

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

85-519-B

FILED 43 PAGE 518  
YAMHILL COUNTY, OREGON  
1985 AUG 22 PM 4:03  
CHARLES STERN  
COUNTY CLERK  
DEPUTY

In the Matter of an Ordinance )  
to Implement Planning Commission )  
Resolution 85-02 and Authorizing )  
an Amendment to the Yamhill )  
County Comprehensive Plan, Ordi- )  
nance 62, 1974, Changing the De- )  
signation on Tax Lots 4514-1400, )  
1500 and 1600 from "Agriculture/ )  
Forestry Large Holding" to "Very )  
Low Density Residential", Re- )  
quested by Harold Clark, Dennis )  
Niederer and Shirley McElmurry )

ORDINANCE NO. 416

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 14th day of August, 1985, sat for the transaction of County business in special session, Commissioners Ted Lopuszynski and Donald D. Porter being present.

WHEREAS, Section 6(4) of Ordinance 62, 1974, provides that an application for an amendment to the Yamhill County Comprehensive Plan Map shall first be referred to the Yamhill County Planning Commission and that the Planning Commission shall recommend approval or denial of such application to the Board of Commissioners; and

WHEREAS, Harold Clark, Dennis Niederer and Shirley McElmurry have filed an application with the Yamhill County Planning Department to change the Comprehensive Plan Map relating to a 30 acre parcel, Tax Lots 4514-1400, 1500 and 1600 as set forth more particularly on Exhibit "B" attached hereto and by this reference incorporated herein; and

WHEREAS, on the 18th of July, 1985 the Yamhill County Planning Commission held public hearing to consider amendment to the Yamhill County Comprehensive Plan on the above-mentioned parcel from "Agriculture/Forestry Large Holding" to "Very Low Density Residential" and voted to approve the request; and

WHEREAS, on the 14th day of August, 1985, the Yamhill County Board of Commissioners held a public hearing to consider the action of the Planning Commission and voted to approve a change in the Comprehensive Plan Map designation relating to the above-mentioned tax lots from "Agriculture/Forestry Large Holding" to "Very Low Density Residential" as set forth in the attached Resolution 85-02, identified as Exhibit "A" to this ordinance and incorporated herein as if fully set forth herein, NOW THEREFORE,

IT IS HEREBY ORDAINED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

Section 1. That the Comprehensive Plan Map of Yamhill County be and hereby is amended to change the Plan Map designation on the subject parcel above-mentioned from "Agriculture/Forestry Large Holding" to "Very Low Density Residential", consistent with and as set forth in the attached Exhibit "A" incorporated herein by this reference, together with the findings thereon.

Section 2. That the Comprehensive Plan of 1974 as amended by the Revised Goals and Policies of 1979, be and hereby is amended to incorporate the findings and exception statement noted under Section 1. A-F attached herein as Exhibit "C" and incorporated herein by this reference.

Section 3. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County and an emergency being declared to exist shall be effective immediately upon passage hereof.

DONE this 21st day of August, 1985, at McMinnville, Oregon.

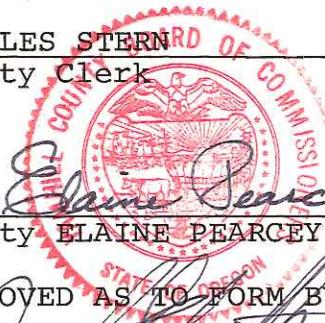
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk

By: *Elaine Pearcey*  
Deputy ELAINE PEARCEY

APPROVED AS TO FORM BY:  
*Daryl S. Garrettson*  
DARYL S. GARRETTSON  
Yamhill County Counsel



*Ted Lopuszynski*  
Chairman TED LOPUSZYNSKI

Date: 8-21-85

*Donald D. Porter*  
Commissioner DONALD D. PORTER

Date: 8/21/85

*David E. Bishop*  
Commissioner DAVID E. BISHOP

Date: 8-21-85

Docket: PA-1-85/Z-5-85  
 Request: An amendment to the Yamhill County Comprehensive Plan, 1974, to change the Plan Map designation from "Agriculture/Forestry Large Holding" to "Very Low Density Residential" on a 30 acre tract. An amendment to the Yamhill County Zoning Ordinance, No. 310, 1982, to change the official zoning map from AF-20 to VLDR-2½ on a 30 acre tract.  
 Location: Approximately three (3) miles West of the City of McMinnville, North of Baker Creek Road, in the N½ of Section 14, T4S-R5W, Tax Lot 4514-1400, 1500 and 1600.  
 Applicants: Harold Clark, Dennis Niederer and Shirley McElmurry

Findings of Fact

1. The applicant has requested a Plan Amendment/Zone Change from AFLH/AF-20 to VLDR/VLDR-2½ on the thirty (30) acre subject property.
2. The subject property consists of three 10+ acre parcels in separate ownerships. Two of the parcels have dwellings located on them, one parcel is vacant.
3. The subject property fronts the north side of Baker Creek Road. The property has a south facing slope and elevations range from approximately 200 feet, near the road, to approximately 380 feet at the northern edge the property. The parcels are partially wooded and in pasture; Christmas trees are planted on one of the parcels.
4. Approval of the request would allow the property to be divided into a maximum of 12 parcels; however, the applicant has indicated preliminary plans of dividing the property into no more than 10 parcels. Under the present zoning the property would remain as 3 parcels.
5. Public services and utilities are presently available to the property including electricity through McMinnville Water & Light, telephone through GTE, police protection through Yamhill County, fire protection through McMinnville Rural Fire Protection District, and garbage service through City Sanitary. The applicant has indicated that water would be provided by on-site wells and waste disposal would be accommodated by on-site septic systems.
6. Soils on the property consist predominantly of Class III and IV Willakenzie silty clay loam, with slopes of 7 to 20%. These soils are site class 2 for Douglas fir production.
7. Two of the parcels are on forest deferral, one parcel is not on farm or forest deferral.
8. The applicant has submitted background information and justification material addressing the applicable criteria of the Zoning Ordinance, the goals and policies of the Comprehensive Plan and the criteria for taking an exception to applicable resource goals. The application and supporting materials are incorporated as part of this staff report.
9. Zoning on abutting properties includes VLDR-2½ lands to the northeast and southeast, AF-20 lands to the east, northwest and southwest, and PRO and EF-40 lands to the west.
10. The subject property is largely bordered on the south by Hidden Hills Subdivision, a VLDR-2½ zoned area that was excepted during the County Exceptions process (Code Area 4.2), and on the north by Code Area 4.1, a VLDR-2½ zoned area that has been excepted. Additionally, Hilldale Subdivision, an area of 1 to 2 acre lots that was platted in 1970, abuts the eastern edge of the property.

Exhibit "A"

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11. Land uses on abutting parcels are predominantly rural residential. There are 14 parcels ranging in size from under  $\frac{1}{2}$  acre to 5 acres that abut the subject property; there are dwellings on 7 of these parcels. Four other parcels ranging in size from approximately 20 acres to 47 acres abut the subject property on the north; one of the parcels is zoned VLDR-2 $\frac{1}{2}$  and the other 3 parcels are zoned AF-20.
12. To the north of the subject property in Code Area 4.1, there are more than 300 acres of undeveloped VLDR-2 $\frac{1}{2}$  zoned lands that can be partitioned further. These lands are vacant and range in size from 5 acres to over 90 acres. Additionally, there are more than 20 undeveloped parcels in the Hidden Hills Subdivision that are zoned VLDR-2 $\frac{1}{2}$  and potentially can be developed.
13. The following public agency comments have been received:
- a. County Sanitarian - The proposed zone change area has predominantly well drained soils. Slopes may be a limiting factor; however, with alternative systems now available, this area has a good feasibility for septic approvals.
  - b. Director of Public Works - No conflicts with Public Works interests.
  - c. City of McMinnville - No problem with approval of the request provided the property is suitable for wells. Do not depend on McMinnville Water & Light Department servicing the property with a water line.
  - d. McMinnville Water & Light - No conflicts with the Departments interests.
  - e. McMinnville Fire District - No conflicts with the Districts interests. However, we do want to be sure that they conform to the private road standards of Yamhill County.
  - f. DLCD - Our review of the application and exception statement lead us to agree that the parcels are committed to nonresource use because characteristics of the parcels and adjacent uses make resource uses impracticable.
14. The McMinnville Planning Advisory Committee met to consider the application at their meeting of June 19, 1985. However, no quorum was present and, therefore, no official recommendation could be made.

#### Conclusionary Findings

#### Approval

The applicant has done a thorough job of addressing the relevant Zoning Ordinance criteria and the goals and policies of the Comprehensive Plan. Additionally, the Department of Land Conservation and Development has reviewed the application and

exceptions statement and agrees that the subject property is irrevocably committed to nonresource use because characteristics of the property and adjacent uses make resource uses impracticable. However, DLCD indicated that the exceptions statement appears to attempt to satisfy 2 criterion rather than just the commitment criterion set out in Goal 2 and because of this is confusing. DLCD advised that the most pertinent criterion be selected, identified and addressed completely and specifically. In this instance, the applicant has addressed the commitment test completely and specifically under 1.A-F of the exceptions statement.

The application and supporting materials as submitted by the applicant can adequately serve as conclusionary findings for approval and, should the Planning Commission action be for approval of the request, the applicants report, excluding Sections 2 through 5 of the exceptions statement, should serve as the basis for such an action.



EXCEPTION STATEMENT

In accordance with the Oregon Administrative Rules, this property is subject to statewide goals. The goals it is subject to are Goal 3 "Agricultural Lands" and Goal 4 "Forest Lands". In order to allow this plan amendment/zone change to take place, an exception to these Goals must be taken. The following is a statement in support of this exception being made and is an attempt to address the Oregon Administrative Rules governing these exceptions.

There are four factors which should be considered when taking an exception. These four factors are as follows:

1. Reasons justifying why the State policy embodied in the applicable goals should not apply.
2. Areas which do not require new exception cannot reasonable accommodate the use.
3. The long term environmental, economic, social, and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impact are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception.
4. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The Administrative Rules further caution the County not to base an exception merely on market demand for housing except as provided for in this Section. The Rules further provide that the County can take an exception to a goal when land is irrevocably committed to uses not allowed by the applicable goal because of existing adjacent uses or other relevant factors. One of the relevant factors is parcel size and ownership patterns of the exception area and adjacent lands.

The following reasons and facts are submitted to justify the exception:

1. These three parcels are irrevocably committed to other uses. This is true for a number of reasons.
  - A. The existing adjacent uses are predominately residential. Hidden Hills is to the south of the parcels, Hilldale Subdivision is to the east. The Niederer and McElmurry parcels are bordered on the north by VLDR-2 1/2 zoning. The Clark property is in this residential area.
  - B. The parcel size of each one of these parcels is below the minimum size required in an AF20 zone. Each parcel

consists of approximately 10 acres. The parcels came into existence prior to the zoning regulations. However, two of the parcels (Niederer and McElmurry) already have existing residences and could not be combined for one type agricultural use. Further the Clark property, because of topography, cannot be used for agricultural purposes.

- C. The existing use of the property is not productive agricultural use. None of the parcels can supply any kind of economically feasible agricultural activity.
- D. The neighborhood around the parcels is clearly residential. The surrounding subdivisions give it a rural residential character.
- E. The extension of the zoning of VLDR 2 1/2 to these parcels would provide a logical extension and an easy separation from the remaining agricultural lands. They would take these substandard parcels and place them in an appropriate zone. The surrounding resource land is not of substandard parcel size. The Niederer and McElmurry parcels are completely surrounded by VLDR 2 1/2 use. The Clark property, which is substandard parcel size, would make a natural ending to the zoning extension. It would provide a cutoff point for the zoning extension.
- F. Two of the parcels are already physically developed with residential use by having two homes placed on them. They are residential in character.