

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

INDEXED

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

YAMHILL COUNTY, OREGON
SEP 21 11 30 AM '88
CHARLES E. STERN
COUNTY CLERK
DEPUTY

In the Matter of an Ordinance)
Amending the Plan and Zone Map)
of the Yamhill County Compre-)
hensive Plan, 1974, and the)
Yamhill County Zoning Ordinance,)
No. 310, 1982, as Amended, to)
Change the Plan and Zone Map)
Designation From AFLH/AF-20 to)
VLDR/VLDR-2 1/2 on Approximately)
13 Acres Northwest of the City)
of McMinnville, Identified as)
Tax Lots 4502-900, 1000 and a)
Certain Portion of Tax Lot 4502-)
800 as Requested by Max and)
Joyce Morrow and Fred and Sharon)
Harshman, Planning Docket)
PA/Z-3-88, and Declaring an)
Emergency)

ORDINANCE NO. 469

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on September 21, 1988 sat for the transaction of county business in special session, Commissioners Ted Lopuszynski, Donald D. Porter, and David E. Bishop being present.

WHEREAS, Max and Joyce Morrow and Fred and Sharon Harshman have applied to the Department of Planning and Development in order to change the plan and zone designation from AFLH/AF-20 to VLDR/VLDR-2 1/2 on Tax Lot 4502-1000 and that portion of Tax Lot 4502-800 identified on the attached Exhibit "B"; and

WHEREAS, pursuant to Section 1209.03 of the Yamhill County Zoning Ordinance, No. 310, 1982, as amended, the Planning Director has determined that Tax Lot 4502-900 should also be considered in the application; and

WHEREAS, on August 4, 1988, following a public hearing, the Yamhill County Planning Commission voted unanimously to recommend that the plan and zone map designations be changed from AFLH/AF-20 to VLDR/VLDR-2 1/2 on Tax Lots 4502-900 and 1000 and on that portion of Tax Lot 4502-800 identified on the attached Exhibit "B"; and

WHEREAS, on August 31, 1988, following a public hearing, the Board voted to adopt the recommendation of the planning commission and directed staff and the applicants to prepare findings of fact and conclusionary findings in support of such approval; and

WHEREAS, staff and the applicants have prepared findings of fact and conclusionary findings for approval, and based upon such findings attached hereto as Exhibit "A" and by this reference incorporated herein, it appears appropriate to grant the application of Max and Joyce Morrow and Fred and Sharon Harshman; and

WHEREAS, in order to approve the application as extended, an exception must be taken to Statewide Planning Goals 3 and 4 and based upon the findings for an exception to Goals 3 and 4 included in Exhibit "A" the Board finds that it would be appropriate to take such an exception, 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 plan map of the Yamhill County Comprehensive Plan, 1974, is hereby amended to change the plan designation on Tax Lots 4502-900, 4502-1000 and that portion of Tax Lot 4502-800 identified on the attached Exhibit "B" from Agriculture/Forestry Large Holding (AFLH) to Very Low Density Residential (VLDR), as more particularly described on the attached map identified as Exhibit "B" and incorporated herein by this reference.

Section 2. 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 designation on Tax Lots 4502-900, 4502-1000, and that portion of Tax Lot 4502-800 identified on the attached Exhibit "B" from AF-20 to VLDR-2 1/2, as more particularly described on the attached map identified as Exhibit "B" and incorporated herein by this reference.

Section 3. Based upon the findings of fact and conclusionary findings set forth in the attached Exhibit "A" incorporated herein by this reference, an exception is hereby taken to Statewide Planning Goals 3 and 4 as they relate to the properties identified in Sections 1 and 2 on the basis that said properties are irrevocably committed to nonresource uses. The exception shall be and hereby is incorporated into the Yamhill County Comprehensive Plan.

Section 4. 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 September, 1988.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN

Ted Lopuszynski
Chairman TED LOPUSZYNSKI
Date: 9-21-88

BY: Carol Ann White
Deputy Carol Ann White

Donald D. Porter
Commissioner DONALD D. PORTER
Date: 9/21/88

APPROVED AS TO FORM BY:

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

David E. Bishop
Commissioner DAVID E. BISHOP
Date: 9-21-88



EXHIBIT "A"

FILM 47 PAGE 708

ORDINANCE NO. 469

FINDINGS FOR APPROVAL

FINDINGS OF FACT

1. The applicants have requested a plan amendment/zone change from AFLH/AF-20 to VLDR/VLDR-2 1/2 on a 11 acres in two ownerships for Tax Lots 4502-800 and 1000. In addition to the applicants' tax lots, the planning director has determined, pursuant to Section 1209.03 of the Zoning Ordinance, that it is appropriate to include an additional 2.33 acre parcel in the area being reviewed for the plan amendment zone change. This parcel is identified as Tax Lot 4502-900. The owners of Tax Lot 4502-900 have been notified. They have not objected to the change.
2. The subject area consists of 5 parcels totalling approximately 13 acres. The 5 parcels are in three separate ownerships. Three of the parcels are less than three acres, one parcel is less than four acres; and one parcel is part of a 61.67 acre tract. The 61.67 acre parcel (Tax Lot 4502-800) is currently zoned EF-40/AF-20. Approximately 55 acres are zoned EF-40 and 7 acres are zoned AF-20. The AF-20 portion of Tax Lot 4502-800 slopes down from the remaining 54 acres of that Tax Lot at a 20 degree slope to Berry Creek Road. That portion has a few Douglas firs but most of the area is covered with brambles and deciduous trees. The drop-off forms a very definite and stark natural barrier between the hay field and the rest of the property.
3. The 7 acres of Tax Lot 4502-800 and total acreage of Tax Lots 4502-900 and 1000 were plan designated VLDR and zoned VLDR 2 1/2 from 1976 until 1980. The Exception Study and an acknowledgment of the county Comprehensive Plan completed in 1980 rolled back this plan designation from VLDR to AFLH and the zoning designation from "VLDR-2 1/2" to "AF-20". However, in 1979, prior to the "roll back", the owner of Tax Lot 4502-800 applied for a land partition (Docket P-964-79) which was approved. Two 2 1/2 acre parcels were created. Another parcel was sold and became Tax Lot 4502-900. That parcel was already a separate parcel. The remaining two parcels are still part of Tax Lot 4502-800. The applicant planned to partition the remainder of the property that was zoned VLDR-2 1/2 from the rest of Tax Lot 4502-800. However, that part of the parcel was rezoned to AF-20 by the Exception process and, therefore, could not be partitioned.
4. There are presently two dwellings located on Tax Lot 4502-

1000 which were built in 1974. The other parcels are presently vacant. Through the conditional use process, three additional dwellings could be established in the area, resulting in a total of five dwellings (one dwelling per 2.3 acres). If the plan amendment/zone change to VLDR-2 1/2 is approved, a total of four additional dwellings could be established in this area, one more than is allowed under existing zoning provisions. Tax Lot 4502-800 has two dwellings on it, one of which was built in 1981. No further dwelling can be put on Lot 4502-800. Therefore, the homesites already partitioned from Lot 4502-800 can not be utilized without this change.

5. The subject thirteen acres is characterized by nonfarm residential uses and small acreage woodlots. A small creek runs in a north-south direction on the west side of Lot 900 and east side of Lot 1000. No commercial farm or forestry activities exist on the subject 13 acres.
6. Berry Creek Road, a graveled county road, provides access to four of the existing parcels. The remaining ownership will be accessed by a private easement from Berry Creek Road.
7. Soils on the subject property are agricultural class IV with slopes between 1 to 20%. These soils are woodland site Class 2 for Douglas fir production.
8. Of the five parcels comprising this subject 13 acres, four are on special deferral for farm/forestry use and one is taxed at full value.
9. The subject property is served by Yamhill County roads and sheriff, McMinnville School District and Rural Fire District, McMinnville electric and GTE telephone. Water is provided on-site by individual wells. Sewer service is provided by individual septic systems.
10. The subject property is bordered on the south by properties that are zoned VLDR 2 1/2. The area to the east is zoned "EF-40" and the area to the north and west is zoned AF-20. The properties zoned AF-20 are in large woodlots. The property zoned EF-40 is a hay field. The VLDR-2 1/2 zoned area to the south consists predominantly of parcels which are averaging approximately five acres and are 60% developed. Much of the undeveloped land is in large parcels and would have to be developed by piecemeal partitioning or by costly subdivision.
11. The area to the south is the Orchard View - Pheasant Hill area. This area was part of Exception Code Area 4.1 and was found to be committed to residential development during the countywide exceptions process in 1979-80. The area where

the subject property is located and the area to the west of it was rolled back from VLDR/VLDR-2 1/2 to AFLH/AF-20 during the same Exceptions process in 1979-80.

12. The applicant has addressed applicable provisions of the county Comprehensive Plan, the Zoning Ordinance, and Oregon Administrative Rules pertaining to exceptions.
13. No public agency comments have been received.
14. No objections were raised by residents of the area.

CONCLUSIONARY FINDINGS

1. The purposed amendment from AFLH to VLDR is in conformance with the goals and policies of the Yamhill County Comprehensive Plan as follows:

- Goal a. 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.

As noted under conclusionary finding # 3 below, the subject 13 acres is committed to rural residential use consistent with OAR 660-04-028. the proposal will allow the change of the average lot size to a 2 1/2 acre minimum from the present 3.25 acre lot size that now exists (4 ownerships per 13 acres). This will result in an increase in the total number of ownerships from 4 to 5. As noted in conclusionary finding # 2B, there is a need for rural residential homesites in the area, and therefore, granting the requested plan amendment/zone change would address the need in conformance with the Goal noted above.

Policy b.

Yamhill County will recognize the lands designated on the plan map as Agriculture/Forestry Small Holding (AFSH), Very Low Density Residential (VLDR) and Low Density Residential (LDR) as the appropriate and desired location for rural residential development, while at the same time encouraging opportunities for small scale or intensive agricultural and forestry activities within these plan designated areas.

The proposed plan map designation is VLDR. When the property is divided, a range of lot sizes will be made available from approximately 1.5 acres to over 3 acres. the average lot size will be approximately 2.6 acres consistent

with existing average lot sizes in other VLDR areas.

Policy c.

All proposed rural area development and facilities:

- 1) shall be appropriately, if not uniquely, suited to the area or site proposed for development;
- 2) shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or subsurface sewage disposal, if relevant;
- 3) shall be furnished with adequate access and an adequate individual or community water supply, if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that Federal or State aid is available in the form of subsidized water supply or sewerage extensions from nearby urban centers.

It has been demonstrated that the subject 13 acres is appropriately suited to the proposed 2 1/2 acre rural residential development considering the existence of public services in the area, the suitability of soils to individual septic systems, the existing ownership and development pattern on the property and the immediate proximity to existing VLDR-2 1/2 zoning and development.

Policy d.

No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas, and telephone services, nor shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing, or refuse collection.

The development proposed for the subject property will not require the extension of additional services. The number of potential homesites will increase by one and, therefore, the level of development is at a low rural density and will not place an inordinate burden on existing rural services. Further, water can be obtained from wells, and septic systems can be developed on a site-by-site basis. All other services are presently available to the area. The existing

resources are an exception requirement of OAR 660-04-028.6(b).

Policy e.

Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers; or in small, limited areas having unique scenic, location and other suitable site qualities where the anticipated magnitude or density for development is not such as to require more than a very basic level of services, such as single local-road access, individual domestic wells and sewage-disposal systems, and possible rural fire protection.

This policy is satisfied by the requested amendment because the magnitude of the proposed development will not cause a need for urban level services. The existing county roads and proposed private/public roads developed to county standards will provide access to the development. Individual septic systems will be provided. The site is within the McMinnville Rural Fire District.

2. The proposed amendment from AF-20 to VLDR-2 1/2 is in conformance with the amendment criteria set forth in Section 1208 of the Zoning Ordinance as follows:
 - a. That the proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

See conclusionary finding #1 above for a review of the applicable goals and policies of the Comprehensive Plan.

Compliance with Rural Area Development Goal Statement 1. The application provides for land for VLDR-2 1/2 sites. Land sought to be zoned is continuous on the south to VLDR-2 1/2 zoning. The proposed area was zoned VLDR-2 1/2 until 1980 when the AF-20 designation was imposed, although the tax lots involved were not large enough to be AF-20 parcels. This application adds an additional 13.75 acres to this VLDR-2 1/2 zone along Berry Creek Road. Two parcels already have been partitioned and approved for homesites due to prior VLDR-2 1/2 zoning. There is one homesite on a 2.33 acre parcel immediately to the north and there are two homesites on Tax Lot 1000. Therefore, there is already residential development in the area and the additional development will not interfere with the forest use on Tax Lot 1000 since two dwellings already coexist with the forest

use on that property and the remaining parcels are not suitable for agricultural use because of the steepness of the terrain and their prior use as a woodlot.

This application provides for VLDR-2 1/2 parcels which are the appropriate and desired location for rural development (Policy A). No large scale development is planned. There is demand for this type of development. One of the parcels will be developed as a homesite as soon as the zoning and partition processes are complete. (Policy B). Homes are appropriate to the area and will not be located in a natural hazard area. Water will be from wells (Policy C). There will be no requirement for extension of urban services and facilities (Policy C).

Compliance with Rural Area Development Goal Statement 2. Demand for rural development exists. The area is suited for at least three homesites. No land will be taken from farm use. The present minimal wood lot use will not be interfered with and the demands on services will be minimal. Only 13.75 acres are involved access would be by driveways to Berry Creek Road. The maximum of five homesites created would not require more than a basic level of services (Policies A and B).

- 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.

There is a public need for VDLR-2 1/2 homesites. Although there are other such sites in the county, many of them are presently not ready for development because they are part of large parcels which would require a significant development cost. By granting this zone change, two of the parcels would be ready for development and one would need to be partitioned before development. Thus, three parcels would be available in a relatively short time. Since 1980, economic development in Yamhill County has increased, along with the number of families in the county and the consequent need for VLDR homesites.

- 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.

The proposal is appropriate. All public services necessary for the development of the property currently exist in the area. Sewer and water services can potentially be provided on a site-by-site basis. Further, considering the pattern of parcelization and development that has existed on the subject 13 acres prior to countywide zoning and considering the similar pattern of parcelization on the abutting VLDR-2 1/2 zoned area, and the fact that the area itself was already zoned VLDR-2 1/2 and then rolled-back, it seems that the proposed amendment would be correcting an oversight made in the past.

- 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.

See Findings of Fact # 10 and 11 and Conclusionary Finding # 2b above.

3. The proposed amendment is in conformance with the exception requirements for land irrevocably committed to uses other than resource uses pursuant to OAR 660-04-028, considering:

A. Existing Adjacent Uses

As noted in Findings of Fact # 10 and 11, existing adjacent uses to the south include committed and developed VLDR-2 1/2 lands. There are no commercial farm or forest operations existing either on the abutting VLDR-2 1/2 area or on the subject 13 acres. Land uses are characterized by nonfarm, rural residential development consistent with the proposed development of the subject 13 acres.

B. Existing Public Facilities and Services

Public facilities and services in the area are as noted in Findings of Fact # 9. As is the case with the majority of VLDR areas in the county, there are a very basic level of services available to the subject 13 acres and abutting VLDR-2 1/2 zoned areas. Telephone and electrical service are provided by GTE and McMinnville respectively. Access is provided by graveled and paved county roads maintained to county specifications. School, law enforcement and fire protection are provided by McMinnville School District, Yamhill County Sheriff, and McMinnville Rural Fire District, respectively.

There is no difference between the level and type of services existing on the subject 13 acres and the

abutting VLDR-2 1/2 zoned lands.

C. Parcel Size and Ownership Patterns of the Exception Area and Adjacent Lands

Findings of Fact # 2, 3, 4, 5, 10, and 11 review the parcel size and ownership patterns of the subject 13 acres and the adjacent VLDR 2 1/2 zoned and EF-40 zoned lands. Specifically:

1. There are 3 ownerships of 5 parcels on the 13 acre subject property. The average size of the parcels is 2.6 acres.
2. The largest ownership in the 13 acre area is 3.76 acres, the smallest ownership is 2.3 acres.
3. All of the parcels were created prior to present zoning through partition or private land sales.
4. There are 2 existing nonfarm dwellings on the subject 13 acres. Both of these dwellings were constructed prior to zoning.
5. All of the ownerships front existing county roads.
6. Abutting lands to the south are zoned VLDR-2 1/2 and were found to be committed to nonresources uses.

Other than the plan/zone line on county maps, there is no significant difference between the subject 13 acres and the abutting VLDR-2 1/2 zoned areas. The adjoining EF-40 land to the north, west, and the east is different in terms of parcel sizes, development, land use and physical layout. However, the land use and ownership pattern on lands abutting the EF-40 property will not change significantly as a result of this application, especially considering that much of the 13 acres is quite steep and unsuitable for farming.

D. Neighborhood and Regional Characteristics

In comparing the subject 13 acres with other area properties in terms of ownership patterns, existing development, land uses, parcels sizes, public facilities and services, and land values, the subject property is nearly identical to the abutting VLDR-2 1/2 zoned lands but significantly different than vicinity EF-40 zoned lands in the vicinity.

E. Natural or Man-Made Features or Other Impediments Separating the Exception Area from Adjacent Resource Land. Such Features or Impediments Include but are not Limited to Roads, Watercourses, Utility Lines, Easements, or Rights-of-Way that Effectively Impede Practicable Resource Use of all or Part of the Exception Area.

As in the case with the VLDR-2 1/2 to the south of the subject property, there is little in the way of natural or man-made features to separate the subject property from adjacent EF-40 lands. Other than county roads that border a portion of the subject property and run through portions of it, there are few physical features that separate the subject property from adjacent VLDR-2 1/2 or EF-40 lands. In this respect, the subject property is identical to the VLDR-2 1/2 area to the south where the primary features separating that area from adjacent resource lands are size of ownerships and property lines. However, the portions of Tax Lot 800 affected by the change are separated from the rest of Tax Lot 800 by the steep drop-off from the portion of Tax Lot 800 that is farmed.

F. Physical Development

There are 2 dwellings on the subject 13 acres with a potential for an additional 3 dwellings under existing zoning requirements. This would result in one dwelling per 2.6 acres in an area that is supposedly zoned for resource use.

In addition to the existing and potential residences on the subject property, the area is bordered by VLDR-2 1/2 zoned lands that are developed to rural residential densities.

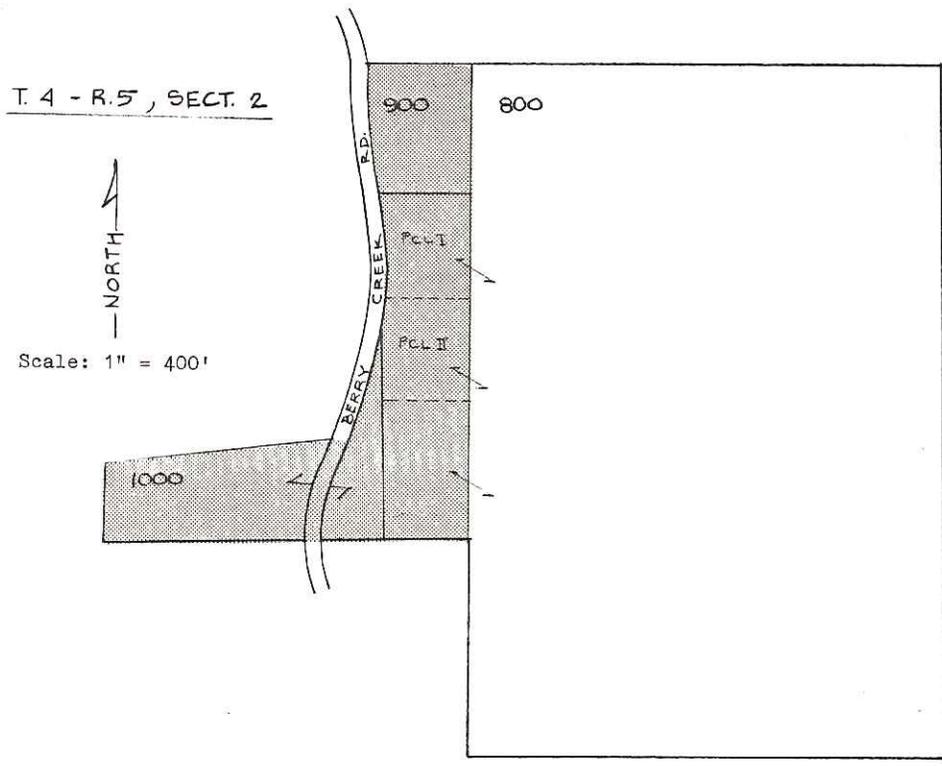
Further, by approving the proposed plan amendment/zone change, the maximum allowable density for the subject 13 acres would only have a potential increase of 1 dwelling over the number of dwellings potentially allowed under existing zoning requirements.

Previous partition in 1979 did not put any pressure for further development of the EF-40 parcel.

EXHIBIT "B" FOR ORDINANCE NO.469
COMPREHENSIVE PLAN AND ZONE MAP AMENDMENT
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 21, 1988

TO CHANGE THE COMPREHENSIVE PLAN DESIGNATION
FROM "AGRICULTURE/FORESTRY LARGE HOLDING"
TO "VERY LOW DENSITY RESIDENTIAL", AND

TO CHANGE OFFICIAL ZONING MAP
FROM "AF-20" TO "VLDR-2 $\frac{1}{2}$ "



Change applies to the shaded area

Map prepared by Yamhill County Department of Planning & Development.