

YAMHILL COUNTY BOARD OF COMMISSIONERS
JUN 23 9 30 AM '89
CHARLES STERN
COUNTY CLERK
DEPUTY

INDEXED

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

89-414

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)	
Amending the Zone Map of the)	
<u>Yamhill County Zoning Ordinance</u>)	
<u>No. 310, 1982, as Amended, to</u>)	
Change the Zone Map Designation)	ORDINANCE NO. 487
From VLDR-2 1/2 to VLDR-1 on)	
Approximately 15 Acres)	
Identified as Tax Lot 4307-1200,)	
Southeast of the City of Lafayette)	
as Requested by Burl & Nita)	
Cunningham Planning Docket Z-5-89,)	
and Declaring an Emergency)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of County business on June 21, 1989, in special session, Commissioners Ted Lopuszynski, Dennis Goecks, and David E. Bishop being present.

WHEREAS, Burl and Nita Cunningham have applied to the Department of Planning and Development in order to change the zone map designation on Tax Lot 4307-1200, from VLDR-2 1/2 to VLDR-1; and

WHEREAS, following a public hearing on June 1, 1989, the Yamhill County Planning Commission voted 5 to 1 to change the zone map designation on Tax Lot 4307-1200 from VLDR-2 1/2 to VLDR-1; and

WHEREAS, the Yamhill County Zoning Ordinance No. 310, 1982, as amended, provides that the decision of the Yamhill County Planning Commission on an application for a zone map amendment becomes final unless appealed to the Board of Commissioners; and

WHEREAS, no appeal has been made to the Board of the decision of the Planning Commission to grant the application of Burl and Nita Cunningham and the Board has declined to review the decision of the Planning Commission on the Board's own motion; and

WHEREAS, the Board finds that the findings set forth in the attached Exhibit "A" constitute an adequate basis for approval of the application; Now, Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section I. 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 on Tax Lot 4307-1200 from VLDR-2 1/2 to VLDR-1 as more particularly described on the attached map identified as Exhibit "B" and incorporated herein 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 upon passage hereof.

DONE at McMinnville, Oregon this 21st day of June 1989.

ATTEST:

CHARLES STERN
County Clerk

By: Elaine Pearcey
Deputy ELAINE PEARCEY



YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszyński
Chairman TED LOPUSZYNSKI
Date: 6-21-89

DAVID E. BISHOP
Commissioner DAVID E. BISHOP
Date: 6-21-89

APPROVED AS TO FORM BY:

Joan M. Gray, Jr.
JOAN M. GRAY, Jr.
County Counsel

Dennis Goecks
Commissioner DENNIS GOECKS
Date: 6-21-89

Exhibit "A"

FINDINGS OF FACT

1. The applicant has requested a zone change from VLDR-2 1/2 to VLDR-1 on approximately 15 acres that are plan designated Very Low Density Residential.
2. There is presently one dwelling and two barns located on the subject property. The property is located approximately 1500 feet southeast of the City limits/UGB of Lafayette, on the east side of Locks Road, a paved County road.
3. Public facilities or services provided to the property include electric power through PGE, telephone through Continental, fire protection by the Dayton Rural Fire District and road access by County roads. Water is presently provided by a well. An individual septic system serves the existing dwelling on the property.
4. The subject property and surrounding area was included in Exceptions Code Area 4.8 (Lafayette). According to Exceptions Statement II, adopted in 1980 as supplementary findings for the taking of an exception to statewide goals, "the entire Lafayette study area is committed to rural residential development. The study area is generally characterized by fair or better water availability, predominantly fair soil suitability for septic systems, and good roads."
5. Land to the north and south and one parcel to the west of the subject property is zoned VLDR 2-1/2; land to the east and west is zoned EF-40/AF-20. The existing VLDR 2-1/2 zoning generally lies east of Locks Road (approximately 52 out of 60 acres); however, there are more than 50 acres lying west of Locks Road that are plan designated VLDR but are now zoned EF-40/AF-20. If that acreage is rezoned in the future, an additional 10 to 45 dwellings could potentially be established in the area.

Within 500 feet of the subject property are six parcels of one acre or less in size; all of these parcels have dwellings located on them. Abutting the subject property to the east is a 130 acre parcel that is cultivated and, in recent years, has been planted to grain and clover crops.

6. A zone change from VLDR-2 1/2 to VLDR-1 was recently approved on a six acre parcel located approximately 330 feet north of the subject property (Z-9-88). As per Ordinance No. 482, which amended the zoning on the six acre property from VLDR-2 1/2 to VLDR-1, the following conclusionary findings were included as justification for the zone change:
 - a. Because of the size of the subject property, its proximity to the Lafayette City limits and the large number of surrounding parcels less than 2.5 acres, the subject property is not likely to be productively used for agricultural uses. Further, because of the surrounding development pattern, the proposed re-zoning will not conflict with surrounding agricultural activities.
 - b. The VLDR-1 designation is appropriate because it will only allow an increase of three dwellings over the density now allowed. An increase of three dwellings in an area that has the potential for 45 new dwellings is relatively insignificant.

Exhibit "A"
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- c. Sufficient public facilities currently exist to support rural residential development of the property. By previous Board direction, the Planning Director will consider imposing restrictions on the ability of applicants to partition the property based upon the availability of a suitable water supply, if he believes capacity is insufficient.
 - d. Even though this rezoning will allow one acre parcels subject to reasonable partitioning requirements, the Board finds that the resulting one acre parcels constituting the subject of this application will retain their rural residential character. Specifically, the Board finds that rural residential development of the parcel does not constitute an urban use within the meaning of Statewide Planning Goal 14.
7. There are approximately 110 acres of undeveloped VLDR-1 land in the County outside of UGB's. Approximately half of this acreage is near Newberg and the remainder is in the Dundee area. There is virtually no undeveloped VLDR-1 land in the County outside of the Newberg/Dundee area, with the exception of the six acre property that was recently rezoned to the north of the subject property.
8. Since 1982, the Planning Commission has approved all zone change requests, except one, for higher density zoning in VLDR plan designated areas, including two zone changes from VLDR 2 1/2 to VLDR 1 (15 acres near Newberg in 1988, Z-1-88, and 7 acres south of McMinnville in 1983, Z-234-83). However, in reviewing proposed Zoning Ordinance changes with the DLCD in 1986 and 1987, and because of recent court cases regarding urban vs rural lands, the County's proposed Rural Residential District was revised to include the following language regarding minimum parcel sizes:
- a. Within an urban growth boundary, an area of urban influence or an urban reserve area, minimum acreage shall be two acres, except that parcels may be one acre where a State Health Division approved public water supply is available, provided that no new parcel of less than five acres shall be approved until after referral has been made to the applicable city, and any concerns expressed by the city have been addressed.
 - b. In other areas minimum acreage shall be two acres.
- Although this language has not been adopted by the Board of Commissioners at this time, the County has been informed by the DLCD that our current VLDR-1 zone could be in violation of statewide goals. While existing VLDR-1 zones could continue to be developed, rezoning to VLDR-1 may be contrary to Goals 3 (agriculture) and 14 (urbanization) unless a new exception is taken, according to DLCD.
9. Section 502.01 of the Zoning Ordinance provides that "the purpose of the VLDR Districts is to provide for medium-to-high density rural residential development on selected lands identified as Very Low Density Residential in the Comprehensive Plan." Because the VLDR plan designation applies to the VLDR 5, VLDR 2 1/2 and VLDR 1 zoned districts, the Department of Land Conservation & Development has not contested that Yamhill County may rezone such lands to higher densities without notifying the DLCD and without taking a new exception.
10. There have been no public agency comments received at this time.

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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.

CONCLUSIONARY FINDINGS

Approval

The following conclusionary findings can be made for approval of the application:

1. The request to amend the zoning on the subject property from VLDR-2.5 to VLDR-1 is consistent with the Comprehensive Plan in that the property is Plan-designated VLDR, which provides for rural residential development on parcels from one acre to five acres. Further, the property was included in Exceptions Code Area 4.8 and through the 1979-80 Exceptions process, the VLDR Plan designation was found to be appropriate for the subject property and surrounding area and was acknowledged as such by LCDC. With regard to specific rural area development goals and policies, in that the subject property is Plan-designated VLDR and the County recognizes such lands as the appropriate and desired location for rural residential development, the proposed zone change is consistent with rural area development goals.
2. Because virtually no undeveloped VLDR sites are available in the Lafayette, Dayton, or McMinnville areas, there is an existing demonstrable need for one acre rural residential dwelling sites within the subject 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 rural land adjacent to the City of Lafayette. Further, the property is located in an area where there are 6 dwelling sites of approximately 1 acre within 500 feet of the subject property and, therefore, development of the property into 1 acre parcels would not be inconsistent with the existing development pattern in the area.
4. Because of the size of the subject property, its proximity to the Lafayette city limits and the large number of surrounding parcels less than 2.5 acres, the subject property is not likely to be productively used for agricultural uses. Further, because of the surrounding development pattern, the proposed re-zoning will not conflict with surrounding agricultural activities.
5. Sufficient public facilities currently exist to support rural residential development of the property. By previous Board direction, the Planning Director will consider imposing restrictions on the ability of applicants to partition the property based upon the availability of a suitable water supply, if he believes capacity is insufficient.
6. Even though this rezoning will allow one acre parcels subject to reasonable partitioning requirements, the Planning Commission finds that the resulting one acre parcels constituting the subject of this application will retain their rural residential character. Specifically, the Planning Commission finds that rural residential development of the parcel does not constitute an urban use within the meaning of Statewide Planning Goal 14.

EXHIBIT "B" FOR ORDINANCE NO: 487

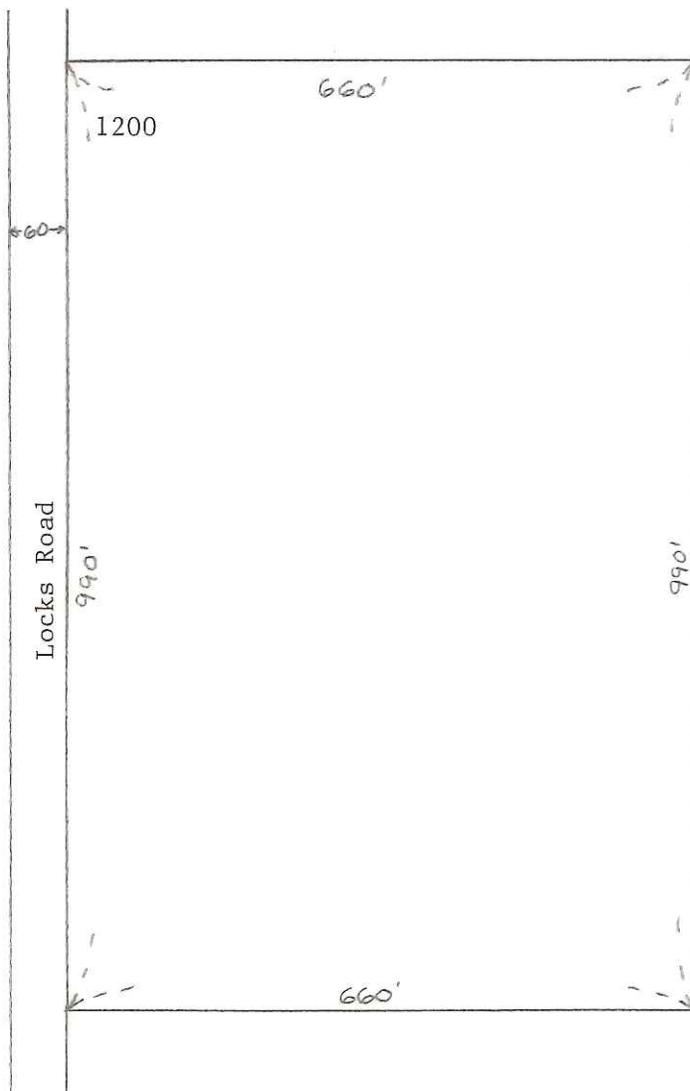
ZONE MAP AMENDMENT

ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS

JUNE 21, 1989

TO CHANGE THE OFFICIAL ZONING MAP

FROM VLDR-2½ TO VLDR-1



Scale: 1" = 200'

Change applies to the total portion of Tax Lot No. 4307-1200

Map prepared by the Yamhill County Planning Department.