

'98 SEP 11 P1:25

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 an Ordinance)
 Amending the Official Zoning Map)
 to change from "AF-10" (Agriculture/Forestry)
 Small Holding) to "VLDR-2 1/2" (Very Low)
 Density Residential) With a Limited Use)
 Overlay on a 14-Acre Tract Known as Tax)
 Lot 5429BA-4200; Applicant Steve Selleck;)
 Planning Docket PAZ-07-98; and Declaring)
 an Emergency.)

ORDINANCE 661

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on September 10, 1998, Commissioners Ted Lopuszynski, Robert Johnstone, and Thomas E.E. Bunn being present.

WHEREAS, on March 24, 1998, the Department of Planning and Development received an application by Steve Selleck ("applicant"), Planning, PAZ-07-98 to change the Yamhill County Comprehensive Plan Map (1974), as amended, from "AFSH" (Agriculture/Forestry Small Holding) to "VLDR" (Very Low Density Residential), and amend the Official Zoning Map from AF-10" (Agriculture/Forestry Small Holding) to "VLDR-2 1/2" (Very Low Density Residential) on a 14 acre tract known as Tax Lot 5429BA-4200, and that after the initial application was submitted, the application was amended to delete the plan amendment; and

WHEREAS, on July 16, 1998, the Yamhill County Planning Commission held a duly noticed public hearing to consider the application and thereafter voted unanimously for approval of the amended application with a Limited Use Overlay limiting the use of the property to rural residential with the condition that applicant secure legal access to the property from a public road; and

WHEREAS, on August 27, 1998, the Board deliberated and voted unanimously in favor of tentative approval of the zone change with a Limited Use Overlay, and directed staff to prepare an ordinance and findings in support thereof; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A" and incorporated herein by this reference provide justification for approval of the application for the amendment to the Official Zoning Map with a Limited Use Overlay, and that approval

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thereof is in the best interests of the citizens of Yamhill County; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B" to reflect a zoning designation of "VLDR-2 1/2" (Very Low Density Residential), with a Limited Use Overlay zone, limiting use of the property to rural residential with the condition that before any partition or subdivision of any portion of the property can occur, the owner must submit for approval by the Planning Department and implement a dust control plan for Laughter Lane from 99W to the west end of the property and for the private lane on the east side of the property, and the owner must secure legal access and improve the access to the subject property so as to satisfy the county road standards. Nothing in this condition shall prohibit owner from applying to the Department of Public Works for a variance to the county road standards.

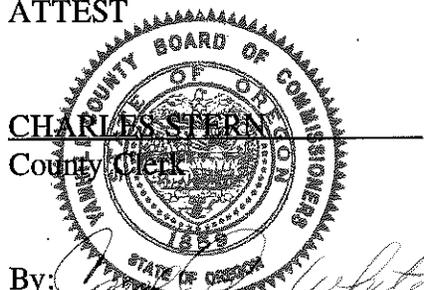
Section 2. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance

Section 3. 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 at McMinnville, Oregon, this 10th day of September, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STERN
County Clerk

By: *Carol Ann White*
Carol Ann White

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

Robert Johnstone
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:
John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

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

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ORDINANCE 661

EXHIBIT "A"

Findings For Approval

| | |
|---|---------------------------|
| PLANNING COMMISSION'S APPROVAL | July 16, 1998 |
| BOARD OF COMMISSIONERS' TENTATIVE APPROVAL | August 27, 1998 |
| BOARD OF COMMISSIONERS' FINAL APPROVAL | September 10, 1998 |

DOCKET NO.: PAZ-07-98

REQUEST: Zone change from AF-10 to VLDR-2 1/2. *[After the initial application was submitted, the staff determined that the subject parcel was originally plan-designated Very Low Density Residential in May of 1979. The second round of the exception process, completed in April of 1980, retained this area's Comprehensive Plan designation in Very Low Density Residential. Therefore, the Comprehensive Plan amendment part of this application has been deleted. Only the zone change criteria of the Yamhill County Zoning Ordinance will be applied to this application.]*

APPLICANT: Steve Selleck

TAX LOT: 5429BA-4200

LOCATION: 9100 SW Laughter Lane, Amity

LOT SIZE: 14 acres

APPROVAL CRITERIA: Sections 501, 502 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

FINDINGS:

A. Background Facts:

1. Property size: 14 acres.

2. **On-site Land Use:** The parcel abuts the Ash Swale immediately adjacent to the Amity city limits on the south side of Amity. There is currently a home and two out buildings on the property. The out buildings are small and of little or no value. Of the applicant's 14 acre parcel, approximately 9 - 10 acres are planted with cherry trees that are over 36 years old. However, attempts at farming the orchard have not been economically successful. The applicant does not derive any income from the cherry orchard. He allows a neighbor to have whatever crop may be taken with no charge to the neighbor and has done that since 1986 because of the uneconomical nature of the crop and the cost of removing the trees.
3. **Surrounding Land Use:** Most of the properties surrounding this parcel are urban or residential in nature. Ash Swale and the city of Amity is to the north of the subject parcel. On the eastern boundary immediately across the Southern Pacific Rail Road tracks and next to Hwy 99W are four parcels of approximately one acre or less which have homes on them. Located behind the applicant's property, to the west, is a parcel of 13.3 acres (tax lot 1300). This parcel is bottom land and according to the applicant, floods every year. The parcel lays fallow. A parcel to the south has been tilled and used for agriculture in the past.
4. **Surrounding Zoning:** Parcels across Hwy. 99W east of the applicant's property are zoned VLDR 2 1/2 Very Low Density Residential. The properties to the south and west are zoned AF-10. This area has been excepted from state wide rules regarding agricultural and forest lands. The proposed site was excepted in April of 1980 as a part of Code Area 5.16 of the County Exception Process. The area to the north of the subject parcel is in the City of Amity and, therefore, is subject to the city's Comprehensive Plan and zoning regulations.
5. **Water:** Drilled well is the only option at this time. The applicant indicated that there is one well on the subject parcel and more would be drilled as the need arises.
6. **Sewage Disposal:** Septic systems are the only option in this area. Currently, there is one septic system serving the existing dwelling.
7. **Previous Actions:** No documentation of previous actions exists.

B. Ordinance Provisions and Analysis

1. The request must comply 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.*

These criteria are addressed, respectively, in Findings B.2 through B.6, below.

2. The Board finds that the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan as required by YCZO section 1208.02(A). A zone change to VLDR is consistent with the Comprehensive Plan designation of VLDR. Comprehensive Plan Goal I.B.2 states that it is the goal of Yamhill County *"To accommodate the demand for rural residential use at very low densities and in areas which are not amenable to integrated neighborhood designs, provided such areas are suited to the uses intended and exhibit high amenity value, and such developments do not pre-empt farm or forest lands, or generate inordinate service demands of their own."*

This property is ideally suited under the Comprehensive Plan for rural residential development. As stated earlier, an exception was taken in 1980 to the Agricultural Goal thus allowing for its future development. Rural residential development fully exists immediately adjacent to this property because of the 4 houses that are to the east of the property across the railroad tracks. Neither the city limits or the Amity urban growth boundary extend to this area, thus it is not amenable to integrated neighborhood designs. Therefore, this is the very kind of property that was anticipated for rural residential development.

Toward that goal, the County has declared a Comprehensive Plan policy (a) of Goal I.B.2 which states that *"Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers; or in small, limited areas having unique scenic, locational and other suitable site qualities where the anticipated magnitude or density of development is not such as to require more than a very basic level of services...."*

The subject area complies with this policy because it is part of an exception area zoned for residential use located south of and adjacent to Amity. The area is committed to residential use. The land is located amid primarily rural lands and is definitely not suitable to integrated neighborhood design, but is suitable to very low density rural residential development. It would be very difficult if not fiscally impossible to bring city services to this area, because of location of the Salt Creek Swale.

Further, the Comprehensive Plan states that, *"All proposed rural area development and facilities: 1) Shall be appropriately, if not uniquely, suited to the area or site proposed for development;...."*

The applicant's property does offer unique scenic locational qualities that are desirable for very low density rural residential development, such as the country view and setting that is available in this rural area. The parcel is accessible by a private road which goes to the current house on the property and by Laughter Lane which is a private, commonly used road. Very basic services to the area are already in place or obtainable. As mentioned earlier, a septic exists and there is a well. Electrical line runs across the property.

3. The Board finds 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, as required by YCZO section 1208.02(B).
- 3.1 A Limited Use Overlay zone will be imposed which will limit use of the property to rural residential use. Regarding the need for additional residential lots in the area, the subject parcel is part of an exception area located south of Amity (Exception area 5.16). The following table shows the zoning designation, the total number of lots within the exception area, and the number of lots that were developed and vacant as of July 1, 1998:

| Zone | # of lots | built lots | vacant lots |
|----------|-----------|------------|-------------|
| AF-10 | 3 | 3 | 0 |
| VLDR-2.5 | 12 | 12 | 0 |

This analysis shows that 100% of the existing lots within the exception area are already developed and 100% of the lots that are zoned VLDR-2.5 are developed. It should be also noted that the lots in the exception area are not large enough to be partitioned, so the supply of vacant lots is exhausted.

- 3.2 Information is also available to show the increase in development since 1981, when only 50% of the lots zoned VLDR-2.5 were developed and 75% of the lots were developed by 1986. This percentage remained constant until 1997, when the remaining lots were developed. This information shows that while the demand for the rural properties has increased in the Amity area the supply has dwindled to zero.
- 3.3 There are three parcels to the north and adjacent to City of Amity. A 2.5 acre parcel and a 1.84 acre parcel both zoned LDR-6,700 and a 0.86 acre parcel zoned VLDR-1.
- 3.4 The 1990 Census reported the population of Yamhill County at 65,551. On July 1, 1997 the Center for Population Research and Census at Portland State University estimated the Yamhill County population at 79,200. This is an increase of 13,649 or 20.8% over a seven year period.
- 3.5 The increase in the rate and amount of development, combined with zero supply of existing vacant lots and an increasing population indicates a demand and need for additional VLDR zoned lots in this area. It is evident from this study that there are no lots available for development in Amity area.
- 3.7 If the zone change is approved, four additional lots could be created. The subject area appears to be as well suited for residential development.
- 3.8 Issues related to suitability will be discussed further in Finding B.5.
- 4. The Board finds 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, as required by YCZO section 1208.02(C).
- 4.1 The proposed zone change is appropriate because adjacent zoning is VLDR-2.5, and all

of these lots have already been developed with residences. There are no large scale commercial farm or forest uses in the immediate vicinity that would be impacted by the residential lots that could be created if the zone change is approved.

- 4.2 Since 1974 there has been establishment of certain areas that were excepted from agricultural lands and had the potential of legitimate evolution as rural residential sites. That action, as mentioned earlier, was taken in 1980. This is one of those sites. In 1980 it was rational to designate this property as AF-10 or VLDR. The AF-10 zone made some sense then as opposed to now, partially because the small cherry orchard on the property was half the age it is now. It is now past productive prime. In addition, since 1974 there has been a very limited supply of rural residential lots and sites available for development in the Amity area. The county began the process of identifying those lands that could be excepted from Statewide Land Use Goals 3 and/or 4 in 1978 and 1979. At that time an inventory of rural residential property was taken. In 1980, based on the information obtained in 1978 and 1979, an exception to the Agricultural Goal was taken on this and other appropriate properties. After a review of the current inventory of rural residential lots shown by the County, it has been determined that a total of 12 rural residential lots exist in the Amity area at this time, and all those lots have been developed. This leaves zero rural residential lots that can be developed today in the Amity area.
- 4.3 Regarding availability of utilities and services, the sewerage disposal is provided by the on-site septic systems. Water is provided by on-site wells. Fire protection is provided by the Amity Fire Department. Law enforcement is provided by a county sheriff and City of Amity Police. There is electricity available to the parcel which is provided by PGE. No other services are expected to be required on the proposed exception site.
- 4.4 The only issue regarding public facilities is availability of access. The subject area currently has an access by Laughter Lane which is a private road. If this area is to be developed into more lots the applicant will have to upgrade the roadway to public road standards. The applicant will also have to negotiate with Southern Pacific Railroad Company for an increased width of the right-of-way across the rail road property prior to any proposed land division. The application will also have to be made to the State Highway Division of Oregon Department of Transportation (ODOT). There will be a Limited Use Overlay zone imposed with a condition that before any partition or subdivision of any portion of the property can occur, the owner must submit for approval by the Planning Department and implement a dust control plan for Laughter Lane from 99W to the west end of the property and for the private lane on the east side of the property, and the owner must secure legal access and improve the access to the subject property so as to satisfy the county road standards. Nothing in this condition shall prohibit owner from applying to the Department of Public Works for a variance to the county road standards.
5. The Board finds 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, as required by YCZO 1208.02(D)

- 5.1 Other VLDR designated land is either unavailable or not as well suited for residential development. As indicated in Finding B.3, there are zero lots available in Amity area, even though market demand appears to be fairly high.
- 6. The Board finds that the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable, as required by YCZO section 1208.02(E).
- 6.1 The subject area is part of an exception Code Area 5.16 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 exception is required.

CONCLUSIONS:

Conclusions for Approval

- 1. The request is for a zone change from AF-10 Agriculture/Forestry Small Holding to VLDR-2.5 Very Low Density Residential for a 14 acre parcel.
- 2. The request complies with the Comprehensive Plan Goals and Policies and is consistent with the Plan map designation of VLDR.
- 3. All properties zoned VLDR-2.5 in the area are already developed with residences, and there appears to be a market demand for new lots.
- 4. There is no information at the time of this writing about whether water and sewage disposal would be available to serve the four additional lots that could be created if the zone change is approved. These concerns can be addressed when an application is made to partition the properties.
- 5. The area has substantially changed in the past years with the addition of new residences. The location of this property, next to rural residential zoning and bordered by Ash Swale, does not lend itself to small farm uses. Therefore, additional residential development is appropriate for this location.

DECISION:

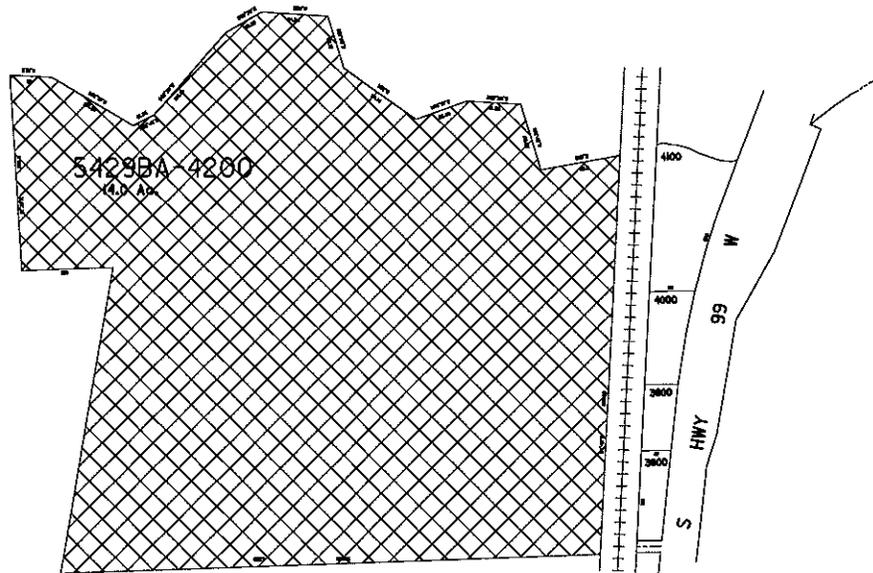
Based on the above findings, analysis, and conclusions, the Board approves the request by Steve Selleck for a zone change from AF-10 to VLDR-2.5 on Tax Lot 5429BA-4200, with a Limited Use Overlay zone, limiting use of the property to rural residential with the condition that before any partition or subdivision of any portion of the property can occur, the owner must submit for approval by the Planning Department and implement a dust control plan for Laughter Lane from

99W to the west end of the property and for the private lane on the east side of the property, and the owner must secure legal access and improve the access to the subject property so as to satisfy the county road standards. Nothing in this condition shall prohibit owner from applying to the Department of Public Works for a variance to the county road standards.

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EXHIBIT "B" FOR ORDINANCE No. 661
ZONING MAP AMENDMENT FROM
AF-10 to VLDR-2/2
and a Limited Use Overlay to
Rural Residential Use only.

TAX LOT: 5429BA-4200



Prepared by Yamhill County Department of Planning and Development



AREA SUBJECT TO AMENDMENT

ORDINANCE 661
EXHIBIT "B"