

'05 DEC 21 P1:08

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 a Comprehensive Plan Amendment from )  
Low Density Residential to Commercial, a Zoning change )  
From LDR-12000 Low Density Residential to NC Neighborhood ) ORDINANCE 777  
Commercial, and Taking an Exception to Statewide Planning )  
Goal 14, for Tax Lot 3325-900, Applicant Jeff and Tammy )  
Coffman, Docket PAZ-05-04, and Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on December 21, 2005, Commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that Jeff and Tammy Coffman applied to the Yamhill County Department of Planning (Planning Docket PAZ-05-04) for a Comprehensive Plan amendment from Low Density Residential to Commercial, a zone change from LDR-12000 Low Density Residential to NC Neighborhood Commercial and an exception to Statewide Planning Goal 14, and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Department at a duly noticed public hearing on October 6, 2005, which voted to recommend approval of the application; and the Board held a duly noticed public hearing December 7, 2005, at which the applicant appeared and testified, there being no opponents, and the Board tentatively voted to approve the application, 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 21<sup>st</sup> day of December, 2005, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

Jan Coleman  
County Clerk



*Mary P. Stern*  
Chair: Mary P. Stern

By: *Anne Britt*  
Deputy Anne Britt

*Leslie A. Lewis*  
Commissioner: Leslie Lewis

*Kathy George*  
Commissioner: Kathy George

APPROVED AS TO FORM:

*Rick Sanai*  
Rick Sanai, Assistant County Counsel

B.O. 05-1068

## FINDINGS AND CONCLUSIONS for Ordinance 777, Exhibit "A"

The following findings of fact and conclusions of law are hereby adopted, and are based on substantial evidence in the record in this case:

1. The Findings and Conclusions set forth in the Staff Report for the October 6, 2005, Public Hearing are hereby adopted in full, just as if they were set forth verbatim herein, except as specifically provided below. A copy of said Staff Report is attached hereto and by this reference incorporated herein.
2. The Planning Commission and the Board of Commissioners determined that the application does satisfy Yamhill County Zoning Ordinance Section 1208.02(A) in that the application would not allow strip development in accordance with Yamhill County Comprehensive Plan Policy I.G.1.b. The subject property is already being used for motorcycle parts sales and the surrounding uses are residential in nature. The Planning Commission and Board of Commissioners determined that approval of the application will not expand strip commercial - nor provide for an opportunity to redevelop strip commercial - areas.
3. The Planning Commission and the Board of Commissioners determined that the applicant has provided adequate justification to show there is an existing demonstrable need for a motorcycle repair shop at this location. The undisputed testimony of the applicant was that he has operated his motorcycle parts shop in this same location for over 20 years, that his shop has become a recognizable landmark near Dundee, Oregon that is well known in the greater Portland metropolitan area and beyond, and that the applicant receives numerous requests and inquiries, on a weekly basis, about whether or not applicant can perform motorcycle repair and customization on site. Therefore, the Planning Commission and Board of Commissioners determined that applicant has satisfied Yamhill County Zoning Ordinance 1208.02(B).
4. The Planning Commission and the Board of Commissioners determined that applicant did not need to demonstrate that other areas already zoned for the proposed use are unavailable or not as well suited for the proposed use. *Green et al v. Hayward et al*, 275 Or. 693, 552 P.2d 815 (1976) holds that when a land use action is taken to accommodate the expansion of an existing business, the applicant does not need to demonstrate that other areas already zoned for the proposed use are unavailable or not as well suited for the proposed use.

Applicant's motorcycle parts shop was an allowed use by a Conditional Use Permit for a home occupation under the Low Density Residential zone. See Yamhill County Zoning Ordinance 502.03(b). A motorcycle repair shop is only a permitted use in a Commercial zone. See Yamhill County Zoning Ordinance 602.02(A) and (B). Therefore, in order to be able to expand his business to include motorcycle repair and ensure his business is in compliance with the County zoning laws, a change to Neighborhood Commercial is required. Therefore, *Green v. Hayward* holds that applicant did not need to examine or

consider other Commercially-zoned property to accommodate expansion of his business to include motorcycle repair.

Therefore, the Planning Commission and the Board of Commissioners determined that, pursuant to *Green et al v. Hayward et al*, 275 Or. 693, 552 P.2d 815 (1976), Yamhill County Zoning Ordinance 1208.02(D) was not applicable to this application.

5. The Planning Commission and the Board of Commissioners determined that the Yamhill County Transportation System Plan, planning for and incorporating the Newberg-Dundee Bypass, does satisfy the Transportation Planning Rule and Oregon Administrative Rule 660-12-060 with regard to this application. The Planning Commission and the Board of Commissioners noted that the Highway 99 and Fox Farm Road intersection is operating over capacity, but that the traffic "bottleneck" existing there is a direct result of traffic light at the Highway 99 / 5<sup>th</sup> Street intersection within the City of Dundee.

The Planning Commission and the Board of Commissioners also received undisputed testimony from Lancaster Engineering that the proposed use would create less traffic than other allowed uses under the existing LDR-12000 zoning and that the proposed use would also potentially create less traffic than the existing motorcycle parts shop. This may be accomplished by instead of having a single customer make numerous trips over many days to and from the subject site to purchase motorcycle parts, the same customer may now make only one round trip, wherein he leaves motorcycle at the shop, and all repairs are made there. This shows compliance with OAR 660-12-060(1)(c) by reducing the demand for automobile travel to and from the subject property.

6. The Planning Commission and the Board of Commissioners determined that the application does comply with Statewide Planning Goal 14. A Goal 14 exception is not necessary because the current zoning of LDR 12,000 is not rural residential in nature and the change in zoning is still designed to be placed in rural area, residential in nature. The impact of the change to neighborhood commercial under the County zoning plans are to in fact allow for development of commercial services for the residential market outside of the urban growth boundaries. The zoning itself is designed to be placed in rural residential areas, not urbanized areas, and is intended to provide services to those very areas. The service and repair elements are specifically permitted uses under this zoning.

The Board of Commissioners found that if a Statewide Planning Goal 14 exception was necessary, a Statewide Planning Goal 14 exception could be applied because the subject property is already built and developed to commercial uses. The Board of Commissioners made this determined that the subject property is built and developed due to the prior conditional use as a motorcycle parts shop and Applicant's commercial structures on the property related to such conditional use. The subject property also has Dundee City water access. As such, the subject property has been extensively physically developed to conform to the commercial uses.

7. The Planning Commission and the Board of Commissioners determined that it is appropriate to place a Limited Use Overlay on the property to limit the outright permitted

uses to a motorcycle parts and repair shop and related facilities. All other outright permitted uses listed in Yamhill County Zoning Ordinance 602.02 shall hereafter be considered to be permitted conditional uses, subject to complying with all procedures for obtaining a conditional use permit. Nothing in Yamhill County Zoning Ordinance 602.03 shall be considered contrary to this condition as to the subject property. All other provisions of Yamhill County Zoning Ordinance Chapter 602 shall continue to apply.

**END.**