

APR 24 2003

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

FILE 75 PAGE 1179

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Application for a Zone Change)
 from VLDR 2.5 Very Low Density Residential to)
 AF-10 Agriculture/Forestry for a Parcel Located at) **ORDINANCE 726**
 24285 NE Zard Lane, Newberg, Tax Lots)
 3219CA-901 and 902, Applicant Robin Vachter,)
 Docket Z-02-02, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on April 24, 2003, Commissioners Leslie Lewis and Kathy George being present and Mary P. Stern excused.

IT APPEARING TO THE BOARD that Robin Vachter applied to the Department of Planning and Development (Planning Docket Z-02-02) for a zone change from VLDR 2.5 to AF-10 on a parcel known as 24285 NE Zard Lane, Newberg, Tax Lots 3219CA-901 and 902.. On March 6, 2003, the Planning Commission held a hearing on the application and forwarded the request to the Board of Commissioners with a recommendation for approval. On April 10, 2003, the Board deliberated and voted 3-0 to approve the application, and directed staff to prepare the necessary findings for approval; NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD that the application is approved with conditions as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated. 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 24th day of April, 2003, at McMinnville, Oregon.

ATTEST

CHARLES STERN
 County Clerk

By: *Kellye Fetters*
 Deputy KELLYE FETTERS

APPROVED AS TO FORM:

Rick Sanai
 Rick Sanai
 Assistant County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Leslie Lewis
 Chair LESLIE LEWIS

Kathy George
 Commissioner KATHY GEORGE

Unavailable for signature

Commissioner MARY P. STERN

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ORDINANCE 726
EXHIBIT "A"

HEARING DATE: March 6, 2003 before the Planning Commission

DOCKET NO.: Z-02-02

REQUEST: Zone change from VLDR-2.5 Very Low Density Residential to AF-10 Agriculture Forestry Small Holding. The purpose of this request is to allow breeding, raising and training of equines. An approval of this request would also provide for riding lessons to general public.

APPLICANT: Robin L. Vachter

TAX LOTS: 3219CA-901 and 902

LOCATION: 24285 NE Zard Lane, Newberg, Oregon

CRITERIA: Sections 501 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

FINDINGS:

A. Background Facts

1. *Lot Size:* Five (5) acres. The property is made up of a southern portion of Lot G and Lot F of Ramsey Terrace Estates Subdivision. This subdivision was platted on May 2, 1912.
2. *Access:* Zard Lane from Hwy. 99W.
3. *On-site Land Use:* Tax Lot 3219CA-901, 902, located on the east side of Stevenson Road and south side of Zard Lane, is wooded and relatively flat. The parcel contains a dwelling and two large accessory buildings. There is an ongoing equestrian operation which includes raising, training, selling of horses and providing riding lessons in cooperation with Chehalem Parks and Recreation. The applicant also submitted a letter from City of McMinnville expressing an interest in the equestrian program provided by the applicant.
4. *Surrounding Land Use:* The surrounding area contains rural residential and small scale farm uses on lots of approximately 1.5 to 10 acres in size. In recent years, several subdivisions have been created to the west and south of the parcel. The surrounding parcels are very similar to the subject area. Adjacent parcel to the southwest contains a cemetery. Chehalem Creek to the east of the

subject parcel forms the Newberg Urban Growth Boundary (UGB). The Newberg City Limits boundary is approximately 700 feet to the east of the subject area.

5. *Surrounding Zoning:* Adjacent land to the south and east is currently zoned AF-10 Agriculture/Forestry Small Holding. Land to the north and west is zoned VLDR-2.5 Very Low Density Residential.
6. *Soils:* Sheet 15 of the Yamhill County Soil Survey indicates that the entire property is composed of Amity (Am) agricultural Class II high-value soil. This type of soil exhibits slopes of 0 to 2%.
7. *Taxes:* The entire property is taxed at market value.
8. *Water:* Existing well.
9. *Sewage Disposal:* Existing septic system.
10. *Previous Actions:* None.
11. *Discussion:* The VLDR zoning district allows one horse per one acre of land owned by the property owner. The applicant wishes to keep a larger number of horses on the subject parcel than is currently allowed in the VLDR zoning district. The applicant stated that she wishes to breed, raise and train horses. As a part of her activity, the applicant also intends to provide riding lessons to the public.

B. Ordinance Provisions and Analysis

1. The request complies with the standards and criteria in the *Yamhill County Zoning Ordinance* (YCZO) Section 1208.02. These provisions are:
 - (A) *That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
 - (B) *That 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) *That 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) *That other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*
- (E) *That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*

2. The zone change requires that the request complies with the goals and policies of the Yamhill County Comprehensive Plan. The 1976 Comprehensive Plan Map indicated the land is plan designated VLDR Very Low Density Residential. This was reaffirmed by the 1980 Exception Process as part of Code Area 1.8. The plan amendment portion of this request is not necessary in order to change the zoning district designation. There are several properties in the area which are plan designated VLDR but are zoned AF-10 Agriculture/Forestry Small Holding. The smallest minimum lot size this plan designation allows is two (2) acres. The property is five (5) acres in size. The present zoning on the subject property is VLDR-2.5. The AF-10 zone allows placement of a single family dwelling on a parcel subject to septic and building permits. The proposed zoning designation of AF-10 allows the smallest minimum lot size of five (5) acres using lot size averaging. The AF-10 zone also allows farm use without the limitation on livestock. The subject parcel does contain a dwelling.

Regarding Comprehensive Plan goals and policies, the land is currently planned and zoned for rural residential use. Policy II.A.1.a states:

Yamhill County will provide for preservation of farm lands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various financial incentives.

In addition, Policy II.A.2.a states:

Yamhill County will continue to preserve areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

The entire site is composed of Class II soil and is primarily committed to the equestrian operation.

The Comprehensive Plan commits the county to protect farm resources, so present use of the parcel should be the determining factor for an approval of this application. The site is currently used for an equestrian operation and the applicant stated that she will continue with the operation. (Finding A.3).

Yamhill County Revised Goals and Policies - Policy I.H.1.g. states:

Agricultural, forestry and mineral resource-oriented industry will be accommodated in areas close to the resources utilized, provided that such industrial uses are compatible with any

nearby urban development, city water supply and sewerage are not required, and waste discharges constitute no threat to the environment.

Even though the equestrian operation is within 700 feet of the City of Newberg and near rural residential uses, the operation existed for many years without creating any conflicts with the other uses, and no city water or sewer is available to, or required by the equestrian operation.

A significant part of the economy of Yamhill County is based upon agricultural and forestry related industries.

Yamhill County Revised Goals and Policies - Policy I.F.1.b. states:
Yamhill County will encourage economic development projects which do not conflict with the predominant timber and agricultural character of the county.

The proposed equestrian operation is an agricultural activity.

3. Regarding criterion 1208.02 (B), the need relevant to this request is related an equestrian operation which will provide recreational and educational opportunities for children and adults in Yamhill County. The applicant submitted a letter from the City of McMinnville supporting this use. The City of McMinnville Parks and Recreation Department wishes to establish a relationship with the equestrian operation as noted in the letter. The applicant already has a working relationship with the Chehalem Parks and Recreation Department. The present zoning does not allow more than five horses on the parcel, which is not enough to continue the operation and provide services to both Park and Recreation programs. Criterion (B) requires the consideration of other land zoned for the requested use and their suitability for the uses allowed by the zone. While much of the county has lands in resource zoning which allows equestrian operation, the operation has been in existence on this property for some time. Since the applicant has a significant investment in the parcel and the improvements, it would be difficult to change the location of the operation.
4. Regarding criterion 1208.02 (C), as noted in Finding A.4, the surrounding properties consists of rural residential and small scale farm uses. Approval of this zone change would allow establishment of an equestrian operation which is similar to farm uses in the surrounding area. Additionally, the request would limit the creation of new parcels and the ability to develop dwellings. As stated above, the property is five (5) acres in size which could be divided into two parcels and could have an additional single family dwelling established without additional land use approval. The number of permitted dwellings is reduced to one by this change in zoning to AF-10. Regarding the need for utilities and services, the property already has a well and septic system for a single family residence. An equestrian operation would need adequate water, access and on-site parking. Water is provided by an on-site well. Access is by Zard Lane, and is certainly adequate. The subject parcel is five (5) acres in size and, therefore, should not have problem providing adequate parking for the operation. Based on the applicant's preliminary map, there appears to be adequate room for the facilities needed to establish the use.

5. Regarding criterion 1208.02 (D), the farm use is already established on the subject tract, see Finding B.3, above.
6. Regarding criterion (E), the subject area is part of an exception Code Area 1.8 which was excepted on April 23, 1980 as part of Yamhill County Ordinance No.234, therefore, the area is not subject to Goals 3 and 4. The proposed 2.5-acre minimum lot size is not considered to be an urban scale of development, so Goal 14 does not apply. No other Goals apply to this request, and no additional exception is required.

C. Goal 12 (Transportation Rule) Provisions and Analysis

1. The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:
 - (1) *Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility. This shall be accomplished by either:*
 - (a) *Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;*
 - (b) *Amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or,*
 - (c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - (2) *A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) *Changes the functional classification of an existing or planned transportation facility;*
 - (b) *Changes standards implementing a functional classification system;*
 - (c) *Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) *Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.*
2. Regarding (1) and (2), The applicant stated that she does not anticipate more than six automobiles per day. This calculation is averaged over a year and is based on how many people she can handle in a day. The Planning Department coordinated with the Public Works Department to assure that the use would not exceed the capacity of the road. The response from the Public Works Director, William A. Gille, P.E., P.L.S., concluded that six additional automobiles on Zard Lane would not require a traffic impact study and he does not anticipate any degradation to the roadway.

Therefore, it appears that the proposed use is consistent with the identified function, capacity, and level of service of the local roads.

CONCLUSIONS:

1. The request is for a zone change from VLDR-2.5 Very Low Density Residential to AF-10 Agriculture/Forestry Small Holding
2. The request complies with the Comprehensive Plan Goals and Policies.
3. The requested use is appropriate for the area considering the level of services needed and available, and considering surrounding development.
4. The request complies with the Transportation Planning Rule.

Based on the above findings, analysis, and conclusions, the Board approves the request by Robin L. Vachter for a zone change from VLDR-2.5 Very Low Density Residential to AF-10 Agriculture/Forestry Small Holding on a tract of land identified as Tax Lot 3219CA-901 and 902.

