

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

97 DEC -5 PM 3:45

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Amending the)
Official Zoning Map from VLDR 2.5 (Very Low)
Density Residential, 2.5 Acre Minimum Lot Size) to)
VLDR-1 (Very Low Density Residential, One Acre)
Minimum Lot Size), and Approval of Preliminary Land)
Partition of a 4.2 Acre Parcel Known)
as Tax Lot 4429-700 into Three Lots; Applicants)
Delbert and Frances Ching; Planning Docket)
Z-01-97/P-25-97; and Declaring an Emergency.)

ORDINANCE 639

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on December 4, 1997 Commissioners Thomas E. E. Bunn, Robert Johnstone, and Ted Lopuszynski, being present.

WHEREAS, on September 26, 1997, the Department of Planning and Development received an application by Delbert and Frances Ching ("applicants"), Planning Docket Z-01-97/P-25-97, to change the Official Zoning Map from VLDR 2.5 (Very Low Density Residential, 2.5 acre minimum lot size) to VLDR-1 (Very Low Density Residential, one acre minimum lot size), and a partition to divide the parcel into three lots, on a 4.3 acre parcel known as Tax lot 4429-700; and

WHEREAS, on November 6, 1997, the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted 5 to 0 to approve the zone change and the partition; and

WHEREAS, on December 4, 1997, the Board held a public hearing on the application, and that following the close of the hearing, deliberated and voted unanimously in favor of the ordinance approving the application; 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 of Yamhill County, and for approval of the partition, and that approval thereof is in the best interests of the citizens of Yamhill County; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS

ORDINANCE NO.639

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97-893

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-1".

Section 2. The application of Delbert and Frances Ching in Docket P-25-97 for preliminary partitioning approval to divide the approximately 4.2 acre parcel into three parcels (consisting of 1.05 acres, 2.10 acres and 1.05 acres) is allowed, subject to the conditions stated in the attached Exhibit "A".

Section 3. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

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.

DONE at McMinnville, Oregon this 4th day of December, 1997.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN

County Clerk

Thomas E. E. Bunn

Chairman

THOMAS E. E. BUNN

By: Carol White
Carol White, DEPUTY

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Robert Johstone
Commissioner ROBERT JOHSTONE

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Accepted by Yamhill County
Board of Commissioners on
Dec. 4, 1997 by Board Order
97-893

ORDINANCE 639

EXHIBIT "A"

PLANNING COMMISSION'S APPROVAL: November 6, 1997

BOARD OF COMMISSIONER'S APPROVAL: December 4, 1997

DOCKET: Z-01-97/P-25-97

REQUEST: Zone change from VLDR-2.5, Very Low Density Residential, 2.5 acres minimum lot size, to VLDR-1, one acre minimum lot size, and preliminary land partition to divide the approximately 4.2 acre parcel into three parcels (consisting of 1.05 acres, 2.10 acres and 1.05 acres)

APPLICANT: Delbert and Frances Ching

TAX LOT: 4429-700

LOCATION: 1545 SW Old Sheridan Road, at the corner of Old Sheridan Road and Cypress Lane.

LOT SIZE: 4.23 acres

**COMPREHENSIVE
PLAN DESIGNATION:** FUL, Future Urbanizable Land

REVIEW CRITERIA: Sections 502 and 1208 of the *Yamhill County Zoning Ordinance*; the *Yamhill County Land Division Ordinance*; the *McMinnville Urban Growth Boundary Management Agreement*.

FINDINGS:

A. Background Facts

1. Access: All three proposed parcels have frontage on Old Sheridan Road. Parcel 3 also has frontage on Cypress Lane.

2. On-Site Land Use: The parcel is primarily an open field, with a house and pole building near the eastern property line.
3. Surrounding Land Use: The surrounding lots are developed with single family residences. Nearby uses include an apartment complex to the northeast, and a church a short distance to the southeast.
4. Surrounding Zoning: There is a 1.15 acre lot to the east which is zoned VLDR-2.5. Otherwise, the parcel is entirely surrounded by the City of McMinnville and is zoned R-1, a residential zone with a 9,000 square foot minimum lot size.
5. Water: The application indicates that the lots will be served by city water. Staff contacted McMinnville Water and Light, who indicated that they have 10" water lines along both Cypress Lane and Old Sheridan Road, and would likely be able to provide water service to the lots since they are inside the UGB.
6. Sewage Disposal: Septic systems will be required for the two vacant lots unless the City of McMinnville requires that they be connected to city sewer. There is an existing septic system serving the house on parcel 1.
7. Fire Protection: The parcel is served by the McMinnville Fire District, who commented that a water supply must be required as detailed in the UFC. Appendix III-A of the UFC requires a minimum fire flow of 1,000 gallons per minute for a single family residence. McMinnville Water and Light has indicated that there is a fire hydrant at the intersection of Cypress Lane and Old Sheridan Road, which presumably has adequate water supply and flow to meet the UFC requirements.
8. Previous Actions: None.

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 proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan as required by YCZO 1208.02 (A). Comprehensive Plan policies that may 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.

A one acre minimum lot size is often considered to be an urban scale of development. Since Tax Lot 4429-700 is inside the urban growth boundary of McMinnville, the scale of the proposed zone change complies with this policy.

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.

According to the McMinnville Urban Growth Management Agreement, lands within the UGB but outside the city limits shall be designated as FUL (Future Urbanizable Lands) on the county Comprehensive Plan Map. Policy I.A.1.b. requires urban services at a scale appropriate to the nature of the development. In this case, there is the potential for three additional residences on one acre lots (although only two additional lots are proposed as part of this application). Water to serve the lots is available from the city. Individual septic systems and drainfields are proposed, but city approval is required prior to installation of a septic system inside the UGB. Consequently, if the city feels that it would be more appropriate for the lots to connect to city sewer, the county will not issue septic permits.

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 1208.02(B). YCZO 1208.02(B).requires a finding that there is an existing, demonstrable need for the uses that would be allowed by the zone change, which in this case is additional residential lots. The subject parcel is almost entirely surrounded by one to five acre lots that could be subdivided into residential lots as small as 9,000 square feet in size, creating dozens of additional residential lots. Consequently, it would be difficult to demonstrate that there is a need for the two additional lots that could be created by the zone change. The applicant has interpreted criterion (B) to mean that the finding of need pertains to the lot size, arguing that there is a need for one-acre residential lots. The most recent information available on exception area development is from 1995. At that time, there were 40 vacant lots throughout the county that were zoned VLDR-1. There also was the potential for 207 additional vacant lots to be created by dividing larger parcels in VLDR-1 districts down to a one-acre lot size. The majority of these potential new lots are in the Newberg/Dundee area. There are only 7 lots zoned VLDR-1 in the McMinnville area, and all are developed. The nearest vacant lots zoned VLDR-1 are in Lafayette, where in 1995 there were 23 vacant and potential new lots.
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 1208.02 (C). The surrounding area is residential in character.

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Exhibit "A"

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Since the subject parcel would remain zoned for residential use, there would be no conflicts with surrounding uses. The proposed one acre lot size is consistent with the surrounding parcel sizes, which vary from .37 acres to almost 5 acres in size.

Changes in the form of higher density residential development are gradually occurring in the area, as evidenced by the apartments and 7,000 to 8,000 square foot lot size residential development a short distance to the east. An additional change that has occurred and that affects the subject parcel is the requirement for voter approval of annexations, which influenced the property owners to apply for a zone change through the county rather than attempt the city annexation process.

Utilities and services are all available to serve the new residences that would be allowed by the zone change.

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 1202.08 (D). YCZO 1202.08 (D) requires an analysis of whether other residentially zoned lands are either unavailable or not as well suited for the development. As indicated in finding B.3., the ability of the request to demonstrate compliance with this criterion depends upon whether all residentially zoned land is considered, or whether the analysis is limited to VLDR-1 zoned lands. Neither the county or any of its cities have run out of vacant residentially zoned lands. However, there is no vacant VLDR-1 zoned land in the McMinnville area.
6. The Board finds that the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable, as required by YCZO 1202.08(E). The parcel is within an acknowledged exception area, so Goals 3 and 4 do not apply. The proposed 1 acre minimum lot size may be defined as an urban scale of development, but 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. Partition Considerations:

1. The ability to divide the parcel depends upon approval of the zone change. The partition must comply with the standards in Section 502 of the YCZO and the requirements of the Yamhill County Land Division Ordinance (LDO).

2. YCZO 502.06 requires that lots in the VLDR-1 district be one acre in size, except in the case of parcel size averaging, where the minimum parcel size shall be 20,000 square feet. The maximum depth-to-width ratio for newly created parcels shall be 3:1. The preliminary plat submitted by the applicant complies with these standards.
3. Chapter 6 of the LDO contains general design standards for partitions. The partition must feasibly be able to comply with the standards in order to be granted preliminary approval. The preliminary approval is normally subject to a number of conditions to assure compliance with LDO requirements. The conditions must be met prior to final partition plat approval.
4. LDO Section 6.015 requires widening of substandard width roads up to a minimum right-of-way width of 60' if the road bounds an area designated for any use other than agriculture or forestry. The city of McMinnville has requested that the applicant dedicate an additional 5' of right-of-way along Cypress Lane, and an additional 10' of right-of-way along Old Sheridan Road. This approval criteria will be satisfied by satisfaction of the second condition of approval, which provides that a road dedication is required along those sides of the existing roads bounding the subject property, and shall be dedicated without any reservation or restriction other than reversionary rights upon vacation of the street, and easements for public utilities.
5. LDO Subsection 6.010(1) requires that road improvements be completed or proper security posted as specified in Section 13.000. The city has not requested that road improvements be done at this time, but has requested that the applicants sign a waiver of remonstrance against the future improvement of Cypress Street and Old Sheridan Road to city standards. Road improvements would include, at a minimum, the provision of storm sewer, sanitary sewer, and associated street construction (curbs, gutters, travel lane and sidewalks). This approval criteria will be satisfied by the third condition of approval requiring a waiver of remonstrance against such future improvements.
6. LDO Subsection 6.010(4) indicates that an arrangement of lots and streets that will permit a later re-division of the lots may be required (commonly referred to as a shadow plat). The location of lot lines and other details of the layout shall be such that further division of the parcels may readily take place without interfering with the orderly development of streets, and conditions may be placed on the preliminary approval that restrict the placement or location of structures that might cause an infringement upon the use or development and improvement of an existing or

anticipated street. The city of McMinnville has indicated that they hope to realign the Old Sheridan Road intersection and construct a new connector road between Old Sheridan Road and Cypress Lane. The proposed new road would run in a north - south direction through the center of the subject parcel, and would include a new sewer line within the right-of-way. Such an alignment would split proposed lot 2 nearly in half, so it is important that a new residence or other structure be located in a manner that will not interfere with the anticipated street. The new street would have the benefit of simplifying the future redivision of the parcel at such time as it may be annexed into the city. The city has requested that the redevelopment plan be submitted to the city for approval prior to the issuance of development permits. The fourth condition of approval, requiring the applicants to submit a redevelopment plan, approved by the city, showing the anticipated new street segment and illustrating how the entire parcel can be divided into 9,000 square foot lots, will satisfy this approval criteria. The fifth condition of approval includes a provision that the placement of structures on the lots take place in a manner that is in conformance with the redevelopment plan. These conditions of approval will assure that this approval criteria is satisfied.

7. LDO Section 6.090 requires that all lots within a partition have an adequate water supply. This approval criteria is satisfied by the sixth condition of approval, which provides that prior to final plat approval evidence be submitted that McMinnville Water and Light will provide water hook-ups to the two new lots, or compliance with one of the alternative provisions in Section 6.090 must be shown.
8. LDO Section 6.100 contains options and requirements for sewage disposal. Individual septic systems will likely be used to serve the new lots, unless the city requires connection to the city sewer system. Site evaluations will be required for each lot, with the location of the approved drainfield site shown on the face of the final plat along with a statement indicating that placement of drainfields shall require approval and permit by the county sanitarian. Additionally, those parcels that are denied for standard systems and receive approval for alternative systems will need that noted on the face of the final plat. This approval criteria is satisfied by condition of approval #7.
9. Section 6.120 contains requirements and standards for surveying subdivisions. Since the lots will be less than 10 acres in size, a survey complying with these standards will be required. This approval criteria is satisfied by condition of approval #1.

CONCLUSIONS FOR APPROVAL:

1. The request is for a zone change from VLDR-2.5 to VLDR-1 and a partition to divide the parcel into three lots
2. The zone change request complies with the Comprehensive Plan Goals and Policies and is consistent with the Plan map designation of VLDR.
3. The new lots created by the zone change and partition would be consistent with the surrounding lot sizes and residential uses.
4. With conditions, the preliminary partition approval complies with the requirements of the Land Division Ordinance.

DECISION:

Based on the above findings, analysis, and conclusions, the request by Delbert and Frances Ching for a zone change from VLDR-2.5 to VLDR-1, and approval of a preliminary land partition creating three lots from Tax Lot 4429-700, is approved, subject to the following conditions of approval:

1. Prior to final partition approval, a survey of the new lots shall be completed by a registered land surveyor pursuant to Section 6.120 of the *Yamhill County Land Division Ordinance*. The final partition plat shall substantially conform to the preliminary map. All existing and new easements shall be shown on the face of the plat. The Yamhill County Planning Docket Number "P-25-97" shall appear on the face of the plat.
2. The applicant shall dedicate to the public for road purposes a 5 foot wide strip of land adjacent to Cypress Lane, and a 10 foot wide strip of land adjacent to Old Sheridan Road. This additional right-of-way shall be dedicated without any reservation or restriction other than reversionary rights upon vacation of the roads. The dedication shall be the full width of the parcel that is the subject of this partition and zone change. The road dedication shall be accepted by the Yamhill County Board of Commissioners either through signature on the final survey plat or by a separate recorded dedication or donation document signed by the Board.
3. The applicant shall sign and record in the deed records of Yamhill County a waiver of remonstrance against the future improvement of Cypress Lane and Old Sheridan Road to City of McMinnville street standards. Such street improvement would include the

provision of storm sewer, sanitary sewer, and associated street construction including travel lane, curbs, gutters and sidewalks. The waiver shall run with the land.

4. The applicants shall submit a redevelopment plan illustrating how the entire parcel can be divided into 9,000 square foot lots. The plan shall include provisions for a 60 foot wide right-of-way for the potential new street alignment of Old Sheridan Road, as proposed by the City of McMinnville. Approval of the redevelopment plan by the city must be obtained prior to county approval of the final plat.
5. The placement of all new structures on the parcels shall take place in a manner that is in conformance with the redevelopment plan.
6. Prior to final plat approval, evidence shall be submitted that McMinnville Water and Light will provide domestic water to the parcel line of each vacant lot; or that water will be provided by other means in accordance with Section 6.090 of the LDO; or the following disclosure shall be placed on the plat:

No municipal, public utility, community water supply or private system will be provided to the purchaser of those lots noted hereon.

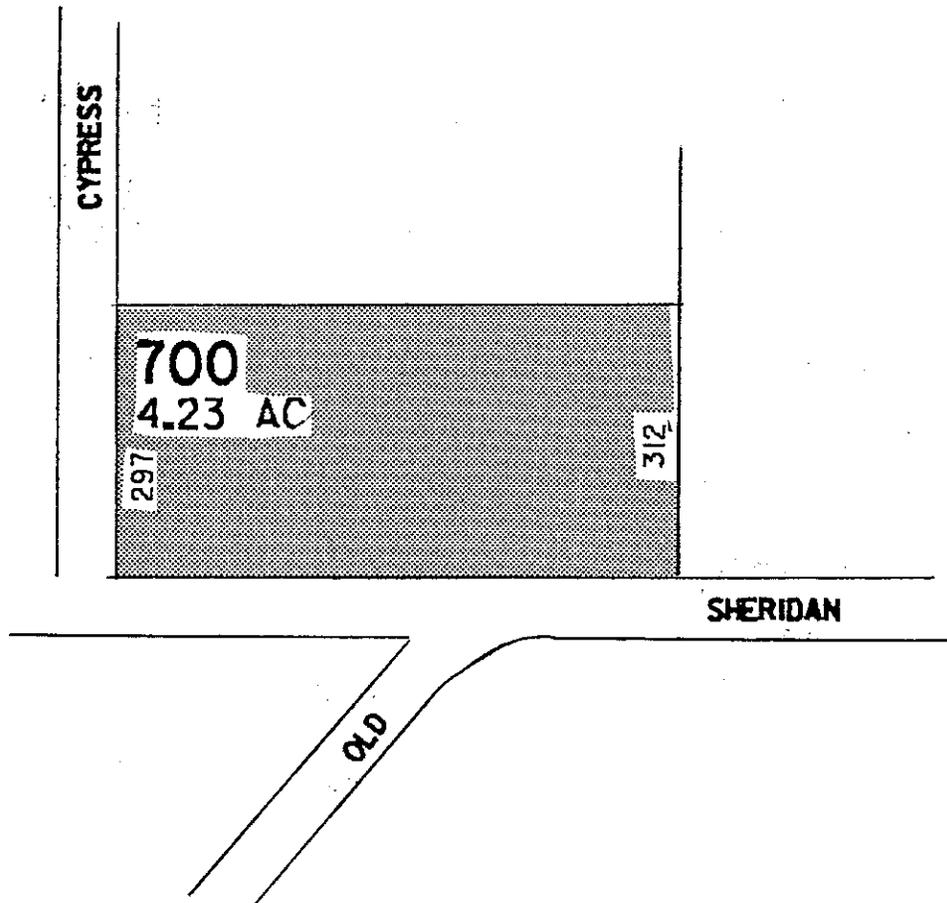
Each lot not provided with a well or community service shall be so identified.

7. A site evaluation for a subsurface sewage disposal system shall be approved by the county sanitarian for each vacant lot, pursuant to Section 6.010 of the LDO. The location of the existing septic system and replacement area serving the existing dwelling on lot 1, and the approved drainfield and replacement areas for lots 2 and 3, shall be depicted on a copy of the final partition plat. Each system shall be located entirely on the lot that it serves, or an easement shall be provided on an adjacent lot.

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EXHIBIT "B" FOR ORDINANCE No. 639

ZONING MAP AMENDMENT
FROM VLDR-2.5, VERY LOW DENSITY RESIDENTIAL DISTRICT,
TWO AND ONE/HALF ACRE MINIMUM LOT SIZE,
TO VLDR-1, VERY LOW DENSITY RESIDENTIAL DISTRICT,
ONE ACRE MINIMUM LOT SIZE



 AREA SUBJECT TO AMENDMENT:
TAX LOT 4429-700

Prepared by Yamhill County Department of Planning and Development

ORDINANCE 639
Exhibit "B"