

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 Yamhill County Zoning Map)	
from EF-80, Exclusive Farm Use District, to)	
VLDR-2.5, Very Low Density Residential)	ORDINANCE 665
District, and Approving a Floodplain)	
Development Permit on Tax Lot 5635-300;)	
Applicant Gerald Cannady; Docket)	
Z-02-98/FP-05-98; and Declaring an Emergency.)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on January 7, 1999, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Ted Lopuszynski, being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On October 13, 1998, Gerald Cannady filed an application to change the zoning designation from EF-80, Exclusive Farm Use District, to VLDR-2.5, Very Low Density Residential District, and for a floodplain development permit to allow construction of a single family residence on a 1.38 acre parcel known as tax lot 5635-300 in Docket No.Z-02-98/FP-05-98.

B. On December 3, 1998, the Yamhill County Planning Commission held a public hearing on Planning Docket Z-02-98/FP-05-98, and recommended approval of the application with conditions.

C. On January 7, 1999, the Board held a public hearing to consider Docket Z-02-98/FP-05-98, and at the conclusion of the hearing, the Board voted unanimously to approve the application with conditions.

D. The Board has determined that adoption of this ordinance will be in the best interest of the citizens of Yamhill County; Now, Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Official Yamhill County Zoning Map is hereby amended to change the zoning designation from EF-80, Exclusive Farm Use District, to VLDR-2.5, Very Low Density Residential District, as requested by Gerald Cannady in Docket No.Z-02-98, as provided and specified in the attached Exhibit "A", which is by this reference made a part of this ordinance.

Section 2 The application by Gerald Cannady in Docket FP-05-98 for a floodplain development permit to allow construction of a single family residence on tax lot 5635-300 is hereby approved with the following conditions:

1. The structures shall comply with the standards listed in Section 901.07(B) and (C) of the Yamhill County Zoning Ordinance.
2. The applicant shall provide certification by a registered professional engineer or architect that Condition number 1 is satisfied, based on their review of the structural design, specifications and plans prior to construction.
3. Removal of existing woody vegetation shall be minimal.
4. The lowest floor level must be at minimum one (1) foot above the base flood elevation. (A flood elevation certificate shall be submitted to certify the elevation of the structure.)
5. The applicant shall obtain proper building permits from Yamhill County.
6. The applicant shall obtain proper permits from Oregon Department of Transportation for access to West Valley Hwy (Hwy 18 - Business Loop).
7. The applicant shall obtain proper permits from Oregon Division of State Lands for easement or license, lease, or registration for the use of State designated wetland area.

Section 3 Severability Clause. If any section or subsection contained in this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

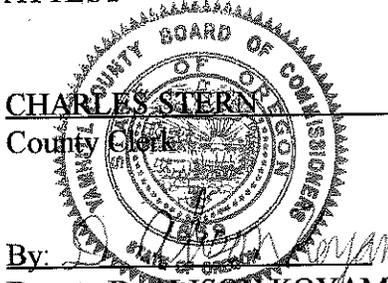
Section 4. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

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DONE at McMinnville, Oregon this 7th day of January, 1999.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STERN
County Clerk

By: *Alison Koyama*
Deputy D. ALISON KOYAMA

Robert Johnstone
Chairman ROBERT JOHNSTONE

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

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

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EXHIBIT "A"

PLANNING COMMISSION'S APPROVAL: December 3 1998
BOARD OF COMMISSIONER'S APPROVAL: January 7, 1999

DOCKET NO.: Z-02-98/FP-05-98

REQUEST: Zone change from EF-80, Exclusive Farm Use District, to VLDR-2.5, Very Low Density Residential District, and approval of a floodplain development permit to allow construction of a single family residence on the property.

APPLICANT: Gerald Cannady

OWNER: Gerald, Mary and Terry Cannady, Ora and Katie Garver

TAX LOT: 5635-300

LOCATION: Between West Valley Highway (Hwy 18 - Business Loop) and the Yamhill River, on the east side of Sheridan within the Urban Growth Boundary.

LOT SIZE: 1.38 acres

CRITERIA: Sections 502, 901 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

FINDINGS:

A. Background Facts

1. Parcel Size: 1.38 Acres.
2. Access: The parcels has frontage on West Valley Hwy (Hwy 18 - Business Loop).
3. On-Site Land Use: The property includes an upland area located adjacent to the highway with a steep embankment sloping toward the river. A majority of the parcel is located within the identified 100-year flood plain of South Yamhill River. The property is undeveloped but contains the City of Sheridan's sewer trunk line which connects the north part of the city with the sewage treatment pump station, and sewer lagoons, on the south side of the river. The property is located within Yamhill County and is zoned Exclusive Farm Use (EF-80). On August 25, 1998 the County and the Sheridan City Council approved an Urban Growth Boundary amendment for the parcel which changed the comprehensive plan designation to

residential.

4. Surrounding Land Use: To the west are four small parcels, each containing a single family home. To the north is an approximate 13-acre parcel containing a single family home and accessory structure. To the east is a narrow, undeveloped parcel also located between the highway and the river. The South Yamhill River lies to the south.
5. Surrounding Zoning: All land directly adjacent to the property is within the County and zoned EF-80.
6. Soils: The small size of the parcel and the small scale of soils maps makes it difficult to classify the soils. However, the parcel appears to be made up of Stoney Land (SL) on the terrace adjacent to the highway and Chehalem (CeC) soil on the sloping river bank.
7. Water: The application indicates that the lot will be served by city water. There appears to be an agreement between the city and the applicant that his property will be connected to the city water.
8. Sewage Disposal: The application indicates that there is no septic system on the parcel. There seems to be an agreement between the city and the applicant that his property will be connected to the city sewer.
9. Fire Protection: The parcel is served by the Sheridan Fire District.
10. Previous Actions: An approval by the City Council and the County Board Of Commissioners to amend the comprehensive plan map to expand the UGB and establish the "Residential" designation on the City's Comprehensive Plan, and taking an exception to Statewide Goal 3. County Docket PAZ-04-98/City Docket 98-05-13.
11. Flood Insurance Rate Map (FIRM) No. 410249-0432C indicates the subject parcel is within the 100-year floodplain of South Yamhill River. The base flood elevation is between 187' and 188'. The applicant did not submitted a report from a professional surveyor or engineer regarding the elevation of the proposed dwelling or any calculations regarding possibility of floodwater being elevated by the structure.

B. Ordinance Provisions and Analysis

1. A request for a quasi-judicial zone map change must comply with the standards and criteria in Section 1208.02 of the Yamhill County Zoning Ordinance (YCZO), as follows:
 - (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 Board finds that the application satisfies YCZO 1208.02(A).

2.1 The Yamhill County Comprehensive Plan policies that may arguably be applicable include:

Policy (c) of Goal I.A.1: Yamhill County will recognize the lands within established urban growth boundaries as the appropriate and desired location for urban development.

The Board finds that Policy c of Goal I.A.1 is aspirational only and does not constitute a mandatory approval criteria. The policy has already been implemented through the adoption of the zoning ordinance, including the adoption of the urban growth boundary which includes the subject property. And even if the policy applied, the Board finds that it is satisfied. The parcel is 1.3 acres, which may be considered to be an urban scale of development. Since Tax Lot 5635-300 is inside the urban growth boundary of Sheridan, the scale of the proposed zone change complies with this policy. The zoning designation of VLDR-2.5, would be consistent with the adjacent properties to the south, which are also zoned VLDR-2.5.

Policy b. of Goal I.A.1: Yamhill County will seek to establish a general commitment by all providers of urban services that no subdivision of lands in designated urban areas on the Plan Map will be permitted without the provision of urban services commensurate with the location, nature and scale of the proposed development, recognizing the overall capital program for community services and the ultimate net cost to the community of the services to be provided.

The Board finds that Policy b of Goal I.A.1 is aspirational only and does not constitute a mandatory approval criteria. The policy is implemented through the adoption of the zoning ordinance. And even if this policy could be directly applied, the Board finds that it would not be applied in this case because only one residence will be placed on the parcel, and there is

no plan for subdividing of the parcel. Furthermore, even if the policy applied, the Board finds that it is satisfied because the city has agreed to provide city services to the parcel.

3. The Board finds that the application satisfies YCZO 1208.02(B). Criterion (B), requires a finding that there is an existing demonstrable need for the use that would be allowed by the zone change, which in this case is additional residential lot. The Board finds that this proposal will create or promote one additional residential development which will ensure the City control over those facilities necessary to support urban uses. This property contains an especially critical component of the City's sanitary sewer system as this is the point where the sewage from the north side of the City is transported, beneath the river, to the pumping station and sewer lagoons.
4. The Board finds that the application satisfies YCZO 1208.02(C). Regarding criterion (C), the surrounding area is residential in character and there are no known agricultural activities on adjacent properties, and based on the topographic and soil conditions, the adjacent land is not well suited for agriculture. Since the subject parcel would remain zoned for residential use, there would be no conflicts with surrounding uses. The proposed 1.3-acre lot size is consistent with the surrounding parcel sizes, which vary from .37 acres to almost 5 acres in size. With no change in the land use or pattern, potential adjacent, or nearby, agricultural activities will be unaffected by this proposal. Half of the parcel is a steep riverbank which is unsuitable for farming. The tax lot is on a narrow strip of land between the West Valley Highway and the Yamhill River. To the west are four small residential lots lying between Tax Lot 300 and the City limits. The county originally suggested the city include these parcels in the previous UGB Amendment; however, the city staff rejected this option as two of the property owners were opposed to being included in the amendment. The parcel to the east is an even narrower strip of land between the road and the river. Lands on the south side of the river are in both the city and the county and are zoned (or designated) for residential use. The remainder of the parcel is less than 100 feet wide, and contains a sewer trunk line and three manholes. The parcel is also adjacent to a highly traveled road (West Valley Highway) which serves as a physical barrier between Tax Lot 300 and a larger farm parcel to the north, across Highway 18-B. These physical developments make Tax Lot 300 unavailable for farming.
5. The Board finds that the application satisfies YCZO 1208.02(D). Criterion (D) requires an analysis of whether other residentially zoned lands are either unavailable or not as well suited for the development. The Board finds that this analysis should be limited to VLDR-2.5 zoned lands in the Sheridan area. The Board finds that there is a very limited amount of vacant VLDR-2.5 zoned lands in the Sheridan area. The inventory of Sheridan area indicates that there are total of 13 parcels currently zoned VLDR-2.5. One of these is of sufficient size to make one additional parcel which would be a total of 14 parcels. Of these, seven parcels are currently vacant. However, the subject parcel has a unique situation having the city's sewer line on the parcel.
6. The Board finds that the application satisfies YCZO 1208.02(E). Regarding criterion (E), the parcel is an exception area, so Goals 3 and 4 do not apply and since the parcel is already

within the urban growth boundary Goal 14 does not apply. No other Goals apply to this request, and no exception is required.

C. Floodplain Ordinance Provisions and Analysis

1. Developments in the Floodplain Overlay zone are subject to the requirements of Section 901 of the Yamhill County Zoning Ordinance (YCZO). Prior to issuance of a floodplain development permit, the applicant must demonstrate that:
 - A. *The proposed development conforms with the use provisions, standards and limitations of the underlying zoning district and other overlay district.*
 - B. *The proposed development, if located within the floodway, satisfies the provisions of Subsection 901.09.*
 - C. *The proposed development will not increase the water surface elevation of the base flood more than one (1) foot at any point.*
 - D. *All applicable permits have been obtained from Federal, State or Local governmental agencies, and all applicable National Flood Insurance Program requirements have been satisfied.*
 - E. *The proposed development is consistent with policies j. and k. of the Comprehensive Plan, as amended by Ordinance 471.*

YCCP Section II(C)(1) policies j and k provide as follows:

- j. *It is the policy of Yamhill County to protect riparian vegetation from damage that may result from land use applications for development that is otherwise permitted outright or conditionally under county zoning regulations. To achieve this goal, Yamhill County will review land use applications for development in riparian areas in an effort to mitigate or prevent damage to riparian vegetation that might result from the development. For purposes of this policy, "riparian areas" refers to areas within 100 feet measured horizontally from the ordinary high water line of streams identified as "Fish Habitat" in the comprehensive plan inventory (National Resource Conservation Plan, Yamhill County, Oregon, May 1979 - USDA - Soil Conservation Services), that are not regulated under the Forest Practices Act.(Ord 471)*
- k. *It is county policy that land use management practices and nonstructural solutions to problems of erosion and flooding are preferred to structural solutions. Water erosion control structures, including rip-rap and fill, should be reviewed by the appropriate state permitting authority to insure that they are necessary, are designed to incorporate vegetation where pos-*

sible, and designed to minimize adverse impacts on water currents, erosion and accretion patterns.

Each of these criteria are considered, respectively, in Findings C.2 through C.6, below.

2. The Board finds that the application satisfies YCZO Section 901(A). The request is for placement of a dwelling in VLDR- 2½ zone. The use is permitted in this zoning district.
3. The Board finds that the application satisfies YCZO Section 901(B). There is no plan to build the proposed structure in the floodway.
4. The Board finds that it is feasible to satisfy YCZO Section 901(C) and that a condition will be imposed to assure compliance with this requirement. The applicant will be required to submit a letter or calculations from a registered professional engineer or architect stating that the proposal will not result in any increase in flood levels during the occurrence of the base flood discharge, and this requirement has been imposed as a condition of approval.
5. The Board finds that it is feasible to satisfy YCZO Section 901(D) and that a condition will be imposed to assure compliance with this requirement. The applicant will be required to obtain all necessary permits prior to construction, and this requirement has been imposed as a condition of approval.
6. The Board finds that the application satisfies YCZO Section 901(E). The South Yamhill River is shown on the Comprehensive Plan map as being fish habitat for anadromous fish and resident trout spawning and rearing. The applicant indicated that proposed residence will be located more than 100 feet from the edge of the river's edge. Consequently, the request complies with the Plan policies. However, as a precaution, a condition of approval will require that there be no placement of fill or disturbance to existing vegetation within the 100-foot riparian area.
7. Section 901.07(A, B, C & D) provides general standards relevant to the placement of residential structures. These standards are:
 - A. *Manufactured Homes.*
 1. *Manufactured homes shall be anchored in accordance with subsection 901.07 B.*
 - B. *Anchoring.*
 1. *All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure. Except in the case of a manufactured home, elevation of a structure on fill above the base flood level shall be considered to satisfy the anchoring requirement.*

2. *All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors, subject to the following specifications:*
 - a. *Over-the-top ties shall be provided at each corner of the manufactured home, with two (2) additional ties per side at intermediate points, or with one (1) additional tie per side for manufactured homes less than fifty (50) feet in length.*
 - b. *Frame ties shall be provide at each corner of the manufactured home, with five (5) additional ties per side at intermediate points, or with four (4) additional ties per side for manufactured home less than fifty (50) feet in length.*
 - c. *All components of the anchoring system shall be capable of withstanding a force of 4,800 pounds per square inch.*
 - d. *Any structure appurtenant to the manufactured home shall be similarly anchored.*

C. *Construction Materials Methods and Certification.*

1. *All new construction and substantial improvements to existing structures shall be constructed with materials and utility equipment resistant to flood damage.*
2. *All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*
3. *Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*
4. *All new construction and substantial improvements with fully enclosed areas below the floor and subject to flooding shall be designed to automatically equalize the hydrostatic forces to exterior walls by allowing entry and exit of floodwaters. A minimum of two openings having a total net area of not less than one square inch for every square foot of floor area subject to the flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade, and may be equipped with screens, louvers, or other devices that automatically permit entry and exit of floodwaters.*
5. *All nonresidential construction shall include certification by a registered professional engineer or architect that the standards of this subsection are*

satisfied based on their development and/or review of the structural design, specifications and plans.

D. Utilities and Services.

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*
- 2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate flood water infiltration and contamination resulting from discharge of effluent consistent with the requirements of the State Department of Environmental Quality (DEQ).*
- 3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

8. The Board finds that the application satisfies YCZO 901.07 as follows. The building will not be in the floodway. The first finished floor will be required to be a minimum of one foot above the base flood elevation. Prior to and during construction or placement of the residence, the applicant will be required to meet all standards in YCZO Section 901.07 A, B, C and D and the Uniform Building Code. The height of the building and specifically the elevation of the first finished floor will be at the minimum amount required to elevate the livable space to be above the BFE, which conforms to the standards in (F). Compliance with all standards will be made conditions of approval.

9. Section 901.08 contains specific standards for areas where the base flood elevation (BFE) has been determined. The BFE at the subject property is between 187' and 188' as depicted on FIRM map. The standards are:

(A) For any new residential construction and substantial improvement of any residential structure, the lowest floor level shall be one foot above the base flood elevation. New construction and substantial improvement of any commercial, industrial or other nonresidential structures and accompanying utility and sanitary facilities shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or be subject to the following:

- (1) Be floodproofed so that all portions of the structure below the base flood level are watertight, with walls that are substantially impermeable to the passage of water.*
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.*

(B) For the placement of a manufactured home the lowest floor level shall be one foot above the base flood elevation, and the above basement provisions shall be satisfied,

if applicable. In addition, the mobile home must be elevated on a permanent foundation.

10. The Board finds that the application satisfies YCZO 901.08 as follows. The lowest finished floor of the dwelling will be required to be at an elevation of 189 feet, which meets the requirement of being one foot above the BFE. No basement is proposed.

CONCLUSIONS FOR APPROVAL:

1. The request is for a zone change from EF-80 to VLDR-2.5 and for placement of a dwelling in the 100-year floodplain of South Yamhill River.
2. The zone change request complies with the applicable provisions of the Yamhill County Comprehensive Plan Goals and Policies, is consistent with the County's Plan Map designation of Future Urbanizable Lands, and satisfies the requirements for a zone change under YCZO 1208.02.
3. The request is consistent with the purpose of the floodplain overlay district, and, with conditions, satisfies the requirements of YCZO sections 901.06, 901.07 and 901.08.

DECISION:

Based on the above findings, analysis, and conclusions, the Board approves the request by Gerald Cannady for a zone change from EF-80 to VLDR-2.5, and for placement of a dwelling in the 100-year floodplain of South Yamhill River on Tax Lot 5635-300, subject to the following conditions:

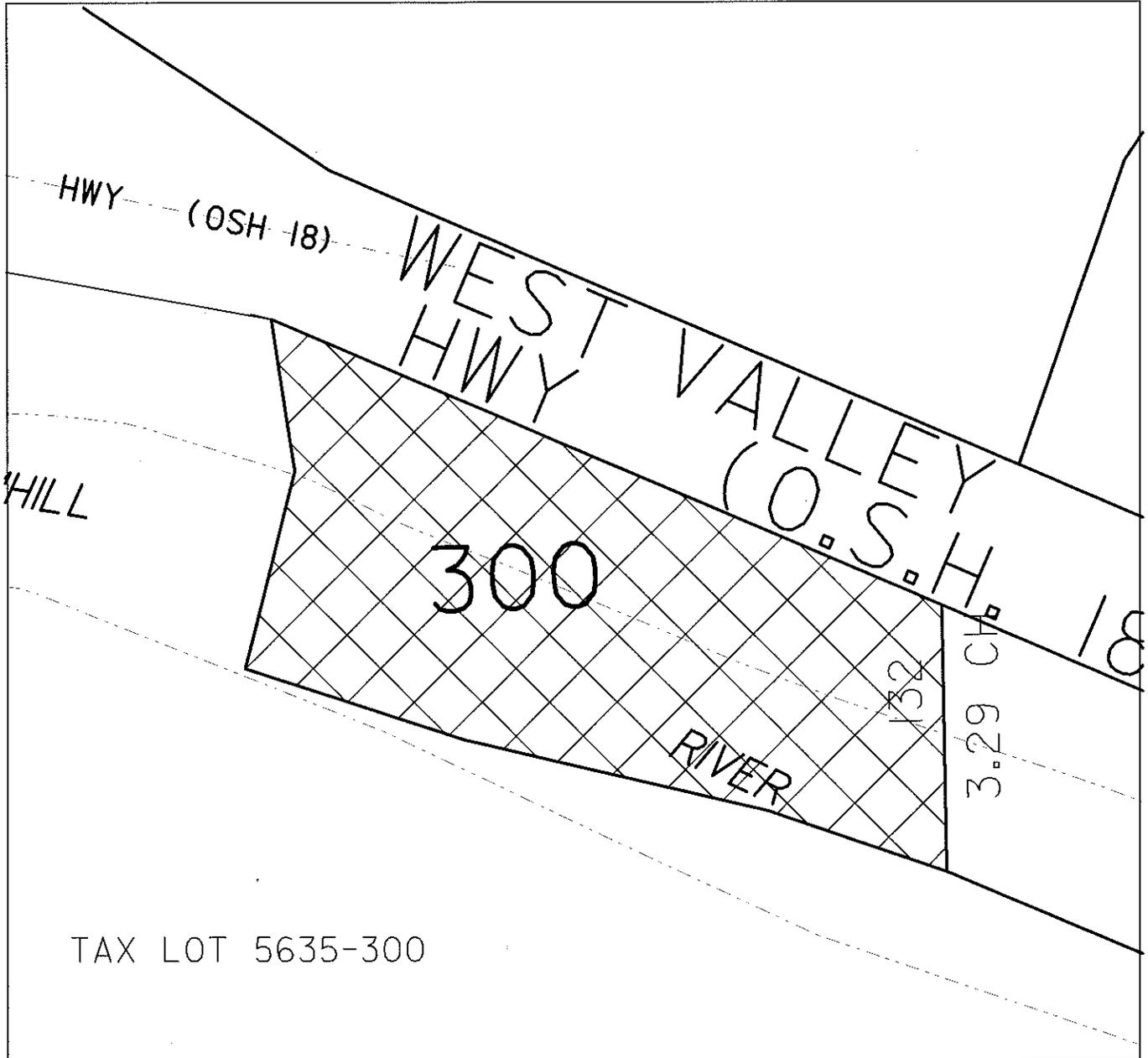
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2. The applicant shall provide certification by a registered professional engineer or architect that Condition number 1 is satisfied, based on their review of the structural design, specifications and plans prior to construction.
3. Removal of existing woody vegetation shall be minimal.
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5. The applicant shall obtain proper building permits from Yamhill County.
6. The applicant shall obtain proper permits from Oregon Department of Transportation for access to West Valley Hwy (Hwy 18 - Business Loop).

7. The applicant shall obtain proper permits from Oregon Division of State Lands for easement or license, lease, or registration for the use of State designated wetland area.

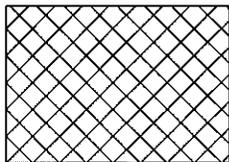
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EXHIBIT "B" FOR ORDINANCE No. 665
ZONING MAP AMENDMENT FROM
EF-80, EXCLUSIVE FARM ZONE
TO
VLDR-2.5, VERY LOW DENSITY RESIDENTIAL



Prepared by Yamhill County Department of Planning and Development



AREA SUBJECT TO AMENDMENT

ORDINANCE 665
EXHIBIT "B"