

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

90-552

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
1990 AUG -9 PM 4:23
CLERK OF COUNTY

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)
29.5 Acres Identified as Tax Lot)
3230-1000, Located Approximately)
1/2 Mile Southwest of the City)
of Newberg on the South Side of)
Dayton Avenue, as Requested by)
Glen and Ruth McCollister, and)
Declaring an Emergency)

ORDINANCE NO. 512

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in McMinnville, Oregon, in special session, on August 8, 1990, Commissioners David E. Bishop, Dennis L. Goecks and Ted Lopuszynski being present.

WHEREAS, Glen and Ruth McCollister 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 Lot 3230-1000, an approximately 29.5 acre parcel; and

WHEREAS, the subject parcel has a comprehensive plan map designation of "very low density residential", and is part of Exception Code Area 1.8, which excepted "lands committed to rural residential use" from the application of statewide land use planning goal 3; and

WHEREAS, on July 12, 1990, the Yamhill County Planning Commission held a public hearing on the application and thereafter 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 Board finds that it is reasonable to require "shadow platting" of this parcel to prevent conflicts related to the possible future urbanization of the property, and hereby directs that at the time of subdivision or partitioning of the subject parcel, the planning director shall impose a requirement that the property be shadow platted; and

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

WHEREAS, the findings and conclusions attached as Exhibit "A" support the board's decision to approve the subject application; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B", which is incorporated herein by reference, to reflect a zone designation of Very Low Density Residential-2.5 for a parcel identified as tax lot 3230-1000.

SECTION 2. The findings and conclusions attached as Exhibit "A" and incorporated herein by reference, are hereby adopted in support of this ordinance.

SECTION 3. 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.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

DAVID E. BISHOP
Chairman DAVID E. BISHOP

By: Elaine Pearcey
Deputy ELAINE PEARCEY

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY Timothy S. Sadlo
TIMOTHY S. SADLO
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

EXHIBIT "A"
ORDINANCE 512

DOCKET: Z-4-90

APPLICANT: Glen and Ruth McCollister

REQUEST: The applicant has requested a zone change from AF-10 to VLDR-2 1/2 in an area plan designated VLDR.

LOCATION: Approximately 1/2 mile southwest of the City of Newberg on the south side of Dayton Avenue.

TAX LOT: 3230-1000

REVIEW CRITERIA: Section 1209.01 of the Yamhill County Zoning Ordinance and Oregon Administrative Rules Chapter 660, Division 4.

FINDINGS:

A. Background Facts

1. Parcel Size: 29.5 acres.
2. Access: Dayton Avenue, a paved county road.
3. On-site Land Use: The property is wooded. There is a drainage-way and floodplain at the south end of the property. There is a house and associated outbuildings at the north end, near Dayton Avenue.
4. Surrounding Land Use: There is a nursery to the east, while the south and west are wooded. There is a cemetery across Dayton Avenue to the north. There are other small-scale agricultural uses in the vicinity.
5. Surrounding Zoning: North and east - VLDR 2 1/2; south and west - AF-10. The Newberg Urban Growth Boundary and city limits are generally less than one-quarter mile east of the site. The UGB crosses a small portion of the southeast corner of the property.
6. Water: On-site wells. There is no water district or association currently serving the site.
7. Sewage Disposal: On-site subsurface systems will be utilized. Soils on the property consist of Aloha, Amity, and

Terrace Escarpments. According to the soil survey of Yamhill County, all of these soils present severe limitations for septic and drainfield systems.

8. Other Services: Electric, telephone, fire suppression, law enforcement, and emergency medical services are all available to the site.

9. The subject parcel is in Exception 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." The findings also state that "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."

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 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 plan map designation for the property is Very Low Density Residential, which allows VLDR 2.5 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.

2.1 A letter from the Newberg Planning Director indicates concern regarding "orderly urban development" relating to the subject request. Specifically, it is stated that two and one-half acre "development in this area will significantly deter future conversion to urban densities by increasing service costs." However, Section 6.010(4) of the Yamhill County Land Division Ordinance stipulates:

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. This "shadow platting" will 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 subject property is within the Newberg-Dundee Exception Area, which encompasses over 800 acres of land. A study in 1986 of the county's rural residential exception 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. Because of building during subsequent years, that percentage is now probably higher. 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. 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, a cemetery, and rural residences. The zoning to the east is VLDR 2 1/2, but the neighboring parcel has not yet been partitioned, so it is still approximately 16 acres. 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 where properties are typically two to five acres. This neighborhood is within one-quarter mile of the subject property.

4.1 Water and sewage disposal facilities will need to be provided on-site. There is no reasonable expectation that city water or sewer services will be extended to the area in the near future. 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 normal channels. Other services are currently available to the site.

4.2 Regarding roads in the area, specifically Dayton Avenue, the Newberg Planning Director stated a concern regarding increased traffic. He stated the street is designated a collector street, but is not built to collector street standards, and he assumes an eventual need for widening and improvement of the road at city

expense. No data was presented regarding Dayton Avenue's design capacity or current traffic count.

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 was a supply of 2 1/2 acre-zoned land in 1986, but that study simply divided the total number of acres by the total number of dwelling units. No assessment of availability was made at that time.

6. Regarding Oregon Administrative Rules, Section 660-04-018 applies. That section is as follows:

"Planning and Zoning for Exception Areas

660-04-018 (1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exception areas. Exceptions to one goal or portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses or activities other than those recognized or justified by the applicable exception. Physically developed and irrevocably committed exceptions under OAR 660-04-025 and 660-04-028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions which would allow changes in existing types of uses requires application of standards outlined in this rule.

(2) "Physically Developed" and "Irrevocably Committed" Exceptions to goals other than Goals 11 and 14. Plan and zone designations shall limit uses 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.
- (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.
- (d) Uses not meeting the above requirements may be approved only under provisions for a reasonable exception as outlined in OAR 660-04-020 through 660-04-022.

(4) Applicability of OAR 660-04-018. This rule applies only to plan and zoning designations and exceptions adopted by local governments following the effective date of this rule."

6.1 With respect to (a) above, there is currently little productive use of the land. Additional residences will not cause a significant change in the use of the majority of the parcel.

6.2 Regarding (b) above, the uses allowed in the requested zone are rural. The proposed use, one dwelling per 2 1/2 acres, constitutes "acreage homesites", which is a rural use. The density proposed is a rural density. In addition, the ability to obtain partitioning approval and development permits for a maximum density of one dwelling per 2.5 acres may be further limited by suitability for subsurface sewage disposal and the fact that a floodplain runs through a portion of the property. Although the applicants are not foreclosed from eventually providing community water to the property, community water is provided to rural homes and farms throughout the county. Community sewer is a more urban application, and it is not anticipated that the subject property will be served by community sewer unless it is annexed into Newberg or Dundee at some future date. All other utilities available and likely to be utilized at the site are available generally throughout the county.

6.3 Regarding (b)(A) of the cited administrative rule, no statewide land use planning goals are implicated in 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.

6.4 Regarding (b)(B) of the cited administrative rule, access to the parcel is limited to Dayton Avenue, to the north and therefore orients traffic and other residential impacts away from the only "nearby" resource land to the south. There is no resource land adjacent to (abutting) the parcel. The exclusive farm use land to the south of the parcel is buffered by existing vegetation (forest) and by a creek and related floodplain. The requested zone change will not commit adjacent or nearby resource land to nonresource use.

6.5 Regarding (b)(C) of the cited administrative rule, no incompatibilities with farm use or other resource uses have been identified. As stated above, there is no adjacent resource land. It appears that the nearest resource land is being used either as a woodlot, or noncultivated forest land. The findings in 6.4, above, also support a finding that the rural use proposed for the subject property is compatible with nearby resource uses.

C. Conclusions:

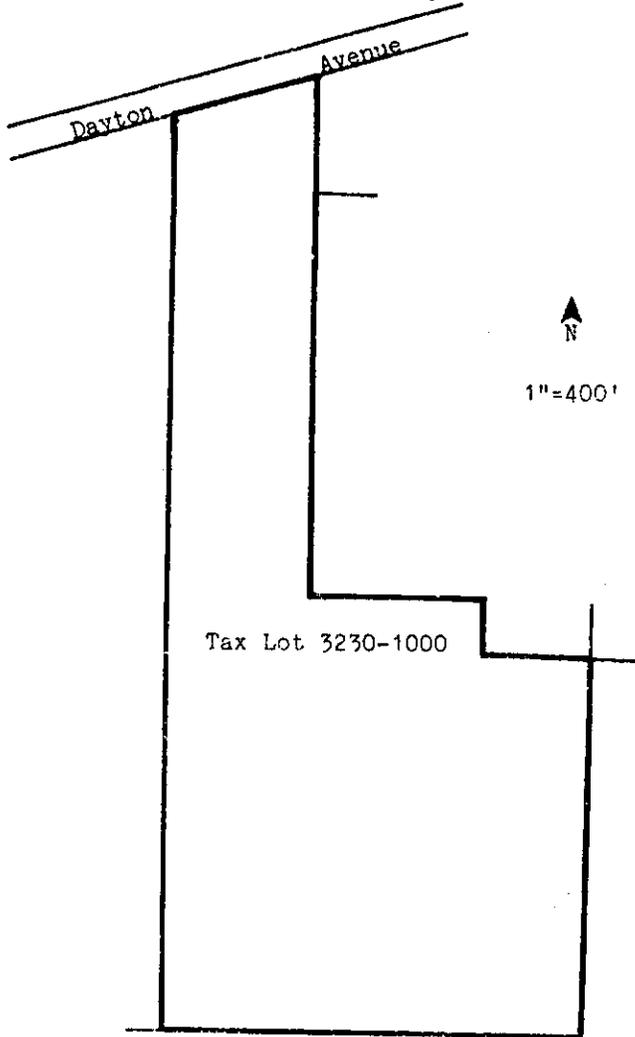
1. The request is consistent with the goals and policies of the Comprehensive Plan in that approval of the zone change will not compromise urban containment or orderly urban development.
2. Because of low availability of land suitably zoned for rural residences on parcels approximately two and one-half acres, there is a need for more VLDR-2 1/2 zoning in the county.
3. 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.
4. 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.
5. The request is consistent with the Oregon Administrative Rules that govern zoning of exception areas, because a rural level of development is proposed, the area is plan designated for residential uses, the development will not commit nearby resource land to nonresource use, and the proposed use is compatible with nearby resource uses.

EXHIBIT B FOR ORDINANCE 512

ZONE MAP AMENDMENT
August 1, 1990

TO CHANGE OFFICIAL ZONING MAP
FROM AF-10 TO VLDR-2½

Docket PAZ-1-90



Map prepared by Yashill County Department of Planning and Development