

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

93-257

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
1993 APR 22 AM 8:22
CHARLES STERN
COUNTY CLERK

In the Matter of an Ordinance)
Amending the Yamhill County)
Comprehensive Plan Map and)
Zoning Map to Change, on a)
2 acre portion of Tax Lot)
3335-201, the Plan Map)
Designation From Agriculture/)
Forestry Small Holding to Light)
Industrial and the Zone Map)
Designation from AF-10 to LI)
Light/General Industrial;)
Approving Site Design Review with)
Conditions; Planning Docket)
PAZ-2-93; Applicant Paragon)
Distributing; and Declaring)
an Emergency.)

ORDINANCE 553

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in special session on April 21, 1993, Commissioners Debi Owens and Dennis L. Goecks being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. Paragon Distributing ("Applicant") has applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Agriculture/Forestry Small Holding to Light Industrial and a zone map amendment from AF-10 to LI Light/General Industrial on a 2 acre portion of Tax Lot 3335-201 identified on the attached Exhibit "B".

B. On March 4, 1993 the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted unanimously to recommend approval of the application.

C. On April 7, 1993 the Board held a public hearing on the application and voted unanimously to approve the application.

D. The findings and conclusions attached hereto as Exhibit "A" and by this reference incorporated herein provide a justification for the Board's action of April 7, 1993, including the taking of an exception to Statewide Land Use Planning Goal 14.

E. The attached Exhibit "A" demonstrates that the proposed amendment to the Yamhill County Comprehensive Plan Map and the Official Zoning Map of Yamhill County are in the best interests of the citizens of Yamhill County. NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. The Yamhill County Comprehensive Plan Map is hereby amended as specified in the attached Exhibit "B", made a part of this ordinance by reference, to reflect a plan map designation of "Light Industrial" for the 2 acre portion of Tax Lot 3335-201 identified on Exhibit "B".

Section 2. In adopting the Plan amendment specified in Section 1, the county hereby takes an exception to Statewide Planning Goal 14.

Section 3. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B", to reflect a zoning designation of LI Light/General Industrial on the 2 acre portion of Tax Lot 3335-201 identified on Exhibit "B".

Section 4. The findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this ordinance.

Section 5. The site design review application as submitted is approved subject to the conditions stated on page 11 of Exhibit "A" to this ordinance.

Section 6. 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 21st day of April, 1993.

ATTEST
YAMHILL COUNTY BOARD OF COMMISSIONERS
CHARLES STERN
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS

By: Jaynie Mitchell
Deputy JAYNIE MITCHELL

Debi Owens
Chairman DEBI OWENS

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

(Not Available for Signature)
Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

EXHIBIT "A"
Ordinance 553
Findings for Approval

BOARD HEARING: April 7, 1993

ORDINANCE ADOPTION: April 21, 1993

DOCKET: PAZ-2-93

REQUEST: Comprehensive Plan Map amendment from Agriculture/Forestry Small Holding to Light Industrial and zone change from AF-10 Agriculture/Forestry Small Holding to LI Light/General Industrial on approximately two acres to permit conversion of an unused nut drying facility to a door remanufacturing operation.

APPLICANT: Frank Walker & Associates representing Paragon Distributing

TAX LOT: 3335-201

LOCATION: West of Dundee on the north side of Niederberger Road

FINDINGS:

A. Background Facts

1. **Lot Size:** The tax lot is 7.48 acres, but the request applies to only the two acres identified in Exhibit B. (Note: The original application referred to Tax Lot 3335-200, which was 15.41 acres in total. A partitioning of that tax lot had taken place prior to this application being filed, but no official assessor's number had been assigned to the newly created parcel. As of the date of adoption of this ordinance, the assessor's office has assigned the property containing the subject 2 acres the official county reference number as Tax Lot 3335-201.)
2. **Access:** Niederberger Road, a paved county road
3. **On-Site Land Use:** The two acres currently supports a large structure previously used as a nut dryer. The remainder of the property is planted to filbert orchard. There is one dwelling on the property, on Lot 60.

4. Surrounding Land Use: The surrounding area is generally characterized by farm use with rural residential use interspersed. The predominant crop is filberts. There is a rock crusher on the property to the west. There is one off-site dwelling within 500 feet of the existing building, and three within 1000 feet. The Dundee city limits are 300 feet east of the tax lot, 900 feet from the zone-change area, and 1000 feet from the existing nut dryer structure; there is an urban neighborhood in this nearest incorporated area.
5. Surrounding Zoning: All surrounding land is zoned AF-10 except the rock crusher, which is zoned HI Heavy Industrial.
6. Water: The dwelling has Dundee city water.
7. Sewage Disposal: An on-site subsurface system is the only option available.
9. Fire Protection: Dundee Rural Fire District
10. Taxes: Farm deferral
11. Explanation of Proposed Development: The request is to relocate an existing door remanufacturing facility. The operation includes finishing pre-manufactured doors and molding, and hanging the doors on the casing. The finished product is marketed to mobile home manufacturers. The existing facility employs 10 people.
12. Previous Actions: Docket PA-1-90, a request to amend the Dundee Urban Growth Boundary to include this tax lot and the adjacent lot to the east. The request was withdrawn prior to a decision.

B. Zone Change Provisions and Analysis

1. The subject request is for amendment to the Comprehensive Plan map and official zoning map. The Plan amendment portion of the request does not require an exception to the statewide Goals 3 and 4 because the property is already in an exception area. However, an exception to Goal 14, "Urbanization," is required (see Findings C.1 through C.4).
2. The zone change portion of the subject request must comply with the standards and criteria in 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.

Criterion (a) is addressed in Findings B.3 through B.5, while the other criteria are addressed in Findings B.6 through B.9, respectively.

3. Regarding Comprehensive Plan goals and policies, staff has identified several that may be applicable. The "industrial development goal" (Section I.H in Plan) is:

To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.

In Policy 1.b under this goal states:

To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those

industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

Regarding the Goal above, the service needs of the proposed use have been characterized by the applicant as minimal. Water use will be minor, and therefore sewage disposal needs are not significant. The applicant believes Niederberger Road is suitable for the traffic created by the requested use. The applicant has stated there are no available sites within the Dundee Urban Growth Boundary (UGB), and, due to expense, moving the operation to Newberg or McMinnville is not reasonable. The other aspects of the Goal do not appear to apply.

Regarding Policy 1.b, industrial uses are encouraged, but not required, to be inside UGBs. The letter of objection (Exhibit C) states the belief that the request is not in compliance with a policy very similar to this one. The Plan still does not require that all industrial or urban uses be located within UGBs. The applicant has performed an inventory of available industrial sites and determined none are suitable (Exhibit A, page 5, at H and I). The objector further contends that the proper course of action would be to put the parcel inside the UGB, but getting the proposed site into the Dundee UGB is not possible because it is not adjacent to the existing boundary.

Regarding utility lines, the applicant stated that electricity is provided to the rock crusher now, and can be obtained at the subject site. The application indicates water is available from the city of Dundee. Utilities appear to be adequate to serve the development.

4. Industrial Policy 1.e states:

Industrial uses will be located so that adequate buffer space is provided between incompatible uses.

The existing building is over 900 feet from the city limits, and it is buffered by orchard. Compatibility with the rock crusher should not be a problem. There is one dwelling directly across Niederberger Road, about 300 feet away. This should provide adequate buffering.

5. Industrial Policy 1.h is:

Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation and full urban services are extended into the area, if appropriate, and the extension or designation of land use and services is consistent with all other goals and policies of the comprehensive plan.

Full urban services are not needed in this case, and would not be appropriate. An road, which is already used by truck traffic, fronts the property. Regarding "development trends," industrial areas within Dundee have all been occupied, according to the applicant. No other land use changes have been identified.

6. Regarding criterion (b), the applicants concentrated on the availability and suitability of other lands zoned Light Industrial. They concluded that there are no appropriate sites with the LI designation, so the zone change is required. Regarding the economy of the area, the facility employs 10 people.
7. Regarding whether the use is appropriate (criterion (c)), the site is between a heavy industrial use and an urban residential area. The applicants believe the request would provide a proper buffer between the two, and point out the industrial history of the subject site (Exhibit A, page 3, at C). Utilities and services appear to be adequate for the proposed use (see Finding B.3). No objections to the request have been received from neighboring property owners at the time of this report.
8. Regarding criterion (d), only one other site in the Dundee area zoned LI that is not currently occupied by an industrial or commercial use has been identified by the applicant. Staff knows of no other alternatives. The applicant has presented reasons that, due to the traffic pattern required if this site is used, it is unsuitable for their operation (Exhibit A, page 5).
9. Regarding criterion (e), the OAR requirements are addressed in Section C of this report. An exception to Goal 3 is not required because the site is already in an exception area.

C. Oregon Administrative Rule Requirements

1. Statewide Goal 14, "Urbanization," is, "To provide for an orderly and efficient transition from rural to urban land use." In order for the county to approve the zone change,

there must either be a finding that the request is not for an urban use, or an exception to Goal 14 is justified. The applicant states that it is an urban use (Exhibit A, page 6, at K). Goal 14 exceptions are the regulated by OAR 660-14-040 (3). This rule states that to approve an exception to Goal 14 the county must show:

- (a) That Goal 2, Parts II(c)(1) and (c)(2) are met by showing the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or an intensification of development in existing rural centers;
- (b) That Goal 2, Part II(c)(3) is met by showing the long-term environmental, economic, social, and energy (EESE) consequences resulting from urban development at the proposed site with measures to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:
 - (A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and
 - (B) Whether urban development is limited by the air, water, energy, and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy, and land resources of the surrounding area.
- (c) That Goal 2, Part II(c)(4) is met by showing the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:
 - (A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services, and
 - (B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.
- (d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner;

Each of these are considered respectively in the following findings.

2. Regarding (a), the applicant has presented evidence that the proposed use cannot be reasonably located in an existing UGB, and that the Dundee UGB cannot reasonably be expanded to include the site (see Finding B.3).
3. The EESE consequences of the proposed use were addressed in a supplemental submittal by the applicant which examined alternative sites and evaluated relative EESE impacts of alternative sites. Regarding (b)(A), the amount of land included in the request is the smallest unit that will accommodate the use. Regarding (b)(B), no limitations on the use by listed factors have been identified. The only listed resource the use will have a potential effect on is the land, and waste disposal will need to be approved by the county sanitarian, so impacts should not be significant.
4. Regarding (c), compatibility is addressed in Findings B.4 and B.7. The use should be compatible with surrounding uses. Concerning criteria (c)(A) and (d), city services will not be required beyond that already existing, according to the applicant. Concerning (c)(B), the applicant stated that not only will surrounding resource management be unaffected, farming on the subject parcel will continue. The letter of objection (Exhibit C) stated that preservation of farm and forest lands is not assured by this zone change. The area is, however, already zoned for rural residential use.
5. OAR 660, Division 12, is the "Transportation Planning Rule." Certain land-use actions are subject to provisions of the rule. OAR 660-12-060 states:
 - (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 planned function, capacity and level of service of the transportation facility;
 - (b) Amending the TSP 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.
- (3) Determinations under subsection (1) and (2) of this section shall be coordinated with affected transportation facility and service providers and other affected local governments.

The Board finds that there is no significant change on the impact on traffic on Highway 99W from the existing operation located within the City of Dundee to the transfer of the operation to the proposed site. Therefore, the Board finds that the transportation rule does not apply to this request.

D. Other Ordinance Provisions

1. The proposed use is not specifically listed as a permitted or conditional use in the zone (Exhibit D). Section 702.04 states that uses that are similar to those listed may be permitted subject to YCZO Section 1206. Subsection 1206.02 provides the review criteria as follows:
 - (a) The use is consistent with the purpose and scope set forth in subsection 1206.01 and with the purpose of the underlying zoning district; and
 - (b) The use conforms with the applicable standards and limitations of the underlying zoning district.

These criteria are addressed in Findings D.2 and D.3.

2. The purpose statement in subsection 1206.01 states:

The purpose of this Section is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein....

This subsection goes on to list the zones in which similar uses may be authorized, and the LI zone is listed.

The purpose statement of the LI zone is in subsection 702.01 (Exhibit D, page 1)

YCZO Subsection 702.02(A) permits:

Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors. (emphasis added)

The proposed use would manufacture a component for mobile homes - doors. This use is of a smaller scale than the listed permitted use, and could reasonably be considered of a similar character. No conflict with Subsection 1206.01 is apparent. The purpose of the LI zone includes a compatibility requirement, which was addressed earlier in this report. Compatibility was not found to be a significant concern. Subsection 702.01 also requires site design review. The request appears to be consistent with the purpose of the LI zone.

4. Regarding (b), site design review will ensure compatibility with the standards and limitations of the LI zone.
5. Site Design Review is addressed in Section 1101 of the zoning ordinance. The evaluation require consideration of the following:
 - (a) Characteristics of adjoining and surrounding uses;
 - (b) Costs of development of the proposed use;
 - (c) Traffic safety, internal circulation and parking;
 - (d) Provision for adequate noise and/or visual buffering from incompatible uses;
 - (e) Retention of existing natural features on site; and
 - (f) Problems that may arise due to development within potential hazard areas.

- (g) Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

Since the building already exists on the site, these considerations will be limited to required modifications. The site design review considerations can be effectively dealt with through conditions stated below. These should address parking, internal circulation, and landscaping.

Characteristics of the area have been addressed in earlier sections of this report, and major concerns have not been raised. Landscaping should insure aesthetic compatibility. Noise has not been characterized by the applicant as minimal. No natural features requiring retention have been identified. No natural hazards have been identified on the site. No comments from adjacent or vicinity property owners have been received.

CONCLUSIONS FOR APPROVAL:

1. The request is consistent with the Yamhill County Comprehensive Plan industrial development goal because the area already supports industrial use, land is not available within the Dundee Urban Growth Boundary, public services and facilities will not be adversely affected, and the use is compatible with surrounding uses.
2. There is a need for the zoning because there is no available (undeveloped) land appropriately zoned suitable for the use. Costs of relocating make placement of the operation urban areas other than Dundee unreasonable.
3. The proposed change is appropriate considering surrounding land uses and service needs.
4. Other lands in the county already zoned LI are either not available or are not as well suited due to location and traffic flow problems.
5. The site has a history of industrial use.
6. The request is consistent with Statewide Planning Goal 14 because:
 - (a) The existing UGB cannot be expanded to accommodate the site and suitable sites inside the UGB are not available.

- (b) The long-term consequences of the change are not more adverse than would result from the same proposal on other land.
 - (c) The use is compatible with adjacent uses.
 - (d) The appropriate level of public facilities and services are available to the site.
7. The proposed use is similar to a use permitted in the LI zone and the request complies with the criteria in subsection 1206 of the *Yamhill County Zoning Ordinance*.

DECISION:

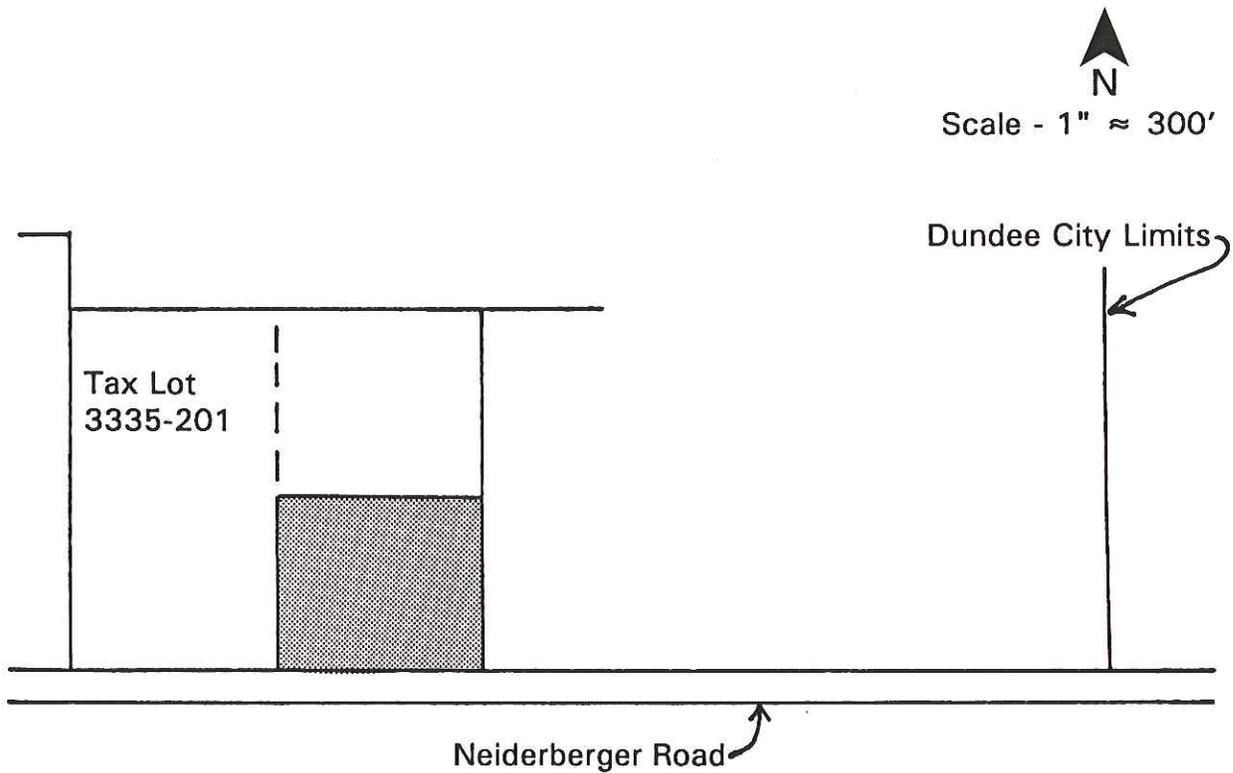
The application for a plan amendment and zone change as specified on page one of these findings for approval is APPROVED. Site design as submitted by the applicant is APPROVED, subject to the following conditions:

- 1. The final site development plan shall be submitted to the Planning Director and approved prior to issuance of a building permit for remodeling the existing building
- 2. The facility shall be provided with a minimum of 14 parking spaces.
- 3. The final site plan shall indicate internal traffic circulation, including space for on-site maneuvering so that vehicles are not required to back onto or from the county road.
- 4. The road approach shall be approved by the County Public Works Department.
- 5. The building shall be approved for change of use by the County Building Official.
- 6. An on-site subsurface sewage disposal system shall be approved by the County Sanitarian.
- 7. A landscaping plan consistent with Subsection 1010.01.C of the *Yamhill County Zoning Ordinance* shall be submitted to and approved by the Planning Director prior to building occupancy. The landscaping shall be installed during the first appropriate planting season following approval.
- 8. All signs shall be depicted on the final site plan, and they shall comply with all requirements of Section 1006 of the *Yamhill County Zoning Ordinance*.

EXHIBIT "B" FOR ORDINANCE 553

COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT

TO CHANGE THE COMPREHENSIVE PLAN
MAP DESIGNATION FROM
"AGRICULTURE/FORESTRY SMALL HOLDING"
TO "LIGHT INDUSTRIAL" AND THE ZONE FROM
AF-10 AGRICULTURE/FORESTRY SMALL HOLDING
TO LI LIGHT INDUSTRIAL



Shaded area only is subject to amendment

Map prepared by Yamhill County Department of Planning and Development