

FILED
YAMHILL COUNTY, OREGON
1993 APR 2 PM 4:49
CHARLES STERN
COUNTY CLERK

93-224
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 Yamhill County)
Zoning Map to Change, on a)
Portion of Tax Lot 5625-1301,)
the Zone Map Designation)
from AF-20 (Agriculture/Forestry))
to VLDR-5 (Very Low Density)
Residential/5 Acre Minimum Lot)
size); Docket Z-1-93; Applicants)
Kenneth and Linda Budeau; and)
Declaring an Emergency.)
ORDINANCE 551

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on April 7, 1993, Commissioners Debi Owens, Dennis L. Goecks, and Ted Lopuszynski being present.

WHEREAS, on January 26, 1993, Kenneth and Linda Budeau ("Applicant") applied to the Department of Planning and Development for a zone map amendment from AF-20 to VLDR-5 (Very Low Density Residential/5 acre minimum lot size) on a 10 acre portion of an 18.53 acre parcel known as Tax Lot 5625-1301, identified on the attached Exhibit "B"; and

WHEREAS, on March 4, 1993 the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted unanimously to approve the requested zone change; and

WHEREAS, on April 7, 1993, the Board held a public hearing on the application and voted unanimously to implement the Planning Commission's approval of the zone change application by amending the Official Zoning Map from AF-20 to VLDR-5 (Very Low Density Residential/5 acre minimum lot size) on a 10 acre portion of an 18.53 acre parcel known as Tax Lot 5625-1301, identified on the attached Exhibit "B"; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A" and by this reference incorporated herein provide a justification for the approval of the application; and

WHEREAS, the attached Exhibit "A" demonstrates that the proposed amendment to the Official Zoning Map of Yamhill County 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-5 on the 10 acre portion of Tax Lot 5625-1301 identified on Exhibit "B".

Section 2. The findings attached as Exhibit "A" and incorporated herein by this reference are 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 7th day of April, 1993.



ATTEST
CHARLES STERN
County Clerk

By: *Gayle Mitchell*
Deputy ~~GAYLE~~ MITCHELL

YAMHILL COUNTY BOARD OF COMMISSIONERS

Debi Owens
Chair DEBI OWENS

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

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EXHIBIT "A"
Ordinance 551

PLANNING COMMISSION APPROVAL: March 4, 1993

ADOPTION OF ORDINANCE BY BOARD OF COMMISSIONERS: April 7, 1993

DOCKET: Z-1-93

REQUEST: Zone change from AF-20 Agriculture/Forestry to
VLDR-5 Very Low Density Residential, five-acre
minimum lot size

APPLICANTS: Kenneth and Linda Budeau

TAX LOT: A portion of 5625-1301

LOCATION: Approximately one-half mile north of Highway 18 on
the west side of Cherry Hill Road, Sheridan

COMPREHENSIVE PLAN DESIGNATION:

The east portion of the property is designated "Agriculture/Forestry Large Holding" on the Plan map, while the west part is within the Sheridan Urban Growth Boundary and is designated "Urban" on the County Plan and "Residential" on the City Plan.

FINDINGS:

A. Background Facts

1. Lot Size: The subject tax lot is 18.53 acres. The request applies to a portion of this lot totalling about 10 acres.
2. Access: Cherry Hill Road, a paved county road.
3. On-Site Land Use: A mix of farm and woodlot use. The farm use includes grain and pasture. The crop land is all at the east end of the property and not in the area of the requested zone change. There is a barn near the west end of the property.
4. Surrounding Land Use: The area is a mix of farm and forest use. The predominant farm use in the area is livestock, although there are large cultivated fields to the east. The city limits of Sheridan are about 400 feet west of the property.
5. Surrounding Zoning: Land to the east across Cherry Hill Road is zoned EF-40 Exclusive Farm Use. To the west, zoning is VLDR-5. All other areas are zoned AF-20.

6. Soils: Sheet 48 of the Yamhill County Soil Survey indicates that the soils on the subject 10 acres are comprised predominantly of Steiwer silty clay loam with 5 to 20 percent slopes (StD), which has an agricultural Capability Class IV rating. Portions of the property in the bottom of a drainage have steeper Steiwer and Panther soils, which are Class VI.

7. Taxes: Farm deferral.

8. Water: Not specified by the applicants, but a well is the most likely alternative.

9. Sewage Disposal: An on-site system would be required.

10. Previous Actions: A farm dwelling (Docket FD-33-92) was denied in November of 1992.

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. Regarding Comprehensive Plan goals and policies, the land is currently planned for urban use. The only plan goal, policy or other provision identified is Plan Section I.A, "Urban Area Development," Policy 3.b, which states:

"Yamhill County will continue to recognize that the appropriate location of low-density residential development is in areas where adequate access and services to satisfy the scale and ultimate development can and will be provided. Such areas would generally be within, or contiguous with, existing urban centers, but may also be in selected small areas having unique scenic qualities or, where the need may be demonstrated, in selected outlying areas of varying size appropriate site qualities and other supporting services."

The request complies with the Comprehensive Plan map.

The Board finds that YCZO Section 1208.02(a) is satisfied because the proposed zone change is within an urban area and consistent with Policy 3.b and no conflict with any Comprehensive Plan policies has been identified.

3. The Board finds that YCZO Section 1208.02(b) is satisfied because 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.

The need relevant to this request is related to the requirements of the applicants. The applicants purchased the property with the intent of constructing a dwelling, and at that time approval of the residential use in the AF-20 zone was feasible. A request for a dwelling in conjunction with farm use was, however, denied for the property in 1992. The land is not suitable for commercial agricultural operations. The applicants desire to place a home on the property in order to better care for their property and their livestock.

The use is important to the citizenry and the economy of the area and will satisfy the market demand for such use by virtue of the fact that the zone change is needed to satisfy applicants' reasonable expectations that they would be allowed to construct a dwelling when they purchased the property. Because a portion of the property is within the Urban Growth Boundary (UGB), the zone change is a reasonable alternative. There may be other available lands which are zoned to permit the use but not as suitable for the proposed use based on location factors.

4. The Board finds that YCZO Section 1208.02(c) is satisfied because 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.

The surrounding area is a mix of farm and forest use, with the predominant farm use being livestock, and large cultivated fields to the east. The request is only about 400 feet from the Sheridan city limits. Substantial residential development has taken place in the vicinity in recent years, including a manufactured home park just inside the city limits near their land. The land adjacent to the west is zoned VLDR-5. Moreover, much of the land on the north side of Sheridan within the UGB is already zoned VLDR-5. The City of Sheridan does not object to the request.

The property is located on an isolated stretch of Cherry Hill Road between neighboring residences, and has been used by kids to park, loiter, and discard bottles and trash, as well as numerous poachers. Neighbors with children favored the zone change to allow the proposed residence to alleviate these problems.

Fire protection and PGE and school bus routes are available to the site. Subsurface sewage and water would be required before building permits would be issued. The zone change would result in, at most, two new dwellings, which would not create undue demands on services in the area. Since the property is in the City of Sheridan UGB, it is only a matter of time before development in the surrounding area occurs. No other services would likely be needed by the uses on the property.

5. The Board finds that YCZO Section 1208(d) is satisfied because other lands in the county already designated for the proposed use are either unavailable or are not as well-suited for the anticipated uses due to location, size, or other factors. As stated in Finding B.3 above, there may be other available lands which are zoned to permit the use but which are not as suitable for the proposed use, based on location factors.

6. The Board finds that YCZO Section 1208.02(e) is satisfied because no exception to the statewide planning goals is required.

CONCLUSIONS: Based on the foregoing findings, the Board concludes:

1. The request is for a zone change from AF-20 Agriculture/Forestry to VLDR-5 Very Low Density Residential.

2. The property is within the Sheridan Urban Growth Boundary.

3. The amendment is consistent with the goals, policies and other applicable provisions of the Yamhill County Comprehensive Plan as required by YCZO Section 1208.02(a).

4. The requested use complies with the quasi-judicial zone change standards in YCZO Sections 1208.02(b) through (e).

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