

FILED
YAMHILL COUNTY, OREGON
1991 APR -3 PM 3:30
CHARLES STERN
COUNTY CLERK

INDEXED IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

91-201

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)	
Amending the Zone Map of the)	
Yamhill County Zoning Ordinance,)	
No. 310, 1982, as Amended, to)	
Change the Zone Map Designation)	ORDINANCE 521
from AF-20/EF-40 Mix to AF-20)	
in its Entirety on Tax Lot 3334-)	
600, Applicant Judith Wolhaupter,)	
Docket Z-2-91, and Declaring an)	
Emergency)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in regular session on April 3, 1991, Commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

WHEREAS, Judith A. Wolhaupter has applied to the Department of Planning and Development to change the zone map designation from a mixture of AF-20/EF-40 to AF-20 in its entirety on Tax Lot 3334-600, a 20.8 acre parcel located approximately one mile west of the City of Dundee on the west side of Niederberger Road; and

WHEREAS, the subject parcel has a comprehensive plan map designation of Agriculture/Forestry-Large Holding sufficient to allow a zone map designation of either EF-40 or AF-20; and

WHEREAS, on March 7, 1991 the Yamhill County Planning Commission held a public hearing on the application and voted unanimously to approve the zone change as requested; and

WHEREAS, the Yamhill County Zoning Ordinance provides that a decision of the Planning Commission the change the zone map designation is final if no appeal is taken to the Board of Commissioners within fifteen days of the Planning Commission's decision; and

WHEREAS, no appeal of the Planning Commission's decision to approve the application has been filed and adoption of this ordinance will constitute a final land use decision by the county to approve the application; and

WHEREAS, on April 3, 1991 the Board considered the adoption of this ordinance to implement the Planning Commission's decision in accordance with the Yamhill County Zoning Ordinance; and

WHEREAS, the Board finds that the application should be approved for the reasons set forth in the attached Exhibit "A"; NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Based on the finding for approval set forth in Exhibit "A", which is incorporated into this ordinance by reference, the official zoning map of the Yamhill County Zoning Ordinance, No. 310, as amended, is hereby amended to designate the zoning on Tax Lot 3334-600 as AF-20 in its entirety, as set forth on the attached map labeled Exhibit "B".

Section 2. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective upon passage.

DONE at McMinnville, Oregon this 3rd day of April, 1991.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk


Chairman DENNIS L. GOECKS

By: 
Deputy ELAINE PEARCEY


Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:


JOHN M. GRAY, JR.
Yamhill County Counsel


Commissioner DEBI OWENS

ORDINANCE 521
Exhibit "A"

Findings for Approval

Date of Planning Commission Hearing: March 7, 1991
Date of Board of Commissioners' Adoption: April 3, 1991

DOCKET: Z-2-91

APPLICANT: Judith A. Wolhaupter

REQUEST: For a zone change from a mixture of AF-20 and EF-40 to all AF-20.

TAX LOT #: 3334-600

LOCATION: Approximately one mile west of the city of Dundee on the west side of Niederberger Road.

ZONING DESIGNATION: AF-20 Agriculture/Forestry and EF-40 Exclusive Farm Use

FINDINGS:

A. Background Facts

1. Lot Size: 20.8 acres
2. Access: Niederberger Road
3. On-site land use: Most of the property is currently covered by an orchard that has not been managed for at least two years. The northeast corner and the west end of the property are wooded. The orchard is zoned EF-40, and the woods are zoned AF-20 (see Exhibit B). The property is in an area commonly referred to as the Red Hills, and is moderately to severely sloped to the northeast. The elevation of the property ranges from just over 200 feet above sea level at Niederberger Road to approximately 450 feet at the west end.
4. Surrounding land use: The property around the perimeter of the parcel is wooded, except a portion of the south side, which has an orchard under separate ownership. The larger vicinity is characterized by a mix of woodlots and agriculture. The crops in the area include, orchards, grapes, and field crops. There is a large gravel operation approximately one-quarter mile to the northwest. There are ten dwellings within one-half mile of the site that rely on Niederberger Road for access, and one other nearby that uses

Trunk Road. Three of these are on parcels smaller than 20 acres.

5. Surrounding zoning: The property is surrounded on all sides by AF-20, except a small area along the east end of the south border, which is zoned EF-40.
6. Soils: Sheet 21 of the Yamhill County Soil Survey indicates the soil types on the subject property are Jory clay loams with the following characteristics:

Slope: 2-7%	Ag Class: II	Forest Class: --	Amount: 25%
7-12%	II	3	15%
12-20%	III	3	25%
30-60%	VI	3	30%

In addition, about five percent of the property is Nekia clay loam with 7 to 20 percent slope, which is Class III soil.

7. Comprehensive Plan Designation: The subject property has a Comprehensive Plan designation of Agricultural/Forestry Large Holding (AFLH).
8. The impact of the proposed zone change on the dwelling density in the area would be a potential increase of one dwelling.
9. The information supplied with the application indicates the reason for the request is so that one dwelling could potentially be placed on the property. The dwelling would be for the manager of the orchard.

B. Ordinance Provisions and Analysis

1. The decision is based upon consideration of the zone change criteria set forth in Section 1208.02 of the Yamhill County Zoning Ordinance (YCZO). The specific review criteria are 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 of 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 uses 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 (OAR's) for exceptions, if applicable.

The criteria are addressed in Findings 2 through 5, below.

2. Regarding criterion (a) above, the property is Plan designated Agricultural/Forestry Large Holding (AFLH). This designation was established to preserve farmland for farm use, so all agricultural goals and policies would apply. Section II, Goal 1, directs the county:

To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

Following this Goal is Policy A:

Yamhill County will provide for the preservation of farm lands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various public financial incentives.

These goals and policies encourage farm uses in the farm area. As indicated in Finding A.3, the property presently is in orchard use. The applicant has stated the use would continue, and that the orchard would in fact be better managed with a resident on the site. This may very well be the case, although that factor is more relevant at the time a dwelling is requested. The AF-20 designation would, however, also protect the farm use of the land, so the

request appears to comply with the Comprehensive Plan.

The purpose statement of the Agricultural/Forestry zoning district (YCZO Section 403.01) describes the land in this zone as being "...primarily foothill and ridgetop holdings above the flat terrace and valley floor commercial agricultural areas, and below the contiguous timberlands of the Coast Range." As indicated in the Background Facts, the property slopes in areas over 30 percent and the elevation is between 200 and 450 feet above mean sea level. Both the elevation and slope are indicative of the foothills, which is consistent with the intent of the AF-20 zone.

3. Regarding criterion (b) and (d) above, the language of the requirements indicates they primarily apply to zone change requests that would result in a substantially different type of permitted use, such as from residential to commercial. In this case, the request is from one farm zone to another, so the types of uses allowed are not significantly different. The only difference would be whether the parcel would be eligible for a dwelling in conjunction with the existing farm use, so the need issue is not really relevant.

The high per-acre value of the existing type of crop and intensity of use, coupled with the unique characteristics of the parcel, make it suitable for the AF-20 zoning designation. That is, a 20 acre parcel with this crop can be considered a commercial agricultural operation.

4. Regarding criterion (c) above, as noted in Finding A.4, surrounding lands are in a mixture of farm and forest uses, with a few scattered rural residential lots. The subject parcel has an existing orchard use, which is in character with other farm uses in the area. The applicant has stated that she would likely apply to construct one dwelling on the parcel. One additional dwelling would not create a significant burden on the existing services in the area.
5. Regarding criterion (e) above the request does not need an exception, and none is proposed. Therefore criterion (e) does not apply to this request.

CONCLUSIONS:

1. The request is for a zone change from EF-40 to AF-20 for a portion of a 20.8-acre parcel.
2. The request is in conformance with the goals and policies of the Comprehensive Plan.

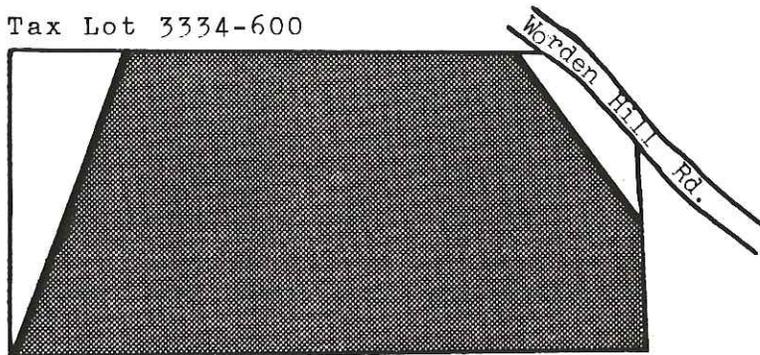
3. The request is consistent with the Comprehensive Plan map designation.
- 4 The proposed use is in character with surrounding land uses.
- 5 Utilities and services are available to the parcel.
- 6 The request complies with the quasi-judicial zone change standards in Section 1208.02 of the Yamhill County Zoning Ordinance.

Ordinance 521 Findings for Approval (Z-2-91)

EXHIBIT B - ORDINANCE 521
ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
APRIL 3, 1991

TO CHANGE THE OFFICIAL ZONING MAP
FROM EF-40 to AF-20

Tax Lot 3334-600



Scale 1" = 400'

Change applies to the shaded portion only

Map prepared by the Planning Department