

file

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

91-751

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance )  
 Amending the Yamhill County )  
 Comprehensive Plan and Plan )  
 Map (1974) to Change the )  
 Designation on Approximately Two )  
 Acres Known as Tax Lot 3335-2400 )  
 From Agricultural/Forestry Large )  
 Holding To Very Low Density )  
 Residential and Amending the )  
 Zone Map Designation from EF-40 )  
 to VLDR-1 as requested by Ralph )  
 Dunford, and Declaring an )  
 Emergency. )

ORDINANCE NO. 528

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on Wednesday, October 30, 1991 at 10:00 a.m. in Room 32 of the County Courthouse, Commissioners Dennis Goecks, Ted Lopuszynski, and Debi Owens being present.

WHEREAS, on June 10, 1991, Ralph Dunford ("Applicant") applied to the Department of Planning and Development to change the Comprehensive Plan designation from Agricultural/Forestry Large Holding ("AFLH") to Very Low Density Residential ("VLDR") and to change the zone map designation from EF-40 to VLDR-1 on a two acre parcel known as Tax lot 3335-2400; and

WHEREAS, on September 5, 1991, the Yamhill County Planning Commission held a public hearing on the application and voted unanimously to recommend to the Board that the comprehensive plan and the plan map, and official zoning map be amended as requested; and,

WHEREAS, on October 2, 1991, the Board held a public hearing on the application; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A" and by this reference incorporated herein provide a justification for approval of the application, including the taking of an exception to State Wide Land Use Planning Goal 3; and

WHEREAS, the attached Exhibit "A" demonstrates that the proposed amendment to the Yamhill county Comprehensive Plan and Plan Map and the Official Zoning Map of Yamhill county are in the best interests of the citizens of Yamhill County; Now Therefore,

ORDINANCE 528

EXHIBIT "A"

DOCKET: PAZ-3-91

APPLICANT: Ralph Dunford

REQUEST: Comprehensive Plan map amendment to change the designation from Agricultural/Forestry Large Holding to Very Low Density Residential and zone change from EF-40 to VLDR-1.

TAX LOT: 3335-2400

LOCATION: Approximately one-quarter mile south of Dundee at 21020 Highway 99W.

FINDINGS

A. BACKGROUND FACTS

1. On September 5, 1991 the Yamhill County Planning Commission approved a zone change from EF-40 to VLDR-1 for the subject tax lot and recommended approval of a Comprehensive Plan amendment from AFLH to VLDR on the subject tax lot. Because Comprehensive Plan Amendments must be approved by the Board of Commissioners, both the Comprehensive Plan amendment and the zone change came before the Board.
2. Lot Size: 2 acres. The parcel was created by a cultural feature division and partitioning, Dockets C-46-87 and P-50-87.
3. Access: Highway 99W, a state highway.
4. On-Site Land Use: Presently the parcel has one dwelling and one metal pole building, a second mobile home has been moved to and approved for storage on the property under Docket TS-15-91. There does not appear to be any activity other than the rural residential use. The parcel is bordered on the west by Highway 99W and to the east by railroad tracks. The property slopes steeply to the south to Hess Creek.
5. Surrounding Land Use: Property to the north and west is in rural residential use. Property to the south and east is in farm use that includes orchards, pastures and grain crops.
6. Surrounding Zoning: Adjacent property to the north is zoned VLDR-1 Very Low Density Residential. Property to the west, across Highway 99W, is zoned AF-10 Agriculture/Forestry Small Holding.

exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Exception Requirements for Land Irrevocably Committed to Other Uses. 660-04-028(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

- (a) The characteristics of the exception area;
- (b) The characteristics of the adjacent lands;
- (c) The relationship between the exception area and the lands adjacent to it; and
- (d) The other relevant factors set forth in OAR 660-04-028(6).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource-

(B) Existing parcel size and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area.

(f) Physical development according to OAR 660-04-025; and

(g) Other relevant factors.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph."

These factors are considered in finding 4 below.

4.0 A study area has been identified for purposes of this analysis. The area studied as being physically developed and/or irrevocably committed is outlined on the map in Exhibit C. The area is a corridor extending from the city limits of Dundee on the north to Hess Creek on the south. The corridor is bounded to the west by Highway 99W and to the east by the railroad line. The southeast end of the study area slopes off steeply to Hess Creek.

power, and an on-site well. There is no existing sewer. An on-site septic system will need to be installed as a condition to approval of this application.

(c) Parcel size and ownership patterns of the exception area and the adjacent lands as described in paragraph 4 above, consist of the following: the subject two acre parcel which currently has one residential dwelling; the adjacent lands consisting of the small scale farm parcels to the east and south; and the 13 smaller residential parcels to the north and west. The exact parcel sizes and ownerships are reflected on the map attached hereto and incorporated herein at page 11.

(A) The existing pattern came about by the residential area to the north and west being divided and built upon before the goals were adopted and an exception was taken for the low density residential uses (VLDR-1) in Exception Area 1.17 in 1980, using the committed and developed exception process. The subject site was originally part of the larger agricultural tract (Tax Lot 4100, zoned EF-40) and the subject two acre parcel which is still EF-40, was created in 1987 by a cultural feature division and partitioning, Dockets C-46-87 and P-50-87. Thus, the subject parcel was created after the goals.

(B) Existing parcel sizes and contiguous ownerships have been considered together in relation to the land's actual use. The small residential parcels are clustered in a large group and clustered around Highway 99W which serves them.

(d) The neighborhood and regional characteristics reveal that the subject parcel is within only one-quarter of a mile of the city limits of Dundee, and adjacent to the study area consisting of smaller residential lots of less than one acre in size along a major transportation corridor comprised of the railroad and State Highway 99W.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land consist of the railroad line, the highway, and stream gully known as Hess Creek, which separate the subject site from the adjacent small tract farm parcels.

(f) Physical development according to OAR 660-04-025, consists of 13 residential units and two commercial (nonconforming uses) on the 14 parcels in the study area.

(g) Other relevant factors: none.

6.0 The Board finds that there is substantial evidence to support an exception for land physically developed to nonfarm use, in

(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 ("OAR's) for exceptions, if applicable."

2.1 The Board finds that there is substantial evidence that Section 1208.02(A) is satisfied. Regarding Comprehensive Plan goals and policies, Goals II.A.1 and II.A.2 of the Plan test are, respectively:

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

"To conserve Yamhill County's soil resource in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the County Plan map."

2.1.1 The Board finds that there is substantial evidence that Plan Policy II.A.2 is satisfied. The Board finds that it is impractical to consider the soil resource considering the suitability for rural residential use rather than agricultural use and that the subject site already has one home and no agricultural use at present time.

2.1.2 The Board finds that the soil survey indicates that the parcel is divided approximately in half by Class II and VI soils. The former is to be preserved for farm use according to Policy A under Goal II.A.2. An examination of the parcel has indicated, however, that the steepness of the parcel creates practical difficulties with implementing farm use. The size and proximity of nonfarm uses combined with existing development on the better part of the property and dividing cultural features renders the parcel unsuitable for farm use.

