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87-509

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON  
FOR THE COUNTY OF YAMHILL  
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Establishing )  
the Intended Location of the )  
AFLH, Agriculture-Forestry )  
Large Holding Plan Designation )  
Boundary and Changing the ) ORDINANCE NO. 450  
Zoning from F-40 to AF-20 on )  
a 25-acre Portion of Tax Lot )  
5730-500, and Declaring an )  
Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on August 26, 1987, Commissioners David E. Bishop, Ted Lopuszynski, and Donald D. Porter being present.

WHEREAS, John Robertson (hereinafter referred to as "Applicant") has applied to the Yamhill County Department of Planning and Development to change the Comprehensive Plan designation from Commercial Forestry to Agriculture/Forestry Large Holding and to change the zoning from "F-40" to "AF-20" on Tax Lot 5730-500, a 60 acre parcel located near Grand Ronde, Oregon; and

WHEREAS, on July 9, 1987, a hearing was held before the Yamhill County Planning Commission and the Yamhill County Planning Commission voted to approve the change as requested; and

WHEREAS, on August 5, 1987, a hearing was held before the Yamhill County Board of Commissioners to consider the application; and

WHEREAS, it appearing to the Board and the Board finding that the western portion of Tax Lot 5730-500 under consideration for rezoning does not satisfy the intent of the purpose statement of the F-40 district found in the Yamhill County Zoning Ordinance, No. 310, 1982 in that said portion has been used for residential and mixed agricultural and woodlot uses for more than fifty years and has not been used nor is suitable for forest resources or any other forest related uses specified in the F-40 purpose statement; and

WHEREAS, along the southern portion of Tax Lot 5730-500 there is an undefined area on county plan maps shown as "AFSH" Agriculture/Forestry Small Holding, with the balance of the property plan-designated "CF", Commercial Forestry; and

WHEREAS, it appearing to the Board and the Board finding that when the Yamhill County Plan "rollback" procedure changed the Comprehensive Plan designation on parcels south of Tax Lot 5730-500 from "AFSH" to "AFLH", the portion of Tax Lot 5730-500 proposed to be rezoned by this action was not reviewed or changed, although it should have been specifically delineated as "AFLH" at that time and included in the "AFLH" designated area south of Tax Lot 5730-500, because its character and use are identical to the balance of such area; and

WHEREAS, the intent of the Board following the public hearing on August 5, 1987 was to limit this action to only that western portion of Tax Lot 5730-500 where mixed farm and woodlot

activities currently take place, and where the two residences currently exist; 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 identified as "Pertinent Facts", and by this reference incorporated herein, the Yamhill County Comprehensive Plan Map of 1974 is hereby amended to reflect the plan designation on Tax Lot 5730-500 as "AFLH" and "CF" as more particularly identified on the attached Exhibit "B" which is incorporated herein by this reference.

Section 2. Based upon the findings of fact and conclusionary findings attached hereto as Exhibit "A" and identified as "Pertinent Facts" and by this reference incorporated herein, the official zoning map of the Yamhill County Zoning Ordinance, No. 310, 1982 is hereby amended to reflect the zone designation on Tax Lot 5730-500 as "AF-20" and "F-40" as more particularly identified on the attached Exhibit "B".

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 shall be effective upon passage hereof.

DONE at McMinnville, Oregon this 26th day of August, 1987.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

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

David E. Bishop  
Chairman DAVID E. BISHOP  
Date: Aug. 26, 1987

Ted Lopuszynski  
Commissioner TED LOPUSZYNSKI  
Date: Aug 26, 1987

Donald D. Porter  
Commissioner DONALD D. PORTER  
Date: 8-26-87

Pertinent Facts:

1. The applicant and his spouse have owned the subject tract for approximately fifty (50) years, their use has been a mix of agricultural, woodlot, and Forestry uses; they are presently semi-retired on the property, their ages are 74 and 71 respectively.
2. Approximately 16-20 acres of the 60 acre tract is currently in pasture land, the remaining acreage is in a mixed stand of native deciduous trees with lesser amounts of Fir. They wish to have a residence for their son and heir to assist them in managing the property.
3. The soils on the subject property are Peavine silty clay loams, with slopes ranging from 2-60 percent. Predominant crop useage for these soils, dependent upon slope, are orchards, berries, grains, grass and legume seed, hay and pasture plants. Fertility is moderate and erosion hazard is moderate to severe, depending upon slope. There is a predominance of Class IV and VI soils on the subject property. The U.S.D.A./S.C.S. soil survey of the Yamhill Area, Oregon indicates that the Peavine soils were mapped at a lesser intensity and generally contained slopes that range from 2-30 percent.
4. The woodland classification for the Peavine soils group indicates a relatively high yield of wood fiber, 155-160 cubic feet per acre per year. However, lower elevations on south-facing slopes produce mixed stands of fir, oak, big-leaf maple, or dogwood, and other native materials. Non-stocked cutover areas can present special problems in reducing brush and fern competition for timber production.
5. Topographical elevation ranges from 720 feet M.S.L. at the southerly boundary of the property to approximately 1000 feet M.S.L. along the northeasterly boundary. The USGS topographical map of Grand Ronde, Oregon indicates a moderate slope with a southwesterly solar aspect.

6. The Yamhill County Comprehensive Plan Map 1974 designates the southeastern portion of the subject tract as AFSH. This area was apparently included in the plan designation roll-back carried out through the County-wide exceptions process; however, the subject property was not mapped nor analyzed in either the first or second exceptions study conducted by the County. In this regard it is important to note that the NW¼ of the NW¼ of Section 31, T5S-R7W which adjoins the southerly boundary of the subject property was amended to an AFLH plan designation/AF-20 zoning designation as a result of the study. Does this oversight or error then leave the subject property in a mixed plan designation of AFSH/CF?
7. The subject property has a principal and secondary residence located along its southerly boundary. The principal dwelling was in existence prior to adoption of County zoning and Building codes. The secondary dwelling was constructed without zoning approval, building, or environmental health permits. The only feasible way for the property owner to correct the various infractions is through a plan amendment/zone change process.

Amendment Criteria: Section 1207.02, 1-4 provides the review criteria by which an amendment shall be judged; the following arguments and representations are offered as a basis in need and fact for the approval of the amendment as requested.

1. The following elements of the revised goals and policies of the Yamhill County Comprehensive plan are relevant to the application:

A. Agricultural Lands:

GOAL 1) to conserve Yamhill County's farm lands for the production of crops and livestock...

POLICIES a)...provide for the preservation of farm lands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various public financial incentives.

b)...provide for the conservation of farm lands, through various plan implementation measures and the review of any public or private land-use determinations subject to County jurisdiction,...

d)...continue to support state special assessment incentives relative to farm lands which are subject to ORS or other farm management programs in order to preserve such lands for farm use and production.

GOAL 2) To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use...

POLICIES a)...continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the capability classification system of the U.S.S.C.S.

B. Forest Lands:

GOAL 1) To conserve and to manage efficiently the County's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock,...

POLICIES a)...cooperate with Federal and State agencies, large private timber owners and small woodland owners to manage forest and grazing lands for the highest aggregate economic, recreational and ecological benefits which these lands can sustain, including timber production, livestock range, fish and wildlife habitat, watershed protection, erosion control and recreational use.

b)...continue to support State special assessment incentives, reforestation programs, and forest management plans and programs in order to preserve and rehabilitate forest lands in the County.

c) ...encourage afforestation of marginal agricultural lands in the County.

The goals and policies recited above were set forth and adopted by the County and acknowledged by the Land Conservation and Development Commission of the State as being in conformance with statewide protectionist policies of resource lands.

The physical use of the subject property embodies both the agricultural and forestry goals ascribed by the County. This is characterized by the S.C.S. soils capability classification system, whereby the predominant soil class is listed as Class IV, see Goal 2, policy a.

It is further characterized by the applicants desire to continue his past and present uses of livestock agriculture, woodlot and forestry management.

The goals establish a hierarchy of use; in the agricultural lands they set forth the production of crops and livestock while conserving farm land. The second goal is to conserve soil resources that reflects their suitability for forestry and agriculture.

The applicants central desire is to maintain the family home during he and his wife's retirement years, continue their past management practices, and provide for future management of the property by legitimately providing a home site for

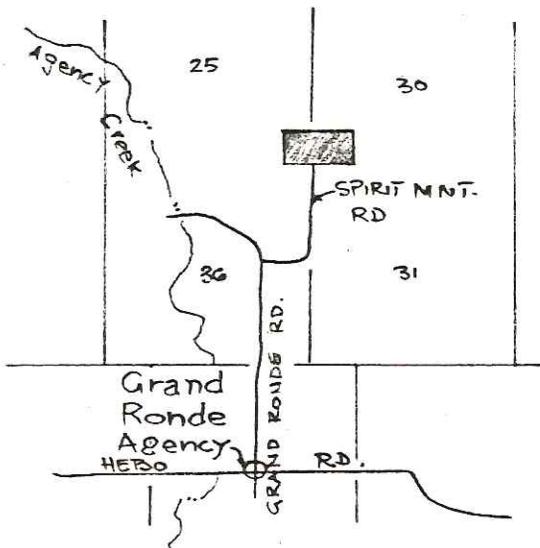
his heir in order to economically sustain farm and forest management of the property. The past, present, and future use of the property is consistent with the agricultural lands goals, the subject property is predominantly Class IV soil and as such should be preserved for farm use and amended to an AFLH plan designation and AF-20 zone designation.

2. The existing demonstrable need to amend the plan and zone designations on the subject property is embodied in the mixed Agriculture/Forestry uses on the property, the desire of the present owner to have a legitimate dwelling on the property for his heir, and his need to retire on the property he has owned for fifty (50) years. The uses of the land and its capability classification have not changed, and it is not clear that the exceptions process amended the AFSH plan designation on the property; however, the exceptions map adopted for code area 7.2 depicted a change on properties to the south and west of the subject land. The area is characterized by rural residential occupancies in conjunction with farm and forest uses on privately owned property.
3. The amendment is timely in that it provides for a reasonable use of the property into the future that is consistent with the historical uses of the property owner. The amendment will facilitate the long range plans of the owner to provide a residence for his heir, and continue farm/forest management of the tract within the family unit; while providing a retirement residence for he and his wife without having to relocate. The restrictions of the F-40 zoning district are not consistent with the past land use practices on the subject property, nor with the future management plans or needs of the present owner. The subject tract is served by a County road which deadends at the property boundary, the water supply is from an impoundment on a small perennial stream, and the residential occupancy does not require more than a minimal level of services.
4. There are other lands in the County zoned AF-20; however, they are unsuitable for the applicants use due to location and ownership.
5. The purpose statement of the AF-20 zone provides that it "is intended to designate large, generally contiguous areas identified as agricultural/forestry large holding lands, and including some forest lands, for agricultural and forestry uses." is consistent with the past, present, and proposed future use of the property; whereas, the statement of purpose for the F-40 zone is not consistent with the land use, the goals of the owner, and places an unnecessary burden upon the property owner. Because of advancing age the present owner, to realize his plans, would have to raze the second dwelling, and relocate his retirement residence. However, it would not change the use of the property from that of agriculture and forestry. To deny the request would only serve to introduce an additional financial burden and uncertainty into their lives.

EXHIBIT "B" FOR ORDINANCE NO: 200  
 TO REZONE A PORTION OF T.L. 5730-500  
 FROM "F-40" TO "AF-20"  
 AND TO ESTABLISHE THE INTENDED BOUNDARY  
 OF THE AFLH PLAN-DESIGNATED AREA TO THE SOUTH.

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Applicant: John Robertson  
 Tax Lot No: 5730-500  
 Docket No: PA/Z-2-87

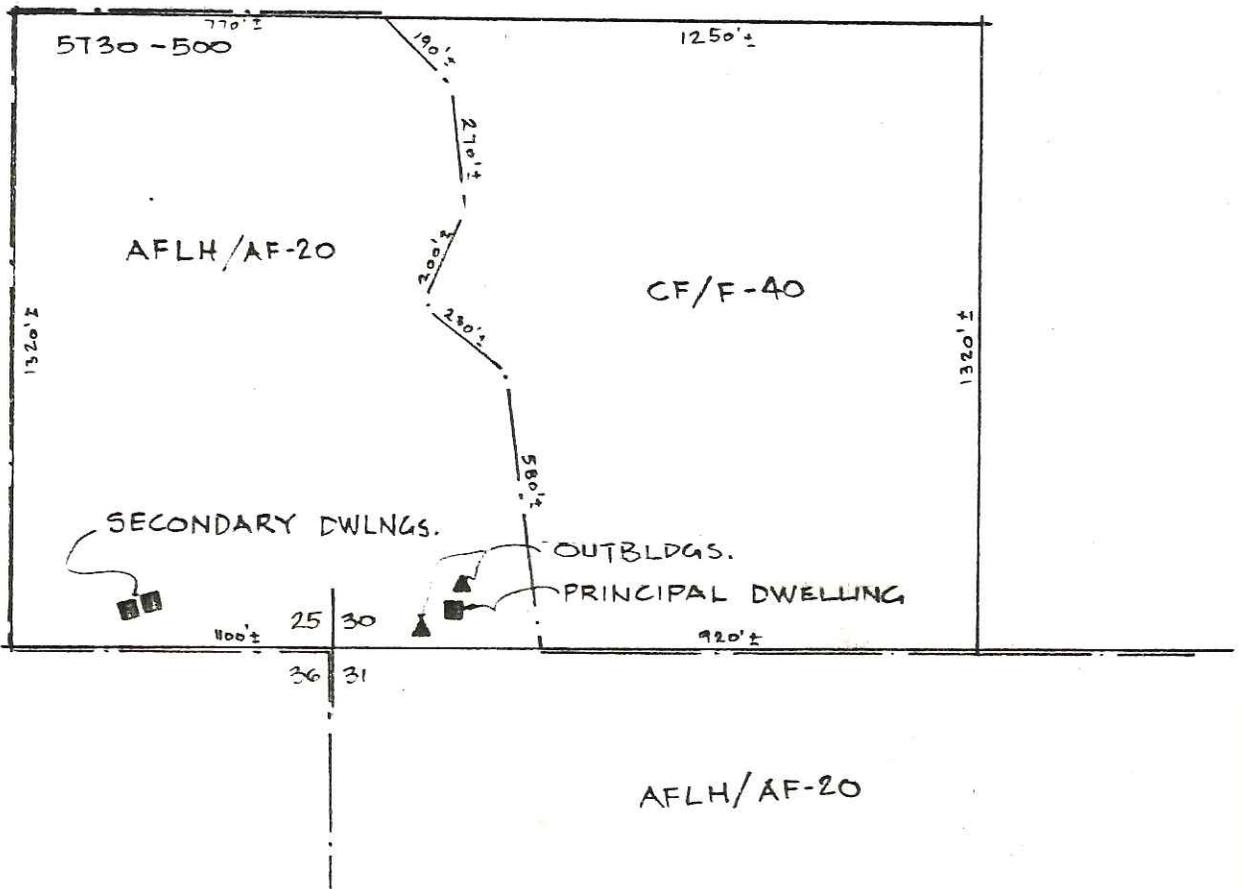


Vicinity Map

NORTH

CF/F-40

Scale: 1" = 400'



LEGEND:

- Existing Property Line
- - - - - Zoning District Boundary