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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 EF-80 Exclusive)
Farm Use to F-80 Forestry for a 121.2 Acre Parcel, Tax Lot 4516-900,) Ordinance 807
Docket no. Z-01-07, Applicants Kathryn M. & James B. Nelson and)
Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on May 23, 2007, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Kathryn M. and James B. Nelson applied to the Yamhill County Department of Planning (Planning Docket Z-01-07) for a Zone change from EF-80, Exclusive Farm use to F-80 Forestry, and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Commission at a duly noticed public hearing on April 5, 2007, after which the Commission voted 5-0 to recommend approving the application, and no-one has appealed that approval. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. 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 upon passage.

DONE this 23rd day of May, 2007, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



By: [Signature]
Deputy

[Signature: Kathy George]
Chair KATHY GEORGE

[Signature: Mary P. Stern]
Commissioner MARY P. STERN

[Signature: Leslie Lewis]
Commissioner LESLIE LEWIS

APPROVED AS TO FORM:

[Signature: Rick Sanai]
Rick Sanai, Assistant County Counsel

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DOCKET NO.: Z-01-07

REQUEST: Zone change from EF-80, Exclusive Farm use to F-80, Forestry.

APPLICANT: Catherine A. Wright representing Kathryn M. and James B. Nelson

TAX LOTS: 4516-900

LOCATION: South of property addressed 3625 NW High Heaven Road, McMinnville

CRITERIA: Sections 401, 402 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

FINDINGS:

A. Background Facts

1. Lot Size: Approximately 121.2 acres.
2. Access: Easement off of Baker Creek Road.
3. On-Site Land Use: Currently, the parcel is in timber production.
4. Surrounding Zoning: Property to the west is zoned EF-40, Exclusive Farm use and property to the south and southeast is zoned EF-80. The parcels to the north and northwest are zoned F-80, Forestry use.
5. Surrounding Land Use: The surrounding area is predominantly forested.
6. Water: On-site well.
7. Sewage Disposal: An on-site subsurface system would be required for any residential use.
8. Soils: The Yamhill County Soil Survey indicates the soil types are approximately 22% Hazelair (HcD), 15% Yamhill (YaF), 13% Steiwer (SuD), and 9% Panther (PaD) which are all rated as non-high value soils. Approximately 9% of the property is Yamhill (YaE) which is high-value soil.
9. Fire Protection: McMinnville Rural Fire District.
10. Taxes: Farm Deferral.

B. Ordinance Provisions and Analysis

1. This application is approved because it complies with the review criteria found in Section 1208.03 of the Yamhill County Zoning Ordinance, as follows:

Review Criteria for Amendments to or within Exclusive Farm Use and Agricultural/Forestry Zones

A quasi-judicial zone change to (1) amend the designation of land from Exclusive Farm Use, Agriculture/Forestry, or Forest to another of these zones, or (2) change the minimum lot size of land designated Exclusive Farm Use or Agriculture/Forestry, may be authorized, pursuant to Subsection 1208.01, provided that the request satisfies all applicable requirements of this ordinance, and also provided that the applicant demonstrates compliance with the following criteria:

- A. *The proposed amendment shall comply with the goals, policies, and other applicable provisions of the comprehensive plan.*
- B. *The proposed designation shall be appropriate for the existing or intended use of the property.*
- C. *The proposed amendment shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land.*
- D. *For proposed changes within or to an Exclusive Farm Use designation, the new minimum lot size shall be appropriate to maintain the existing commercial agricultural enterprise in the area.*
- E. *For proposed changes within or to an Agriculture/Forestry designation, the new minimum lot size shall be shown to assure:*
 1. *The opportunity for economically efficient forest and agriculture practices typically occurring in the area; and*
 2. *The opportunity for the continuous growing and harvesting of forest tree species; and*
 3. *The conservation of other forest values found on forest lands.*
- F. *Any amendment that would change the zone map designation to reduce the minimum lot size on property within an Exclusive Farm Use or Agriculture/Forestry district shall not be granted final approval by Yamhill county until the amendment has been considered and approved by the Land Conservation and Development Commission pursuant to ORS 215.780(2). The following rules shall apply:*

Exhibit "A" Findings for Approval
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1. *Conditional approval. Following receipt of an application for a zone change as otherwise provided by this ordinance, the county shall determine whether to grant or deny the application in accordance with criteria established in this section 1208.03. If the application is granted, the county shall enter an order of conditional approval, subject to final approval by the Land Conservation and Development Commission.*
2. *Referral of Order of Conditional Approval. After conditional approval by Yamhill County, the application, county findings, order of conditional approval and a request for Commission action shall be referred to the Department of Land Conservation and Development.*
3. *Final Approval. An amendment conditionally approved by Yamhill County shall not take effect until the county adopts an order or ordinance authorizing final approval after receipt of written confirmation of the county's conditional approval by the Land Conservation and Development Commission.*

The above criteria are addressed in Findings B.2 through B.5 below.

2. Regarding criterion (A), applicable goals from the Yamhill County Comprehensive Land Use Plan, Section II.A.1, Goal reads:

To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conservation of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

The majority of the subject parcel is in forest use and would remain in forest use regardless of the proposed zone change. The new zone, F-80, will more accurately reflect the existing uses on the subject parcel. The applicant is not proposing an urban use; the minimum lot size is to remain 80 acres.

Section II.A.2, Goal reads:

To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the county plan map.

According to the Yamhill County Soil Survey, approximately 46% of the subject parcel is composed of Class IV soils, with approximately 30.4% composed of Class III, and approximately 24.4% is composed of Class VI soils. The zone change will preserve the County's soil resources for their suitability for forest use.

Section II.B.1, Goal reads:

To conserve and to manage efficiently the county's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock, habitat for fish and wildlife, protection of forest soils and watershed, and preservation of recreational opportunities.

The proposed zone change conserves the county's forest resources that currently exist on the property.

3. Regarding criterion (B), as mentioned above, the subject parcel is currently in forest use; the zone change from an exclusive farm zone to a forestry zone more accurately reflects the current use of the property.
4. Regarding criterion (C), the subject parcel is contiguous with several hundred acres of property zoned F-80, therefore, the request is consistent with criterion (C).
5. Regarding criteria (D), (E) and (F), these criteria are not applicable since the request does not include reducing the minimum lot size on the property. The applicant wishes to keep the minimum lot size at 80 acres.

CONCLUSIONS

1. The request is for a zone change from EF-80 Exclusive Farm Use to F-80 Forestry Use. The total area to be rezoned is approximately 121.2 acres.
2. The zone change is appropriate to reflect the forest uses on the property.
3. The request complies with the criteria listed in Section 1208.03 of the Yamhill County Zoning Ordinance and is consistent with the applicable goals found in Yamhill County's Comprehensive Plan.
4. The proposed designation is appropriate for the existing and intended use of the property.

DECISION:

Based on the above findings and conclusions, the request by Catherine Wright representing Kathryn Nelson and James Nelson, for a zone change from EF-80 Exclusive Farm Use to F-80 Forestry Use on Tax Lot 4516-900, is approved.