

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

80-203

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Amendments to the Yamhill
County Comprehensive Plan, 1974, the Yamhill
County Zoning Ordinance #83, and Land
Division Ordinance #205 to Bring These
Documents into Compliance with ORS Chapter
213 and LCDC's Statewide Planning Goals.

ORDINANCE NO. 233

THE BOARD OF COMMISSIONERS of Yamhill County, Oregon (the Board), on the 2nd day of April, 1980, sat for the transaction of County business, Commissioners Colin Armstrong, Ted Lopuszynski and John P. Macaulay being present.

WHEREAS, the Board enacted the Yamhill County Comprehensive Plan, 1974, Ordinance No. 62, 1974, on the 25th day of September, 1974 (the Plan); and

WHEREAS, the Board enacted the Yamhill County Zoning Ordinance, Ordinance No. 83, 1976, on February 11, 1976 (the Zoning Ordinance); and

WHEREAS, the Board enacted the Yamhill County Land Division Ordinance, Ordinance No. 205, 1979, on June 28, 1979 (the Land Division Ordinance); and

WHEREAS, ORS 197.175 requires that the Plan be consistent with the statewide planning goals of the Land Conservation and Development Commission (LCDC) Goals; and

WHEREAS, pursuant to ORS 215.050 and 197.175, the Zoning Ordinance and the Land Division Ordinance are designed to implement the adopted Comprehensive Plan and the Statewide Planning Goals of the LCDC; and

WHEREAS, the Board adopted revisions and amendments to the Plan and the Zoning Ordinance on June 27, 1979 by Ordinances No. 204, No. 205 and No. 206, 1979, and submitted The Plan, the Zoning Ordinance and the Land Division Ordinance to LCDC for acknowledgement of compliance with the Statewide Goals; and

WHEREAS, LCDC offered and the Board accepted a 120-day continuance to make further revisions regarding compliance with Statewide Goals No. 3, No. 4, and No. 5 on November 9, 1979; and

WHEREAS, the Board has reviewed the Plan, the Zoning Ordinance and the Land Division Ordinance for consistency with LCDC's Goals No. 3, No. 4, and No. 5, and based upon that review and based upon the comments and discussion by and before the Planning Advisory Committees, the Planning Commission, at work sessions on January 24, 1980 and February 5, 1980 and at public hearings on March 6, 1980, March 20, 1980 and April 1, 1980, and at a public hearing before the Board on April 2, 1980 concerning a draft of proposed revisions and amendments to the Plan, the Zoning Ordinance and the Land Division Ordinance; and

WHEREAS, the Board has taken the necessary actions to assure that the Zoning Ordinance and the Land Division Ordinance fully implement Statewide Goals No. 3, No. 4, No. 5 and ORS 215;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR YAMHILL COUNTY ORDAINS AS FOLLOWS:

SECTION 1. The amendments attached hereto as "Exhibit A", which by this reference are made a part hereof, are hereby adopted by the Board and made a part of the Plan, and, to the extent there is an inconsistency, the amendments in Exhibit A shall control after the effective date of this Ordinance.

SECTION 2. The amendments attached hereto as "Exhibit B", which by this reference are made a part hereof, are hereby adopted by the Board and made a part of the Zoning Ordinance, and, to the extent there is an inconsistency, the amendments in Exhibit B shall control after the effective date of this Ordinance.

SECTION 3. The amendments attached hereto as "Exhibit C", which by this reference are made a part hereof, are hereby adopted by the Board and made a part of the Land Division Ordinance, and to the extent there is an inconsistency, the amendments in Exhibit C shall control after the effective date of this Ordinance.

SECTION 4. The Yamhill County Planning Director is hereby authorized and directed to amend the Plan, the Zoning Ordinance and the Land Division Ordinance in accordance with Exhibit A, Exhibit B, and Exhibit C, respectively.

SECTION 5. This Ordinance being necessary for the health, safety and welfare of the people of Yamhill County, and the Board having declared an emergency to exist, it shall be effective upon the approval hereof.

APPROVED this 9th day of April, 1980, at McMinnville, Oregon.

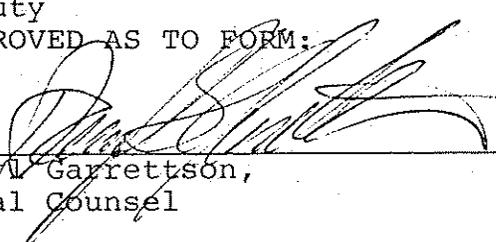
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

WANDA CATT
County Clerk

Patricia A. Mullen
Patricia A. Mullen
Deputy

APPROVED AS TO FORM:

By: 
Daryl Garrettson,
Legal Counsel

Ted Lopuszynski
Chairman Ted Lopuszynski

Colin Armstrong
Commissioner Colin Armstrong

John P. Macaulay
Commissioner John P. Macaulay

EXHIBIT "A"

Ordinance No. 233

Amendments to the Yamhill County Comprehensive Plan (Ordinance #206, Revised Goals and Policies)

Page 16

- e. Yamhill County will not permit subdivision on lands designated by the County Comprehensive Plan as F-40, EF-40 and AF-20 in order to preserve such lands for forest and farm uses and production.

Page 18

- e. Yamhill County will coordinate with and support city, regional, state and federal water-quality plans and programs so that high water quality will be achieved in the cities of the County, that sound watershed management practices will take place, and that improved treatment of point and non-point sources of water pollution will be achieved.

Pages 38 and 39

BIG GAME COUNTY PLAN AMENDMENT

Background

Statewide Goal #5 (Open Spaces, Scenic and Historic Areas and Natural Resources) requires in part that:

"The location, quality and quantity of the following resources shall be inventoried: a. Land needed or desirable for open space; b. Mineral and aggregate resources; c. Energy sources; d. Fish and Wildlife areas and habitat..."

In 1978 the Department of Fish and Wildlife provided the County with two maps, one showing the primary fisheries in the County, the other identifying the general waterfowl flyways and winter habitat for big game in the County. Additional clarification of big game range was provided in 1980.

Yamhill County Big Game Habitat Map

The inventory map of big game habitat shows visually those County lands where habitat (food, shelter, water) exists to sustain both elk and deer.

The map includes 147,500 acres of Sensitive Winter Range, and is basically that area of the County referred to in the text of the 1974 County Comprehensive Plan. Sensitive Winter Range habitat is defined as sparsely developed land, mostly in forest uses, in which the majority of deer and elk herds usually reside during a normal winter.

An additional 59,210 acres are called Peripheral Winter Range on the habitat map. This land consists mostly of foothill areas between forest lands and valley floors. It is considered good habitat for big game and supports substantial big game populations year-around. These areas also serve as a wintering area for big game from sensitive range during severe winters.

The habitat map does not identify where specific herds of deer or elk reside. Thus the map is the best estimate of areas used by big game in Yamhill County, but the lines on the habitat map do not necessarily reflect areas best-suited for big game in conjunction with local agricultural activities. Nor does the map account for deer and elk herds known to reside in the eastern valley floor on agricultural lands.

Land Use Zones and Big Game Habitat

F-40, EF-40, and AF-20 zones dominate private lands within the Sensitive and Peripheral habitat area of the County. These zones are designed to maintain agricultural and forestry uses.

It must be recognized that big game habitat also exists in these zones. The Department of Fish and Wildlife has acknowledged that the existing zone districts are compatible with big game habitat. The County recognizes that intensification of density through zone changes may likely be detrimental to agriculture and forestry uses within the big game habitat area. Therefore, to avoid conflicts, it will be the County's policy that:

"In the Sensitive and Peripheral Big Game Winter Range, all proposed zone changes will be referred to the Oregon Department of Fish and Wildlife for determination of conflicts with big game habitat requirements. In the event the Department identifies and informs the County that site-specific habitat conflicts exist, the County will not approve said zone changes without seeking resolution of such conflicts."

Since the AF-20 zone is acceptable for habitat and agricultural and forestry activities, it is anticipated that both the Department of Fish and Wildlife and Yamhill County will carefully scrutinize proposed zone changes to AF-10 or other "higher" use zones for detrimental effects on the natural resource base of this portion of the County.

Land Use and Elk Herd Conflicts

Big Game animals may cause problems for forest and agricultural users. The nature of such conflicts normally relate to crop depredation and trespass associated with hunting. These problems may occur throughout the County, but are generally in areas where forest and agricultural practices are in close proximity to concentrations of big game.

The landowners within the Peripheral Winter Range are severely affected by damage from elk and deer herds. These herds compete with livestock for winter forage, trample grain fields and tend to reside year-round in small groups outside the forested lands in the County. Landowners with EF-40 and AF-20 lands within the Sensitive Winter Range have experienced similar problems with elk herds.

The County recognizes that trade-offs must be made between elk herd protection and agricultural activities within the Big Game Winter Range. The county recognizes that the Department of Fish and Wildlife is the management authority for big game and has exercised programs to minimize wildlife conflict with forest and agricultural uses. The County also recognizes its authority to ensure agricultural uses through Statewide Goal #3. The County considers the Winter Range a critical management concern, especially regarding elk herds, and urges the Department of Fish and Wildlife to increase their management efforts in order to reduce the elk herds which reside there and thereby minimize big game damage in agricultural lands.

Residential Damage Due to Big Game

The Department of Fish and Wildlife recognizes the need to assist landowners in resolving legitimate big game damage to agricultural and forest crops. Wildlife damage to gardens and landscaping is common to most rural parts of the County. Consequently, the Department of Fish and Wildlife will place low priority on resolving such conflicts associated with new dwellings in sensitive and peripheral winter range.

EXHIBIT "B"

Ordinance No. 233

Amendments to the Yamhill County Zoning Ordinance, Ordinance No. 83.

Section 10

10.310 In the F-40 District, only one (1) single-family dwelling or mobile home shall be approved on each parcel; and such dwelling shall comply with the provisions allowed for permitted uses in this District, or the provisions of Section 10, inclusive, of this Ordinance.

10.320 In the F-40 District, the approval of a single-family dwelling on a parcel forty (40) acres or more shall be determined by the process set out in Section 42, inclusive, of this Ordinance. The applicant shall show that: (1) the property is now, or will be, used for the uses set out in Section 10.100(2) of this Ordinance, as demonstrated by a management plan submitted by the applicant which includes evidence of at least one of the following:

(a) a forest improvement program as defined by the Oregon State Department of Forestry;

(b) a fish, wildlife or other conservation management program approved by the appropriate state agency;

(c) a cooperative or lease agreement with another owner of forest or farm land for management of a principle use on the property;

(d) a private management plan for a principle use, as documented by receipts related to the use;

(e) the presence of accessory buildings and uses of a permanent nature in conjunction with a principle use on adjacent property and evidence that Section 10.320(2) cannot be met because of the size of the subject parcel. In this case, Section 10.320(3) is not applicable;

(f) a forest or farm tax deferral status, together with one of the above criteria, (a) through (3).

(2) The property is large enough to be economically managed for the uses set out in Section 10.100(2), considering the management requirements for forest, farm, fish and wildlife or conservation management including, but not limited to, cultivation, harvesting, irrigation, spraying, fertilizing and feeding practices;

(3) The dwelling shall be located on the least productive portion(s) of the parcel whenever possible and shall be located at a maximum distance from any primary forest processing facility. The dwelling shall be located as far as practicable from commercial forest or agricultural lands not owned by the applicant, except in such circumstances when the pattern of parcelization, the natural features of a parcel and the location of access roads would permit the clustering of dwellings so as to preserve larger contiguous forested areas and buffering from forestry or agricultural operations.

(4) Fire protection regulations as outlined in "Fire Safety Consideration for Developments in Forested Areas" shall be followed: except that a water storage tank of 1000 gallons or adequate year-round alternative source of water with its own pump, hose, and nozzle shall be provided and maintained for fire protection.

Section 11

Section 11.350

(8) the approval of the dwelling or mobile home:

(a) is compatible with farm uses described in ORS 215.203(2) and is consistent with the intent and purposes set forth in ORS 215.243;

(b) does not interfere seriously with accepted farming practices, as defined in ORS 215.203(2)(c), on adjacent lands devoted to farm use;

(c) does not materially alter the stability of the overall landuse pattern of the area; and

(d) is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and location and size of tract.

Section 11.430

11.430 In the EF-40 District the approval of placement of a principle single-family dwelling or mobile home on a parcel less than forty (40) acres and more than twenty (20) acres in size shall be permitted provided that the applicant complies with Section 12.330 of this Ordinance.

12.350 In the AF-20 District, as a condition of approval of the dwelling in conjunction with farm or forest use on an existing legal lot of record less than twenty ((20) acres in size, the owner shall sign and allow the recording of the following declaratory statement into the deed and mortgage records for the subject parcel:

"The subject property is located in an area designated by Yamhill County for agricultural and forestry uses. It is the County policy to protect agricultural and forestry operation from conflicting land uses in such designated areas. Accepted agricultural and forestry practices and wildlife in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural or forestry operators' responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operators' violation of State law."

12.360 In the AF-20 District, single-family dwellings or mobile homes not provided in conjunction with farm or forest uses may be permitted as set forth in the provisions of Section 11.370(1) through 11.370(5)(d) inclusive and provided that: (1) The request complies with the purpose and intent of the Yamhill County Comprehensive Plan;

(2) The request complies with Section 12.330(2) and Section 12.330(3)(b)(ii) of this Ordinance;

(3) The request complies with Section 12.340(3); and

(4) The request complies with the declaratory statement as set forth in Section 12.350.

Schedule A, Yamhill County Zoning Ordinance - F-40 Zoning District

CONDITIONAL USES

- (1) Municipal water supply, treatment, storage or transmission facility.
- (2) Utility facility in conjunction with a permitted use.
- (3) Extraction, processing and stockpiling of construction aggregates for use outside District, subject to Section 35.700.
- (4) Single-family dwelling, subject to Section 42 and Section 10.320.

Schedule A, Yamhill County Zoning Ordinance - AF-20 Zoning District

PERMITTED USES

- (1) Agriculture
- (2) Propagation and harvesting of a forest product.
- (3) Single-family dwelling or mobile home for farm owners or operators in conjunction with farm use, subject to Section 12.330.
- (4) Farm laborers cabin, subject to Section 11.320.
- (5) Livestock feeding yard, subject to Section 11.400.
- (6) Signs subject to Section 11.410.
- (7) Public warehouses as exempted from ORS 586.210 to 586.561.

Section 11.370(3) is deleted.

EXHIBIT "C"

Ordinance No. 233

Amendments to the Yamhill County Land Division Ordinance No. 205.

Chapter 9

9.010 Subdivision of Agricultural and Forest Lands - It is the intent of Yamhill County to concentrate the major portion of its population within the rural development and urbanizable areas. It is also the intent of the County to preserve, wherever possible, the productive timber and agricultural lands of the County and to ensure that the rural character of an area is not compromised by overdevelopment resulting in excessive traffic, polluted soil and water supplies, or land use conflicts between farm and nonfarm interests, resulting in the costly extension of public services. Therefore, the creation of four or more lots on a single parcel within one calendar year shall not be permitted in the F-40, EF-40 or AF-20 Zones as indicated on the Official Zoning Map of Yamhill County.

9.030 Notwithstanding the requirements of this Ordinance, all partitions within AF-20, EF-40, and F-40 zone districts shall comply with the requirements of Section 12.330 of the Yamhill County Zoning Ordinance, Ordinance No. 83.

9.040 Residential Density in County Big Game Winter Range - In the Sensitive Big Game Winter Range as identified in the Yamhill County Comprehensive Plan, new lots shall not be created which would result in exceeding a net residential density of one (1) dwelling per forty (40) acres in an area of 640 acres surrounding the parcel proposed for partitioning. For the purpose of this Section, net residential density is determined by dividing the total number of existing residential dwellings by 640 acres.