional lots that could be created if the zone change is approved. These concerns can be addressed when an application is made to subdivide the property.
5. The area has substantially changed in the past ten years with the addition of new residential development. The location of this property, next to rural residential zoning, does not lend itself to small farm uses. Therefore, additional residential development is appropriate for this location.

DECISION:

Based on the above findings, analysis, and conclusions, the Board hereby approves the request by Mike Bowlin for a zone change from VLDR-2.5 to VLDR-1 on Tax Lot 4317-2600.

