

INDEXED

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

91-246

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)
from EF-40 to VLDR-2½ on Tax Lot)
3404-200, Applicant Bob G. Smith,)
Planning Docket Z-3-91, and)
Declaring an Emergency)

ORDINANCE 523

FILED
YAMHILL COUNTY, OREGON
MAY -2 PM 12:55
CHARLES STEIN
COUNTY CLERK

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in regular session on May 1, 1991, Commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

WHEREAS, Bob G. Smith has applied to the Department of Planning and Development to change the zone map designation from EF-40 to VLDR-2½ on Tax Lot 3404-200, a 29.3 acre parcel located between Highways 240 and 47, and bounded by the city limits of the City of Yamhill to the west and Stiller Mill Road to the east; and

WHEREAS, the subject parcel has a comprehensive plan map designation of Very Low Density Residential; and

WHEREAS, on April 4, 1991, the Yamhill County Planning Commission considered and approved the zone change request; and

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

WHEREAS, no appeal by affected parties 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 May 1, 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 findings 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 3404-200 as VLDR-2½ 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 1st day of May, 1991.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



Dennis L. Goecks

Chairman

DENNIS L. GOECKS
Date: 5/1/91

By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

Ted Lopuszynski

Commissioner

TED LOPUSZYNSKI
Date: 5-1-91

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Debi A. Owens

Commissioner

DEBI OWENS
Date: 5/1/91

pbsmith.wod

Exhibit "A"
ORDINANCE 523

Findings for Approval

Date of Board of Commissioners' Adoption: May 2, 1991

Date of Planning Commission Hearing: April 4, 1991

DOCKET: Z-3-91

APPLICANT: Bob G. Smith

REQUEST: To change the zone map designation on a 29.3-acre parcel from EF-40 to VLDR-2 1/2.

COMPREHENSIVE PLAN DESIGNATION: Very Low Density Residential

TAX LOT: 3404-200

LOCATION: Bounded by Stiller Mill Road on the east, Yamhill city limits on the west, and between Highways 240 and 47.

FINDINGS:

A. Background Facts

1. Lot Size: 29.3 acres
2. Access: The property fronts on State Highway 47 and Stiller Mill Road, a paved county road. Cedar, Balm, A, and B Streets in Yamhill dead-end at the subject property in the southwest portion.
3. On-site Land Use: About 10 acres of the property, is under cultivation and the balance is grazed. It appears the westernmost 10 acres is that cultivated. There is one agricultural building on the property. Yamhill Creek enters the property on the north end and divides approximately one-third of the property on the northeast from the remainder of the property.
4. Surrounding Land Use: The area to the east across Stiller Mill Road is devoted to agriculture. Directly west of the property is in the city, but much of the land is farmed. To the north, the parcels on the east side of Highway 47 are in residential use while the land on the west side is farmed. The area to the south is predominantly in residential use.

5. Surrounding Zoning: North, EF-40 and VLDR-2 1/2; south, EF-40 and city zoning; east, EF-40; west, city zoning.
6. Soils: According to the Soil Survey of Yamhill County, sheet 14, the soils on the west side of the creek are Woodburn silt loam, which have an agricultural capability Class II. The creek floodplain has Wapato silty clay loam, which is Class III. East of the creek is Woodburn again, but a portion of it is steeper (12 to 20% slopes), and is Class III.
7. Water: Lundville Water District.
8. Sewage Disposal: On-site subsurface systems would be required for development.
9. Fire Protection: Yamhill RFD.
10. Taxes: Farm deferral.

B. Ordinance Provisions and Analysis

1. Section 1208.02 of the Yamhill County Zoning Ordinance provides criteria for quasi-judicial review of requests for zone boundary amendments. These criteria are:
 - (a) The proposed change is consistent with the goals, policies, and other applicable provisions of the Comprehensive Plan;
 - (b) 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) 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 be needed by the anticipated uses in the proposed district;
 - (d) The 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) The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.

2. Regarding the first approval criterion, the property is within an existing exception area. The proposed VLDR-2 1/2 zoning designation is consistent with the Comprehensive Plan map.

Regarding Comprehensive Plan goals and policies, Goal II.A.1 is to conserve the county's farm lands for the production of crops and livestock. The subject property is currently being used for grazing and cultivated agriculture. This property has been judged irrevocably committed to nonresource use due to its proximity to the city, other rural residential development, and existing services.

Plan Policy I.B.1.c states all proposed rural area development and facilities:

- (a) shall be appropriately, if not uniquely, suited to the area or site proposed for the development;
- (b) shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or sub-surface sewage disposal, if relevant;
- (c) shall be furnished with adequate access and an adequate individual or community water supply, if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that Federal or State aid is available in the form of subsidized water supply or sewerage extensions from nearby urban centers.

The request does not appear to have a conflict with this policy, except there is a natural hazard, a 100-year floodplain, on the property. It has this in common with several other parcels in the exception area, however. The property is served with adequate access and water. Besides the floodplain area, the site appears to be appropriate for the proposed use.

3. Regarding criterion (b) above, the applicant has indicated there is a demand for small acreage tracts that allow dwellings and small-scale farm use. It is implied that the demand for such land exceeds the current supply, and that zoning accounts for the lack of supply.

The property is within the Yamhill exception area. There currently is 14 acres in this area zoned VLDR-2 1/2, and there are 10 parcels in that 14 acres. All 10 parcels are already developed with dwellings.

Other rural residential exception areas near Yamhill are at Cove Orchard and the Yamhill Orchard Tracts southeast of the city. A study of exception area development completed by the Planning Department in 1990 indicated these two areas are also nearly at the limit of the number of dwellings the zoning will permit. It appears that the area around Yamhill does not have an ample supply of available rural residential lots.

4. Regarding criterion (c) above, the land surrounding the subject is a mix of residential and agricultural uses. In view of the residential zoning to the north and the city limits to the west, the request appears to be appropriate considering the pattern and density of development in the area.

Public facilities necessary for residential development are available to the site (see Findings A.2, A.7, and A.9). The Woodburn soils on the property are considered generally suitable for on-site sewage disposal systems.

5. The findings in Section B.3 of this report apply to criterion (d) as well. Only the exception areas around Yamhill were considered, so the locational aspect of criterion (d) has been addressed.
6. Regarding criterion (e), the requested zone change is within an existing exception area, so it does not require an exception under Oregon Administrative Rule (OAR) 660-04-020. OAR 66-04-018 still applies to zoning in exception areas, however.

OAR 660-04-018(1) states that because an area has been excepted from one goal, a jurisdiction is not relieved from the requirements of other goals. The only goal identified by staff that could be construed as relevant is Goal 14, "Urbanization." The proposed zoning designation would allow a maximum density of one dwelling per 2 1/2 acres, and permitted uses are all of a rural nature. The actual density of the site is likely to be lower due to the existence of the flood hazard area.

OAR 660-04-018(2) indicates uses of land in developed and committed exception areas shall be limited to:

- (a) Uses which are the same as the existing types of land use on the exception site; or
- (b) Rural uses which meet the following requirements:

- (A) The rural uses are consistent with all other applicable Goal requirements; and
- (B) The rural uses will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-04-028; and
- (C) The rural uses are compatible with adjacent or nearby resource uses.

The Yamhill exception area was justified based on physical development and irrevocable commitment to nonresource use. The primary new use the proposed zone will allow is more dense residential development. This is consistent with the other lands in the exception area, so it complies with subsection (a) above.

CONCLUSIONS:

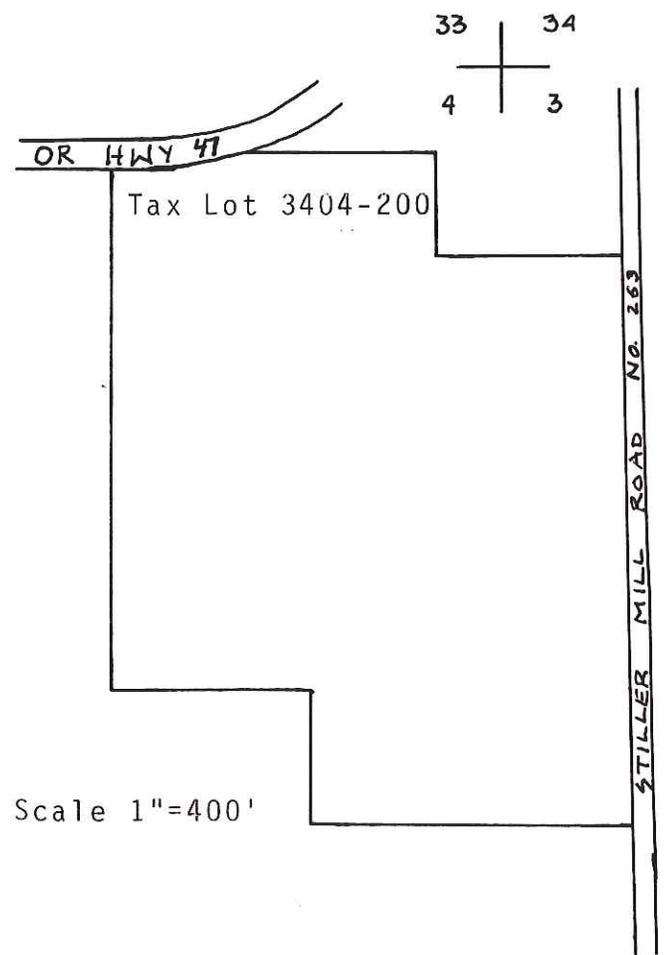
1. The request is consistent with the goals and policies of the Comprehensive Plan and the Comprehensive Plan map.
2. There is a demonstrable need for additional land zoned for rural residential use in the vicinity of Yamhill.
3. The proposed change is appropriate for the area because uses and densities allowed in the VLDR-2 1/2 zone are in character with the surrounding area, and necessary public services and utilities are available to the site.
4. The request complies with the standards for quasi-judicial zone changes in Section 1208.02 of the Yamhill County Zoning Ordinance, and with the Oregon Administrative Rules for zoning of exception areas.

DECISION:

Based on the above findings, analysis, and conclusions, the Board concludes the request by Bob G. Smith for a zone change from EF-40 to VLDR-2 1/2 for tax lot 3404-200 is appropriate.

EXHIBIT B - ORDINANCE 523
ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
MAY 1, 1991

TO CHANGE THE OFFICIAL ZONING MAP
FROM EF-40 to VLDR-2½



Map prepared by the Yamhill Co. Planning Dept.