

IN 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 Affirming the Planning)
 Commission's Approval of an Application for a)
 Comprehensive Plan Amendment From)
 Agriculture/Forestry Large Holding to Public,) Ordinance 718
 a Zone Change from EF-80 Exclusive Farm Use to)
 PWS Public Works/Safety for a 5 acre Parcel to)
 Create a Public Drop Zone for Riverbend Landfill,)
 Taking an Exception to Statewide Planning Goal 3,)
 Applicant George Duvendack, Tax Lot 5501-101,)
 Docket PAZ-03-02, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on August 22, 2002, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Leslie Lewis being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. Mr. George Duvendack representing the Riverbend Landfill Company applied for a Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Public, a zone change from EF-80 Exclusive Farm Use to PWS Public Works/Safety for a 5 acre parcel to create a public drop zone for the landfill, on Tax Lot 5501-101.

B. A duly noticed public hearing was held by the Yamhill County Planning Commission on July 18, 2002. The applicants appeared and testified. No opponents appeared. The Commission duly deliberated and voted unanimously to recommend approval of the application.

C. The matter went to the Board, who held a duly noticed public hearing on August 8, 2002. The applicant appeared and testified. No opponents appeared. The Board duly deliberated and voted unanimously to approve the application for the reasons set forth in Exhibit "A", the findings, attached and hereby incorporated by reference. NOW, THEREFORE:

IT IS HEREBY ORDAINED BY THE BOARD that the request by Mr. George Duvendack representing the Riverbend Landfill Company for a Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Public, a zone change from EF-80 Exclusive Farm Use to PWS

Public Works/Safety for a 5 acre parcel to create a public drop zone for the landfill, on Tax Lot 5501-101, taking an exception to Statewide Planning Goal 3, as given in the Findings for Approval, attached to this ordinance as Exhibit "A" and hereby incorporated by this reference. A map is attached as Exhibit "B." This action being necessary for the health, safety, and welfare of the people of Yamhill County, this ordinance takes effect immediately.

DONE at McMinnville, Oregon this 22nd day of August, 2002.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Robert Johnstone
Chairman ROBERT JOHNSTONE

By Kellye Fetters Deputy
Deputy KELLYE FETTERS

Thomas E. E. Bunn
Commissioner THOMAS E.E. BUNN

FORM APPROVED BY:

Rick Sanai
RICK SANAI
Assistant County Counsel

Leslie Lewis
Commissioner LESLIE LEWIS

EXHIBIT "A" FINDINGS FOR APPROVAL PAZ-03-02, ORDINANCE 718**Applicant George Duvendack for Riverbend Landfill Company, Inc.**

HEARING DATES: July 18, 2002 (Planning Commission, approved 6-0)
August 8, 2002 (Board of Commissioners, approved 3-0)

DOCKET: PAZ-03-02

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works/Safety for a portion of land that is approximately 5 acres. Approval of the request would extend the existing PWS Public Works/Safety zone by 300 feet onto Tax Lot 5501-101 for the development of a public drop facility for the management of waste and recyclable materials. This zone would not allow the expansion of the landfill.

APPLICANT: Riverbend Landfill Company (RLC)

REPRESENTATIVE: George Duvendack

OWNER: Riverbend Landfill Company Inc.

TAX LOT: 5501-101

LOCATION: East of the existing office building at 13465 Salmon River Highway. Approval of the request would extend the existing PWS Public Works/Safety zone by 300 feet, onto Tax Lot 5501-101.

CRITERIA: Sections 402, 802 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. OAR 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule.

FINDINGS:**A. Background Facts:**

1. Property size: The property is approximately 25.7 acres, however the zone change request would only affect the western five acres zoned EF-80.
2. Access: Oregon State Highway 18.
3. On-site Land Use: The property contains three large buildings near the western end of the parcel. The property slopes down to the north, into a small creek that empties into the South Yamhill River. The creek, and northern property line, are bordered by trees and riparian vegetation.
- 4.. Surrounding Land Use: The property to the south and west contains the landfill and accessory uses such as a recycling facility and existing leachate lagoon. Property to the northwest, north and east are in farm use which includes orchards, grass and grain crops.
5. Surrounding Zoning: Property to the south and west is zoned is PWS Public Works, Safety. Zoning to the north and east is EF-80 Exclusive Farm use.
6. Water: To be provided by an on-site well.
7. Sewage Disposal: To be provided by an on-site septic system.
8. Fire Protection: McMinnville Rural Fire District
9. Soils: The Yamhill County Soil Survey shows that the subject property parcel is composed primarily of Woodburn silt loam (WuB and WuC), soils that are rated agricultural Class II, and Cove, rated as agricultural Class III. The Woodburn soils are rated as high-value farmland.
10. Taxes: The entire property is receiving farm deferral.
11. Previous Actions: A site design review was approved in the year 2000 to allow an office and the conversion of a shop building into a convenience recycling center. The use was approved through Docket SDR-14-00.

12. Floodplain: FIRM 410249 0315 C shows that the eastern portion of the parcel is within the 100-year flood hazard area. However, the property that is proposed for the zone change is out of the flood hazard zone.
13. Fish and Wildlife: The property is not identified on any county adopted map as being in the big game winter range or any critical fish habitat.

B. Zone Change and Plan Amendment Provisions and Analysis

1. Approval of a request for a zone change is based on compliance with the standards and criteria in YCZO Section 1208.02. These provisions are:
 - (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 for exceptions, if applicable.*
2. Regarding criterion (A) above, Plan goals and policies which may be pertinent are:

Goal II.A.2 directs the county: 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.

Additionally, Policy II.A.2.a states: Yamhill County will continue to preserve those 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.

As noted above, the property is predominantly rated as having agricultural Class II and III soils, most of which are designated as high-value farmland and has been in farm use.

The applicant has also cited the following goal which they believe applies to the request.

Goal IV.A.1: To develop a timely, orderly and efficient arrangement of public services and facilities to serve as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services.

The landfill is a facility that serves both urban and rural development. Presently both public and commercial customers drop off their waste by driving onto the property and dumping it directly into the landfill. The application is to provide a public recycling and drop site located near the entrance of the facility. RLC believes this would reduce the traffic, and potential traffic conflicts, by having the public traffic separate from the commercial/industrial traffic.

3. Regarding criterion (B), the applicant has shown 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, as required by YCZO 1202.08(B). The landfill is important to the citizenry of the area. The proposed rezoning will provide greater convenience to the public using the facility by allowing greater ease at dropping off household garbage. Since the purpose of the request is to provide greater efficiency at the landfill, other sites would not provide that efficiency since it would necessitate trucking the waste from the public drop site to the landfill. One aspect that needs to be considered is using the existing landfill area already zoned PWS. For this project to work it needs to be located near the entrance to the landfill. The problem with this is that the area which abuts the highway is relatively narrow and it is already developed with the access, scales and accessory buildings. Once this bottleneck opens up to the

greater parcel area, the land is planted to poplar trees which are used to dispose of some of the leachate from the landfill. This effectively blocks using the areas close to Highway 18 for the public drop site.

4. Regarding criterion (C), the proposed change has been shown to be 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. The predominant use of the area is for farming. The main change which has occurred in the area over the past 30 years is the development of the landfill on property to the south and west. The proposed use is subordinate to the use of the landfill and should cause no greater impact. The utilities and services which serve the landfill may also be used to serve the use of the proposed development.
5. Regarding criterion (D), see Finding B.3.
6. Regarding the criterion (E), an exception to Goal 3 will be required, as addressed in Section C of these findings below.

C. Goal Exception Provisions and Analysis

1. Oregon Administrative Rule (OAR) 660-04 contains the requirements for taking an exception to the goals. The applicant is applied for a “reasons” exception to Goal 3.
2. Oregon Administrative Rule (OAR) 660-04 contains the requirements for taking goal exceptions. OAR 660-04-020 contains four factors that must be addressed when taking an exception to a goal. They are:
 - (a) *Reasons justify why the state policy embodied in the applicable goals should not apply.*
 - (b) *Areas which do not require a new exception cannot reasonably accommodate the use.*
 - (c) *The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would*

typically result from the same proposal being located in other areas requiring a Goal exception.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

3. Regarding factor (a), OAR 660-04-022 states that the reasons justifying why the state policy embodied in the goal should not apply include, but are not limited to, that there is a demonstrated need for the proposed use, and either: 1) a resource upon which the use is dependent can be reasonably obtained only at the exception site and the use must be located near the resource; or 2) the use has special features or qualities that necessitate its location on or near the proposed exception site. The proximity of the landfill necessitates the location of the exception area near the landfill.
4. Factor (b), is addressed in Finding B.3. One of the questions listed in OAR-660-004-0020(2)(b)(B) is whether the proposed use could reasonably be accommodated in other areas that do not require an exception. The use is for a drop facility for the management of solid waste. The purpose is to allow the public to drop off their garbage near the entrance of the facility, rather than drive onto the site. Establishing this service elsewhere would require either relocating the landfill and redesigning it to accommodate a public drop site or finding an existing PWS zone to establish a public drop site and then trucking the waste to the landfill (negating most of the RLC advantages for offering this service). The Board is not aware of any vacant PWS property which could accommodate the use. Partly this is due to the fact that the PWS zone is predominantly used to accommodate public and pseudo-public uses to serve cities. They include uses such as reservoirs, sewage treatment plants and electrical substations. These uses do not frequently change and are more likely to expand as the cities expand. Based on this, no other area has been identified which could accommodate the use.
5. Regarding factor (c), the environmental, economic, social and energy (ESEE) analysis: first the environmental consequences. The site for the proposed development does not contain any identified fish or wildlife habitat. The use should not adversely affect the environment. Locating this use on another property, away from the existing landfill would likely result in some adverse consequences for the environment since it would result in a new location dealing with the public traffic, then gathering the waste and trucking it to the landfill.

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The economic consequences should not be significant. The traffic onto the landfill would just be directed differently. Trucks and passenger vehicles driven by the public would simply be directed to a different location than the commercial trucks. The main economic benefit would be from less conflicts (and potential insurance claims) between the different types of traffic.

Regarding the energy consequences, there do appear to be some minor energy advantages from establishing the use. Namely, the small auto and truck traffic from the public would be able to drop off material only a couple hundred feet from Highway 18 rather than a 1/4 to a half mile onto the site.

There are no social impacts that have been identified.

6. Regarding factor (d) the proposed use need to be compatible with other adjacent uses or be so rendered through measures designed to reduce adverse impacts. The applicant owns the land to the south, east and west. This should help to buffer the use from adjacent landowners. To date no other surrounding landowner has sent in objections to the use.

D. 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 request is to allow development of a public drop facility closer to Highway 18. The facility would allow the public to drop off their solid waste and recyclables closer to the access from Highway 18 rather than having to drive further onto the property and drop off the solid waste directly into the landfill. Because this is really an application to better manage the traffic coming onto the property rather than establishing a new use the plan amendment would not significantly affect a transportation facility. Therefore, the request complies with the Transportation Planning Rule.

D. Limited Use Overlay Provisions

1. OAR 660-04-18(3)(a) states that when a reasons exception is taken, plan and zone designations must limit uses to only those that are justified in the exception.
2. Section 904.03 of the YCZO contains provisions for limited use overlays. It states:
 - (A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.*
 - (B) *The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*
 - (C) *Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*
 - (D) *Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*

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3. The use is limited to accessory uses to the landfill, a restriction in the limited use overlay zone.

Summary

1. The request is for a Comprehensive Plan amendment from Agriculture Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works/Safety for a portion of land that is approximately 5 acres.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies.
3. An exception to Goal 3 is justified because the proximity of the landfill necessitates the location of the exception area near the landfill.
4. The proposed change is consistent with the zone change criteria of Section 1208.02.
- E. The proposed change complies with the Transportation Planning Rule.

CONCLUSION

Based on the above findings, analysis, and conclusions, the Board approves the request by Riverbend Landfill Company for a Comprehensive Plan map amendment from Agriculture Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm use to PWS Public Works/Safety; and an Exception to Goal 3 on a five acre portion of Tax Lot 5501-101 is approved with a limited use overlay which contains the following condition:

The property is limited to accessory uses to support a sanitary landfill. Expansion of the landfill onto this property will not be allowed without additional land use approval.

End

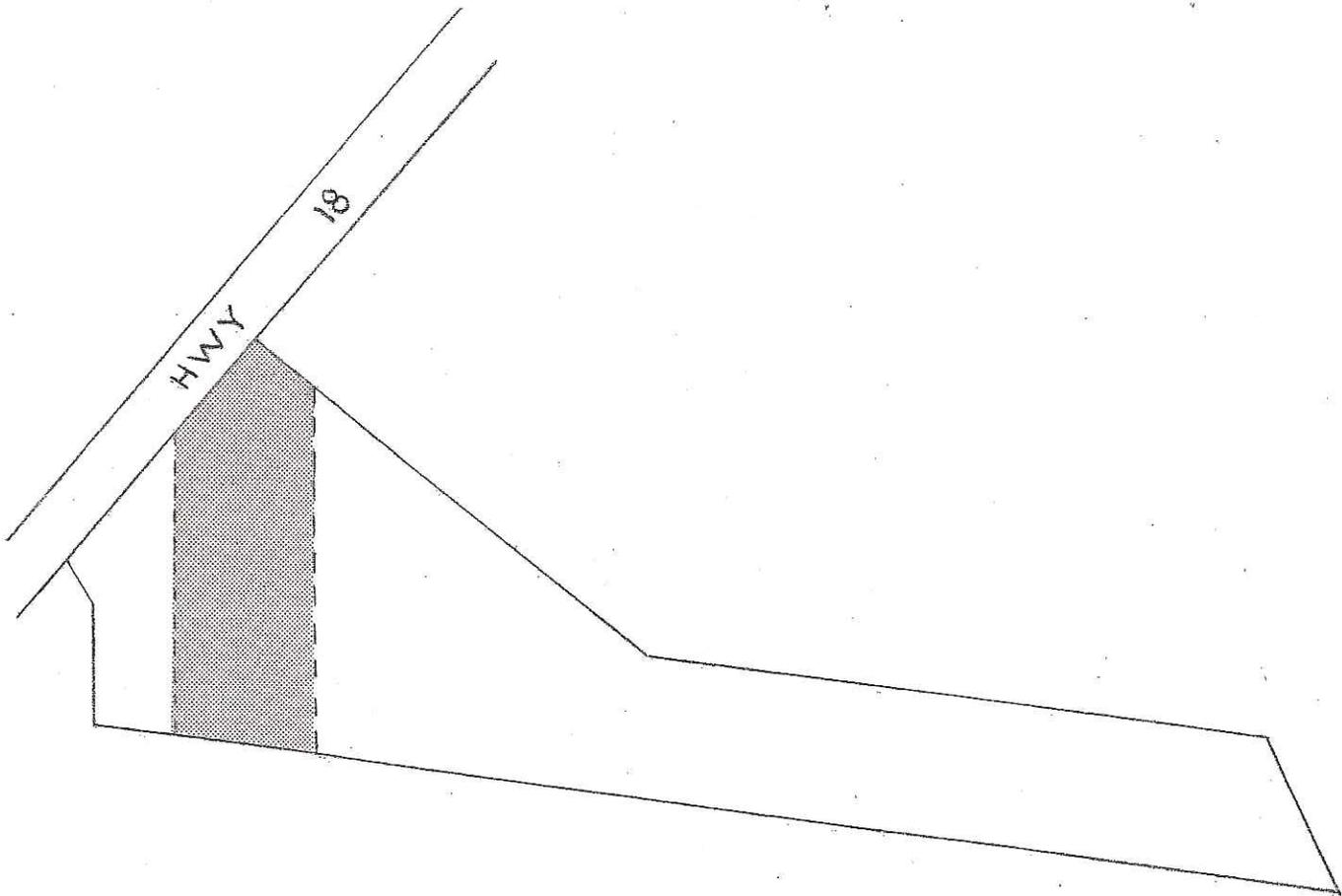
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EXHIBIT "B" MAP FOR ORDINANCE NO. 718
PLAN AMENDMENT AND ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
AUGUST 22, 2002

FOR A COMPREHENSIVE PLAN AMENDMENT FROM
AGRICULTURE/FORESTRY LARGE HOLDING TO PUBLIC AND
TO CHANGE OFFICIAL ZONING MAP FROM

EF-80 EXCLUSIVE FARM USE
TO
PWS PUBLIC WORKS/SAFETY

FILM 73 PAGE 1960



CHANGE APPLIES TO THE SHADED PORTION OF TAX LOT 5501-101 DESCRIBED ABOVE
APPROXIMATE SCALE - 1 INCH = 400 FEET