

FILED

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

92-349

FOR THE COUNTY OF YAMHILL 1992 MAY 28 PM 1:19

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS
COUNTY CLERK

In the Matter of an Ordinance)
Amending the Zone Map of the)
Yamhill County Zoning Ordinance,)
as amended, to Change the Zone)
Map Designation from AF-10 to)
VLDR 2.5 on Tax Lot 3219-1400,)
Applicants J.D. and Edith Pierce,)
Docket Z-2-92, Declaring an)
Emergency)

_____ DEPUTY
ORDINANCE 531

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on May 27, 1992, Commissioners Ted Lopuszynski and Dennis L. Goecks being present.

WHEREAS, J.D. and Edith Pierce have applied to the Department of Planning and Development to change the zone map designation on Tax Lot 3219-1400 from AF-10 to VLDR 2.5, the property being located approximately one-quarter mile west of the City of Newberg on the north side of Dayton Avenue; and

WHEREAS, the subject parcel has a comprehensive plan map designation of Very Low Density Residential sufficient to allow a zone map designation of VLDR without a comprehensive plan map amendment; and

WHEREAS, on March 5, 1992 the Yamhill County Planning Commission held a public hearing on the application and unanimously voted to approve the zone change as requested; and

WHEREAS, the decision of the Planning Commission to approve the zone change was appealed to the Board by the City of Newberg; and

WHEREAS, on April 29, 1992 the Board held a public hearing to consider the appeal, and thereafter continued the proceeding in order for the applicant to consider whether to modify the application and for the appellant to consider whether to withdraw the appeal; and

WHEREAS, on May 12, 1992 the City of Newberg withdrew its appeal of the Planning Commission's March 5, 1992 approval of the zone change; and

ORDINANCE 531

Page 1

WHEREAS, the effect of the withdrawl of the appeal was to make the decision of the Planning Commission final subject to enactment of an implementing ordinance by the Board; and

WHEREAS, the Board finds the decision of the Planning Commission is appropriate for the reasons contained in the findings attached as 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 3219-1400, identified on the attached Exhibit "B", as VLDR 2.5.

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 27th day of May, 1992.

ATTEST



CHARLES STERN
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

By: Jaynie Mitchell
Deputy JAYNIE MITCHELL

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

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

Accepted by Yamhill County
Board of Commissioners on
5-27-92 by Board Order
92-349

ORDINANCE 531
Exhibit "A"

FINDINGS FOR APPROVAL

DATE OF
PLANNING
COMMISSION
HEARING:

March 5, 1992

DATE OF
BOARD OF
COMMISSIONERS
HEARING:

April 29, 1992

DATE OF
ADOPTION OF
IMPLEMENTING
ORDINANCE:

May 27, 1992

DOCKET NO.:

Z-02-92

REQUEST:

Zone change from AF-10 Agriculture/Forestry Small Holding to VLDR-2 1/2 Very Low Density Residential in an area plan-designated Very Low Density Residential.

APPLICANT:

J.D. and Edith Pierce

TAX LOT:

3219-1400

LOCATION:

Approximately one-quarter mile west of the City of Newberg on the north side of Dayton Avenue.

FINDINGS FOR APPROVAL:

A. Background Facts

1. Parcel Size: 12.5 acres.
2. Access: Dayton Avenue, a paved county road.
3. On-site Land Use: The property is currently being utilized as a filbert orchard. There is a large hazelnut cleaner/drier and packing facility also present on the subject parcel. The parcel contains one mobile home.
4. Surrounding Land Use: Parcels south of Dayton Avenue are in various stages of development into 2 1/2-acre rural residential subdivisions. There is an old cemetery to the northeast of the subject parcel. There are other small-scale agricultural uses in the vicinity. The parcel is located approximately 1/4 mile west of urban development inside Newberg's city limits.

5. **Surrounding Zoning:** Surrounding parcels are zoned VLDR-2 1/2 and AF-10. The entire area is plan-designated Very Low Density Residential. The cemetery is plan-designated Public and zoned PAI Public Assembly Institutional. The Newberg Urban Growth Boundary and city limits are approximately one-quarter mile east of the site.
6. **Water:** On-site wells. There is no water district currently serving the site.
7. **Sewage Disposal:** On-site subsurface systems.
8. **Other Services:** Electric, telephone, fire suppression, law enforcement, and emergency medical services are all available to the site.

B. Ordinance Provisions and Analysis:

1. Section 1208 of the Yamhill County Zoning Ordinance (YCZO) lists five criteria for review of zone change requests. 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 to 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.

These criteria are addressed in Findings 2 through 6, below.

2. Regarding the Comprehensive Plan, the map designation for the property is Very Low Density Residential, which allows VLDR 2 1/2 zoning. Regarding rural development Plan goals, Goal I.B.1 states:

To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.

In order to attain orderly urban development, the Yamhill County Land Division Ordinance provides the county with the following provision:

If a tract is divided into lots of 20,000 square feet or more, the Director may require an arrangement of lots and streets to permit a later re-division in conformity to the requirements contained in this ordinance. The location of lot lines and other details of the layout shall be such that further division of the parcels may readily take place without interfering with the orderly development of streets. The Director may restrict the placement or location of structures, easements, facilities or other uses that may cause an infringement upon the use or development and improvement of an existing or anticipated street or roadway.

Consequently, any partitioning of the parcel will be required to be arranged so that orderly future urban development is accommodated. "Shadow platting" may be employed to insure adequate access for streets and urban services, so later development costs should not be significantly affected.

3. Regarding the need for the proposed zone change, the substantial evidence exists to support a determination that the property should be rezoned to VLDR-2 1/2. The subject property is within the Newberg-Dundee Exception Area, which encompasses over 800 acres of land. A study in 1990 of the county's exception (rural residential) areas indicated that the portion of the Newberg-Dundee exception area zoned VLDR-2 1/2 was at 66 percent of the maximum number of dwellings allowed, considering density. When considering all the exception areas around Newberg and Dundee with VLDR-2 1/2 zoning (code areas 1.3, 1.4, and 1.10), the zone was over 60 percent full. These percentages would not be the same new because of subsequent zone changes along Dayton Avenue. Other exception areas are in a substantially different location, so were not considered.
4. Regarding Criterion (c) above, the area surrounding the site is currently used for small-acreage agricultural operations, and rural residences. The zoning to the southeast, southwest and north is VLDR-2 1/2. Most of the area around the property, but not adjacent to it, is in parcels five acres or larger, except to the west along Hagey Road and those parcels south of Dayton Avenue that are currently being developed. These properties are typically two to five acres. This neighborhood is within one-quarter mile of the subject property.

Water and sewage disposal facilities will need to be provided on-site. There is some concern about the soil suitability for on-site sewage disposal, but each potential lot would be required to have a favorable evaluation by the County Sanitarian prior to partitioning, so this concern is addressed through a land division application at an indeterminant time in the future. Other services are currently available to the site.
5. The findings in Section B.2 of this report are relevant to Criterion (d) as well. If 2 1/2-acre residential lots are considered a distinct type of use, i.e. not the same as one-acre or five-acre lots, the findings in Section B.2 indicate there is a supply of 2 1/2 acre-zoned land, but the study demonstrated that at least two-thirds of the VLDR 2 1/2 acre property had been developed to maximum density.
6. Regarding Oregon Administrative Rules, Section 660-04-018 applies. That section requires that uses in exception areas justified by physical development and/or irrevocable commitment to nonresource use be limited to the following:

- (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.
- (c) Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.

With respect to (a) above, there is no proposal for any changes of the present use of the land and no additional residences are planned at this time. And if additional residences were proposed in the future, these additional residences will not cause a significant change in the use of the majority of the parcel. Regarding (b) above, the uses allowed in the requested zone are rural. One dwelling per 2 1/2 acres is not an urban density, and an urban level of services is not available to the site. Because the access for the parcel is constrained to Dayton Avenue, and because of topographical barriers from adjacent farmland, the requested zone change will not commit commercial farmland to nonfarm use. No incompatibilities with farm use have been identified.

CONCLUSIONS FOR APPROVAL:

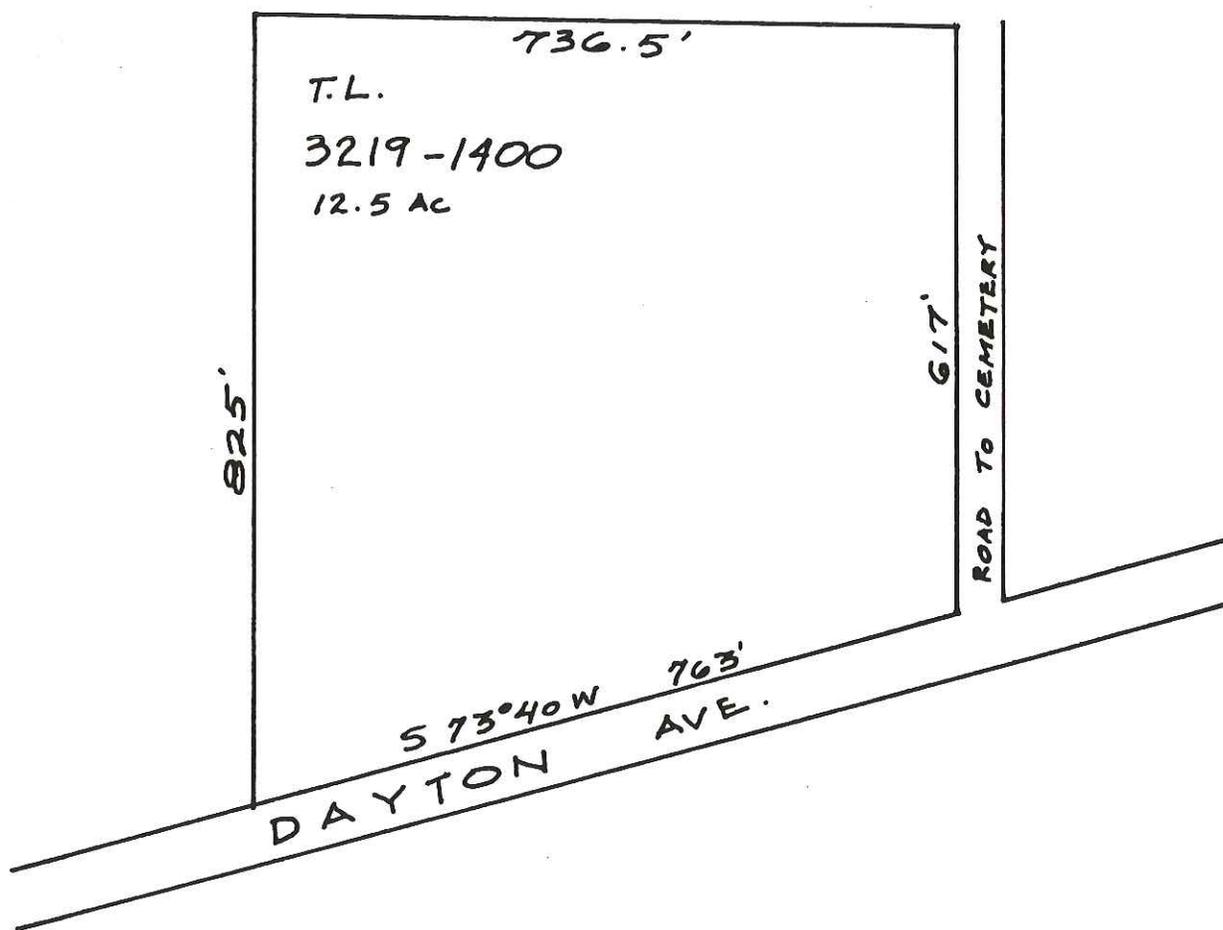
1. The request is consistent with the intent of the goals and policies of the Comprehensive Plan in that approval of the zone change will not compromise urban containment or orderly urban development.
2. The Comprehensive Plan map designation for the property is Very Low Density Residential, and no amendment to the Comprehensive Plan map is required for this zone change.
3. Because of low availability of land suitably zoned for rural residences on parcels approximately two and one-half acres, there is a need for more VLDR-2 1/2 zoning in the county.
4. The area in the vicinity of the request is characterized by small-acreage ownerships with rural public services available. The request is appropriate for the area.
5. Other lands in the vicinity of Newberg and Dundee zoned VLDR-2 1/2 are largely built upon and not available for further rural residential use.
6. The request is consistent with the Oregon Administrative Rules that govern zoning of exception areas.

DECISION:

Based on the above Findings for Approval, the application is granted.

EXHIBIT "B" FOR ORDINANCE NO: 531
ZONE MAP AMENDMENT
ADOPTED BY YAMHILL COUNTY BOARD OF COMMISSIONERS
MAY 27, 1992

TO CHANGE OFFICIAL ZONING MAP
FROM AF-10 TO VLDR-2.5



Note: The drawing is Not to exact scale

Change applies to the entire parcel Tax Lot 3219-1400

Map prepared by Yamhill County Planning Department