

FILED
YAMHILL COUNTY, OREGON

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

1992 APR 17 AM 8:56

92-238

FOR THE COUNTY OF YAMHILL

CHARLES STERN
COUNTY CLERK

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
Amending the Yamhill County)
Comprehensive Plan Map and)
Zoning Map to Change, on Tax)
Lot 3309-2408 and a Portion)
of Tax Lot 3310-302, the Plan Map)
Designation From Agriculture/)
Forestry Large Holding to)
Public, and the Zone Map De-)
signation From EF-40 to PALF;)
Planning Docket PAZ-01-92,)
Applicants Dennis and Nancy)
Sturdevant, and Declaring an)
Emergency)

ORDINANCE 532

DEPUTY

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on April 15, 1992, Commissioners Ted Lopuszynski, Debi Owens, and Dennis L. Goecks being present.

WHEREAS, Dennis and Nancy Sturdevant ("Applicants") have applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Agriculture/Forestry Large Holding to Public and a zone map amendment from EF-40 to PALF on Tax Lot 3309-2408 and a portion of Tax Lot 3310-302; and

WHEREAS, on March 5, 1992 the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted unanimously to recommend to the Board that the Comprehensive Plan Map and Official Zoning Map be amended to grant the application; and

WHEREAS, on April 1, 1992 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 the approval of the application, including the taking of an exception to Statewide Land Use Planning Goal 3; and

WHEREAS, the attached Exhibit "A" demonstrate 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 "Public" for Tax Lot 3300-2408 and the shaded portion of Tax Lot 3310-302.

Section 2. In adopting the Plan amendment specified in Section 1, the county hereby takes an exception to Statewide Planning Goal 3.

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 PALF on Tax Lot 3309-2408 and the shaded portion of Tax Lot 3310-302.

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

Section 5. 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 15th day of April, 1992.



YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

By: Jaynie Mitchell
Deputy JAYNIE MITCHELL

Debi Owens
Commissioner DEBI OWENS

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

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

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ORDINANCE 532
Exhibit "A"
Findings for Approval

**DATE OF APPROVAL
BY PLANNING
COMMISSION:** March 5, 1992

**DATE OF PRELIM-
INARY APPROVAL
BY BOARD OF
COMMISSIONERS:** April 1, 1992

**DATE OF ADOPTION
OF IMPLEMENTING
ORDINANCE AND
FINAL DECISION:** April 15, 1992

DOCKET: PAZ-01-92

APPLICANT: Dennis and Nancy Sturdevant

REQUEST: A Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Public, and a zone change from EF-40 Exclusive Farm Use to PALF Public Airports/Landing Fields District.

TAX LOT: 3309-2408 and a portion of 3310-302

LOCATION: Approximately 3.5 miles west of the City of Newberg on the east side of Dopp Road.

A: Background Facts

1. **Property size:** The total area affected by the zone change is approximately 7 acres.
2. **Access:** Dopp Road, a county road.
3. **On-site Land Use:** The two acre property identified by tax lot 3309-2408 has an existing metal pole building that measures approximately 70'x70'. This building has an existing concrete slab in the front and is used as an aircraft hangar. The remaining five acres of the requested zone change is a portion of tax lot 3310-302. This parcel includes a portion of the existing runway, and the remainder appears to have been used during the past year for growing a grass or grain crop.

4. **Surrounding Land Use:** The uses in the area include a grade school, rural residences, and large and small-scale agriculture. The Ewing Young grade school is located one-half mile north of the existing runway. Rural residential uses are found on both the north and south sides of the existing runway. There are three dwellings with outbuildings that are used as hangar space on the south side of the runway. Agricultural uses are found on neighboring properties and vary in size from five to over 200 acres. The agricultural uses are generally orchards, grain or livestock production.
5. **Surrounding Zoning:** Considering only the subject seven acres, the surrounding zoning is EF-40 to the south, east and approximately half of the north and west property lines. The remaining half of the north and west property lines is zoned PALF Public Airport and Landing Field. This area contains the existing airstrip. The current PALF zoning was designated by Ordinance No 202 in 1979. The land was judged to be physically developed and committed to the airstrip use.
6. **Soils:** Sheet 15 of the Yamhill County Soil Survey indicates that the soil type on the subject seven acres is Briedwell silt loam with slopes of up to three percent (Br). Soil of this type is rated as agricultural Class II.
7. **Reason for Request:** The applicants have indicated that they intend to move their existing aerial spraying and aircraft maintenance business to the subject parcel. The applicants have stated that no chemicals will be stored on the property. Their aircraft travels to the spray area and is loaded with chemicals on the site. This type of operation can be located on the property without obtaining the zone change. The other half of their operation dealing with aircraft maintenance does require the zone change to PALF and an approved site design review.
8. **Water:** Private well.
9. **Fire Protection:** Newberg RFD.
10. **Taxes:** Farm deferral.
11. **Previous Action:** Dockets Z-62-73 and Z-55-72; similar requests for a zone change on approximately 20 acres to rural residential use were denied by the Planning Commission. Docket S-6-67, Chehalem Airpark Subdivision. Docket C-125-74, conditional use approval for a nonfarm dwelling.

B. Oregon Administrative Rule Provisions and Analysis

1. Oregon Administrative Rule (OAR) Chapter 660, Division 4, explains the requirements for taking exceptions to statewide goals. The subject property is considered agricultural land by virtue of its Class II soil (see Finding A.7). The property is not on the county inventory of forest lands, so Goal 3, but not Goal 4, applies. An exception to Goal 3 is required if the land is to be designated for any use other than exclusive farm.
2. OAR 660-04-018 outlines the optional procedures for taking exceptions. The first is to base the exception on "physical development" and/or "irrevocable commitment" of the property to non-agricultural use. This type is intended to recognize and allow existing types of development. The second is a "reasons" exception, which allows a jurisdiction to zone property with a non-

agricultural designation if there are grounds for the change. The former path has been taken in this case because the subject property is physically developed or irrevocably committed to an airport use.

3. OAR 660-04-025 and 660-04-028 outlines the requirements for taking an exception based on physical development and irrevocable commitment to nonresource use. These criteria are:

660-04-025(1) A local government may adopt an exception to a goal when the land subject to the 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.

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).

4. The area studied as being physically developed is outlined on the map in Exhibit C. The area includes the following tax lot numbers, 3309-2400, 2402 2403, 2405, 2406, 2407, 2408 and a portion of 3310-302. This area includes land already zoned PALF and uses that can be considered part of the existing airstrip.

The existing PALF zone consists of the four of the above tax lots. Specifically these are 3309-2400, 2403, 2405, and 2406. These four tax lots combine to create a rectangular area approximately 150 feet wide by 1600 feet long. The only use of this area is the grass- surface runway. There are landing lights along this area and an access road along the south property line, however no structures exist.

The southwest corner of the study area contains tax lot number 3309-2407. This parcel contains a residence, outbuildings and what appears to be two hangars. One hangar measures

80'x33' and the other measures 33'x40'. Both of these hangars appear to be presently in use. The next parcel adjacent to the east also contains a residence and hangar facility. The hangar/machine shed measures 40'x40' and does appear to be in use. The next parcel to the east is identified by tax lot 3309-2402. This parcel also contains a residence with an attached garage/hanger. Again this hangar did house an aircraft and was in use.

The last two areas to be discussed are the subject of the zone change request. The first, tax lot 3309-2408 contains one large metal building. The applicants have indicated that this building is 70'x70' and is used by the owner to store his own aircraft. The second area is a portion of tax lot 3310-302. This area extends 700 feet from the end of the existing PALF zone and tax lot 3309-2408. There are no structures in this location. The applicants have stated "The 700' parcel of land is currently and has been used as an extension to the runway since Chehalem Airpark was established." In reviewing the past docket files there is a letter dated November 2, 1972, from George L. Buley, Chief of the Federal Aviation Administration's Airports Planning Branch that states, "...the map indicated a runway 1600' long, while, in fact, the airport is listed on the sectional charts and in the Airman's Information Manual as 2300' long." This appears to support the applicant's claim and indicates that at least the FAA believed another 700 feet of runway was in use.

With the exception of the existing PALF zone, the surrounding area is zoned predominantly EF-40 Exclusive Farm Use. Zoning of this type allows farm uses and related activities. The zone requested in the application would allow airports and related uses. The fact that the above-described properties adjacent to the existing PALF zone have hangars and related aircraft maintenance facilities, and the 700 feet of land to the east has been used in the past as a runway, demonstrates that the area is physically developed and irrevocably committed to the airport use.

C. Ordinance Provisions and Analysis

1. Section 1204 of the Yamhill County Zoning Ordinance (YCZO) states that exceptions to statewide goals are subject only to the requirements of the Oregon Administrative Rules discussed in Section B of this report. The Plan Amendment portion of this request is not subject to local review criteria.
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.

The findings regarding these criteria are provided in subsections 3 through 7 below.

- 3. Regarding Comprehensive Plan goals and policies, Goals II.A.1 and II.A.2 of the Plan are, respectively:

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; and

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.

The soil survey indicates that the parcel is characterized by Class II soils. This soil type is to be preserved for farm use according to Policy A under Goal II.A.2. A examination of the parcel and surrounding area has indicated, however, that the existing development and uses associated with the airstrip has created practical difficulties with implementing farm use. The size and proximity of nonfarm uses combined with existing development renders the parcel unsuitable for farm use. Although the land is unsuitable for farm use the applicants have indicated that they intend to establish a crop-dusting service for local farmers. This use would be associated with the surrounding agricultural area.

- 4. Regarding the need in the area for the proposed change, the change would result in extension of an existing private airstrip. Presently there are three public airport and landing fields in Yamhill County. Five other areas in the county have private runways zoned PALF. Although there are other areas zoned PALF, the amount of land with this designation is limited. The next closest area with this designation is Sportsman Airpark on the east side of Newberg, approximately six miles away. The applicants have stated that this facility will not allow operation of any additional spray or maintenance facility. They have indicated that approval of this request will provide farmers with an increased accessibility to crop-dusting and expand an airstrip that is not heavily congested with surrounding industrial facilities.
- 5. Regarding the appropriateness of the request, the runway and related facilities exist adjacent to the zone change request. The airstrip has existed for at least 20 years. The applicants have only requested extension of this existing use. The Utilities and services likely to be needed by the anticipated use already exist on site. The density and pattern of development on lands inside the study area supports the airstrip use. Outside of this study area there is some development, however most of the neighboring residences are on parcels of over 5 acres. The level of development is not so intense that it would interfere with the airport extension. The

only use that might be in conflict is Ewing Young School. The location of the school would be more of a concern if the applicants were storing chemicals on the property. Because their practice is to load the chemicals on site this is not anticipated to be a problem. As stated in finding A.4 the school is located one half mile to the north of the existing runway. The airstrip runs in an east west direction. No take-offs or landings would fly over the school. As stated previously the runway has existed for approximately 20 years. No objections to the proposed expansion have been received from the school as of the writing of this report.

6. Finding B.6 and C.4 of this report apply to criterion (d), above, as well.
7. Regarding criterion (e), the OAR requirements are addressed in section B of this report.

CONCLUSIONS:

1. The request is for an amendment to the Yamhill County Comprehensive Plan map for approximately seven acres from Agriculture/Forestry Large Holding, to Public and a zone change for the same property from EF-40 Exclusive Farm Use to PALF Public Airports/Landing Fields District.
2. The unique circumstances of the subject site are such that reasons exist why the property should not be subject to Goal 3 requirements.
3. Areas that do not require a new exception cannot reasonably accommodate the use because of unavailability of suitable land with the unique characteristics of having the proper zoning designation.
4. The uses allowed by the proposed change are compatible with other uses in the vicinity.
5. The request is consistent with the goals and policies of the Yamhill County Comprehensive Plan.

DECISION:

Based on the above findings, analysis, and conclusions, the application of Dennis and Nancy Sturdevant is granted to change the plan map designation and zone map designation on the property identified in Exhibit "B" from Agriculture/Forestry Large Holding to Public and from EF-40 Exclusive Farm Use to PALF Public Airports/Landing Fields District.

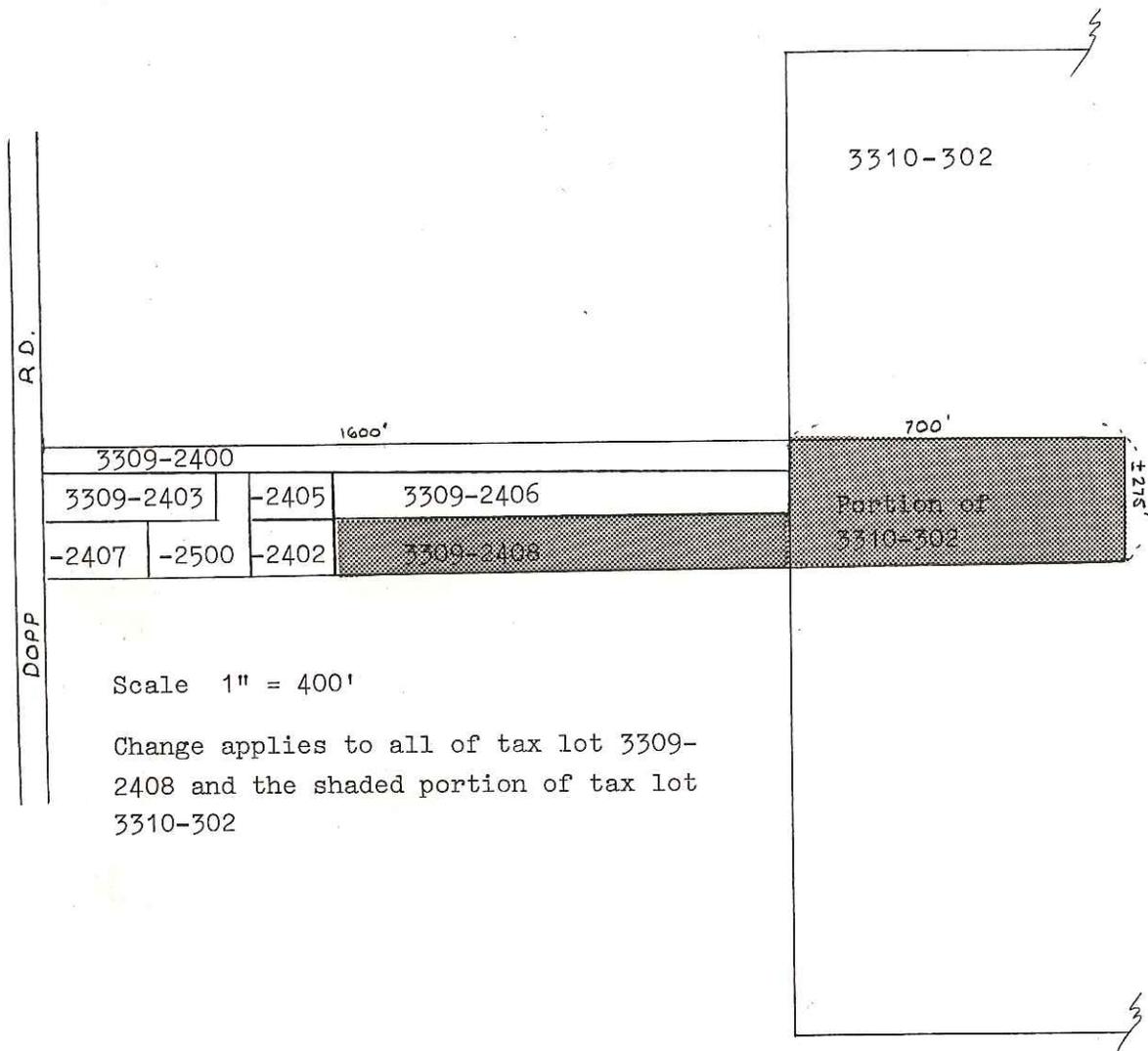
EXHIBIT "B" FOR ORDINANCE NO: 532

PLAN AMENDMENT/ZONE CHANGE

ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS

APRIL 15, 1992

TO CHANGE TO OFFICIAL ZONING MAP
FROM EF-40 TO PALF



Map prepared by the Department of Planning and Development.