

INDEXED IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

90-133

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
FEB 28 4 25 PM '90
CHARLES STERN
COUNTY CLERK
DEPUTY

In the Matter of an Ordinance)	
Amending the Zone Map of the)	
Yamhill County Zoning Ordinance,)	
No. 310, as amended, to Change)	
the Zone Map Designation from)	
AF-10 to VLDR 2.5 on Approximately)	ORDINANCE NO. 503
29.7 Acres Identified as Tax Lots)	
3230-900, 901, 902 and 903 and Tax)	
Lot 3219-1500, located About One)	
Half Mile Southwest of the City of)	
Newberg, as Requested by J.D.)	
Pierce and Edith Pierce, and)	
Declaring an Emergency)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in the City of Sheridan, in special session on February 28, 1990, Commissioners David E. Bishop, Dennis L. Goecks and Ted Lopuszynski being present.

WHEREAS, J. D. Pierce and Edith Pierce have applied to the Department of Planning and Development in order to change the zone map designation from AF-10 to VLDR 2.5 on Tax Lots 3230-900 and 903 and Tax Lot 3219-1500 ; and

WHEREAS, in accordance with Section 1209.02 of the Yamhill County Zoning Ordinance No. 310, as amended, the planning director has determined that it is appropriate to include Tax Lots 3230-901 and 902 in the application, and the owners thereof have not objected to their inclusion; and

WHEREAS, the area subject to the application, as extended by the planning director, constitutes approximately 29.7 acres and is located about one half mile southwest of the City of Newberg, and is more particularly identified on the map attached as Exhibit "B", which is incorporated into this ordinance by this reference; and

WHEREAS, the comprehensive plan map designation on the property subject to the application is "very low density residential" and was part of Exception Code Area 1.8 which excepted "lands committed to rural residential use" from the application of the statewide resource planning goals as described in the conclusionary findings attached hereto as Exhibit "A"; and

WHEREAS, on February 1, 1990 the Yamhill County Planning

Commission held a public hearing on the application and voted unanimously to approve the application; and

WHEREAS, the Yamhill County Zoning Ordinance provides that a decision of the Planning Commission to change a zone map designation is final if no appeal is taken to the Board of Commissioners within 15 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 by the Board will constitute a final land use decision by the county to approve the application; and

WHEREAS, the City of Newberg Planning Commission reviewed the application at its January 18, 1990 meeting and recommended that the county approve the zone change with a shadow plat to assure that any houses or septic fields that are constructed do not interfere with the eventual urbanization of the property; and

WHEREAS, the Board finds that the City of Newberg Planning Commission's recommendation regarding shadow platting is reasonable and hereby directs the planning director to impose shadow platting at the time of subdivision or partitioning; and

WHEREAS, on February 28, 1990 the board held a public hearing to consider adopting an ordinance to implement the Planning Commission's decision of February 1, 1990; and

WHEREAS, based upon the findings of fact and conclusionary findings attached hereto as Exhibit "A" and incorporated herein by this reference, the Board finds that the amendment as requested should be made; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1: Based upon the findings of fact and conclusionary findings attached hereto as Exhibit "A" and by this reference incorporated herein, the official zone map of the Yamhill County Zoning Ordinance, No. 310, 1982, as amended, is hereby amended to change the zone map designation from AF-10 to VLDR 2.5 on approximately 29.7 acres identified as Tax Lots 3230-900, 901, 902 and 903 and Tax Lot 3219-1500 as more particularly identified on the map attached as Exhibit "B". Exhibits "A" and "B" are hereby incorporated into this ordinance by this reference.

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 become effective immediately upon passage hereof.

DONE at McMinnville, Oregon, this 28th day of February, 1990.

ATTEST

CHARLES STERN
County Clerk

By: Elaine Pearcey
Deputy ELAINE PEARCEY



APPROVED AS TO FORM BY:

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

YAMHILL COUNTY BOARD OF COMMISSIONERS

David E. Bishop
Chairman DAVID E. BISHOP
Date: 2-28-90

Dennis L. Goecks
Commissioner DENNIS L. GOECKS
Date: 2/28/90

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI
Date: 2-28-90

EXHIBIT "A"
Ordinance 503

FINDINGS OF FACT
and
CONCLUSIONARY FINDINGS

Planning Commission approval: February 1, 1990
Board of Commissioners approval: February 28, 1990

Docket: Z-12-89

Applicant: J. D. and Edith Pierce

Request: The applicant has requested a zone change from AF-10 to VLDR-2.5 in an area plan designated VLDR

Location: Approximately 1/2 mile southwest of the City of Newberg on either side of Dayton Avenue

Tax Lots: 3230-900, 901, 902, 903; and 3219-1500

FINDINGS OF FACT

1. The applicant has requested a zone change from AF-10 (a rural residential zone designation) to VLDR-2.5 on Tax Lots 3230-900/903 and 3219-1500, plan designated VLDR. Due to their location, the Planning Director determined that it would be appropriate pursuant to Section 1209.02 of the zoning ordinance to include Tax Lots 3230-901/902 in the zone change request.
2. The subject property is located approximately 400 feet southwest of Newberg's Urban Growth Boundary and 800 feet southwest of the city limits.
3. The property is bisected by Dayton Avenue, with approximately 10 acres to the north and 20 acres to the south. Presently there are three houses on the site, all of them located on the south side of Dayton avenue.
4. The impact of the proposed zone change would be a potential increase of up to ten single family dwellings.
5. The subject parcel and area adjoining the parcel on the south, west, and northwest, was included in Exceptions Code Area 1.8 (Newberg-Dundee). According to Exceptions Statement II,

adopted April 23, 1980 as supplementary findings for the taking of an exception to statewide goals: "The entire Newberg-Dundee study area is committed to rural residential development. The entire area is located in a rural fire district, exhibits good roads, has fair or better water availability, and has mostly fair soil suitability for septic systems." In addition, "Agricultural activity in this study area has been restricted to small family gardens and orchards and, given the extensive subdivision and parcelization of this area and its close proximity to two urban areas, this rural residential settlement pattern will continue to dominate. Thus, this area is committed to rural residential development."

6. Land adjacent to the east of the subject parcel is zoned VLDR-2.5. The remaining land surrounding the site (to the north) is zoned AF-10 with the exception of Ramsey Hill Cemetery, zoned Public Assembly/Institutional District (PAI).
7. Surrounding land uses are characterized by orchards, small scale farming, and rural residential use.
8. The soils on the subject property are a mixture of Woodburn silt loam, Amity silt loam and Aloha silt loam with slopes of up to 12 percent. Soils of this type are rated as Class II and III agricultural soils.
9. None of the subject property is within the 100 year floodplain.
10. Presently there are 810 acres of land zoned VLDR-2.5 included in this study area. A 1986 study of this area showed that over 65 percent of the available VLDR-2.5 land had dwellings placed on them.
11. The area is served by Yamhill County Sheriff and Public Works Departments, Newberg Rural Fire Department, Newberg School District, GTE and PGE.
12. Notice of the request was sent to surrounding property owners and published in a newspaper of general circulation. During the period of public notice, no request for a public hearing or other public comments were received.
13. During the time of writing this staff report, we received the following public agency comment.

Sanitation: "The SCS soils maps indicate predominate soils north of Dayton Avenue is Woodburn series; these have relatively good feasibility for septic approval (Tax Lot 3219-1500). However, predominate soils to the south of Dayton

Avenue, indicated by SCS soils book, are Aloha/Amity series which are quite adverse (high water tables) for acquiring septic approval. As evidence of adversity, a new house was placed on Tax Lot 3230-900 in 1987, but required a sandfilter alternative system to be installed. I anticipate additional alternative approvals, or possibly even denials, may result should further division of land be granted south of Dayton Avenue.

DECISION MAKING CRITERIA

The Planning Commission's decision must be based upon consideration of the zone change criteria set forth in Section 1208 of the Zoning Ordinance. The specific review criteria is listed below.

1208.02 Review Criteria

A quasi-judicial change to a zoning map may be authorized, pursuant to Subsection 1209.01, provided that the request satisfies all applicable requirements of this ordinance, and also provided that the applicant demonstrates the following:

- 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 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.

CONCLUSIONARY FINDINGS FOR APPROVAL

The following conclusionary findings for approval of the application are hereby adopted by the Board:

1. The zone change request to amend the zoning on the subject property from AF-10 to VLDR-2.5 is consistent with the Comprehensive Plan in that the property is plan designated "very low density residential" (VLDR), which provides for residential development of up to one dwelling per acre. Further, the property was included in the Exceptions Code Area 1.8 during the 1979-80 Exceptions process. Code Area 1.8 was excepted from the application of the statewide planning resource goals as "lands committed to rural residential use." The VLDR plan designation was found to be appropriate for the subject property and surrounding area, and was acknowledged by LCDC as in compliance with the statewide planning goals.

As noted in Finding of Fact 5, the subject property was plan designated VLDR under the exceptions criteria due to the parcelization and proximity to the two urban areas of Newberg and Dundee. Therefore, the area is consistent with rural area development goals and policies in that the county recognizes such lands as the appropriate and desired location for rural residential development.

2. As indicated in Finding of Fact 10, over 65 percent of the VLDR-2.5 zoned land available in this area has been developed. Recent testimony presented to the Planning Commission on January 4, 1990 in Docket Z-3-89 was that there was a high market demand for parcels of that size. Only four to five parcels of a similar size were listed in the county's Multiple Listings Schedule of real estate for sale in Newberg-Dundee area.
3. Approval of the request is appropriate in that it will allow for increased development of an area which was deemed to be committed to rural residential development through the exceptions process, thereby providing for efficient utilization of land adjacent to the City of Newberg.

The proposed zone change can also be considered appropriate for the area considering that:

- a. Existing dwellings on adjacent lands are served by on-site septic systems and wells. Through the exceptions process it was determined that the area exhibited reasonable water availability and generally fair soil suitability for septic systems.

As such, development of the subject property will not require the costly extension of urban facilities or services, but instead can be accommodated on an individual parcel basis.

- b. It has been county practice in the past to grant those requests which bring zoning into conformance with the Comprehensive Plan map designation, particularly in VLDR areas. In that the subject property is plan designated VLDR, approval of the zone change to VLDR-2.5 will be consistent with previous county actions.
4. Although other VLDR-2.5 zoned land exists in the county, availability of such lands for development is limited. Further, the subject property is suitable for VLDR-2.5 zoning considering the existing development availability, the existing public services, the proximity to other lands zoned VLDR-2.5 and the compatibility of the proposed development with adjacent rural residential uses.
5. The requested zone change is consistent with the current Oregon Administrative Rule for exceptions (OAR 660-04-018). The area is currently plan designated "Very Low Density Residential" (VLDR). This plan designation would allow a residential density greater than one dwelling per 2 1/2 acres. Exception Code Area 1.8 (Newberg-Dundee) of which the subject property is a part, was approved as a "committed" exception. The proposed use is for acreage homesites, which is a rural use, and the density proposed is a rural density. Although community water may ultimately be provided to the subject property, community water is provided to rural homes and farms throughout the county, and is a typical rural amenity in the county. Community sewer is a more urban application, and it is not anticipated that the subject property will be served by community sewer. As shown by the findings, the ability to obtain partitioning approval and development permits for a maximum density of one dwelling per 2 1/2 acres may be further limited by suitability for subsurface sewage disposal. This limitation further insures that housing densities on the subject property will remain rural as long as the property remains outside of the city limits and urban growth boundary of the city of Newberg.
6. None of the statewide land use planning goals apply to this approval. The rural use proposed is consistent with the comprehensive plan and with all goal requirements to which exception has not been taken, and in particular Goal 14, as explained in these findings. As shown by the record and these findings, the uses proposed for the subject property will not commit adjacent or nearby resource land to non-resource use.

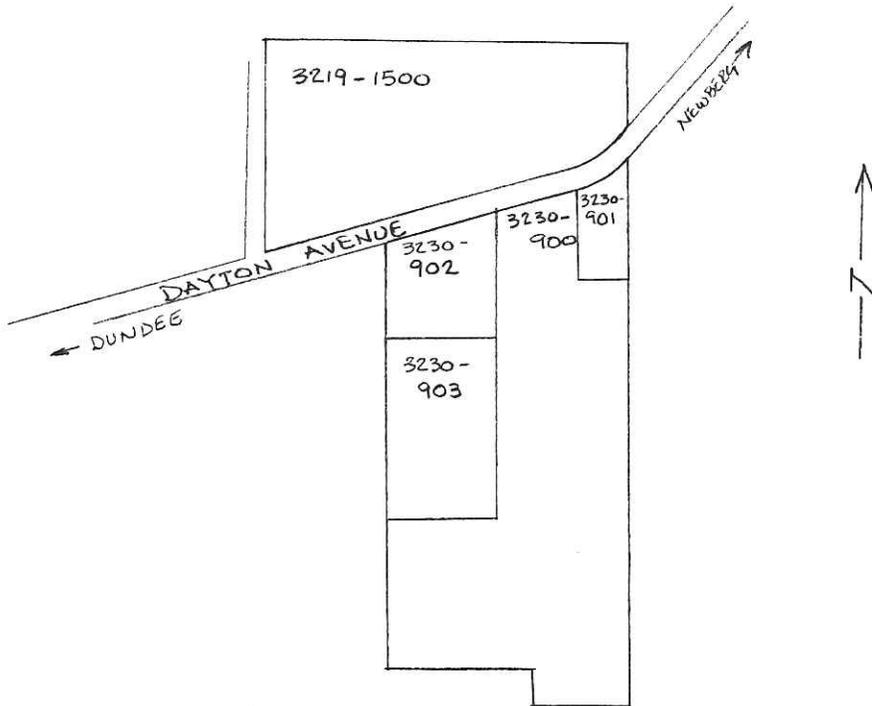
All adjacent and nearby land is either included in VLDR exception areas, is currently planned and zoned for rural residential uses (AF-10 and VLDR 2 1/2) or is in other non-resource zoning and use (Ramsey Hill Cemetery).

7. The City of Newberg's Planning Commission reviewed the proposed zone change and indicated their approval on January 18, 1990. The Commission did request that the county impose a "shadow plat" at the time of subdivision or partitioning. The Board finds that the request is reasonable, and has directed planning staff to impose such a requirement at the subdivision or partitioning stage.

Z-12-89:occ

TO REZONE TAX LOTS 3230-900, 901, 902, 903 & 3219-1500
FROM "AF-10" TO "VLDR-2½"

February 28, 1990



The change effects entire property(s) shown above.

Sketch prepared by Yamhill County Department of Planning & Development.