

FILED
YAMHILL COUNTY, OREGON
1986 JUN 27 AM 9:26

CHARLES STERN
COUNTY CLERK

Alfred Sells
DEPUTY

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

86-262 (b)

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

INDEXED

In the Matter of an Ordinance)
to Amend the Yamhill County)
Comprehensive Plan Map, Ordi-)
nance No. 62, 1974, to reflect)
the Correct Designation of Tax)
Lot 4411-3800 as Light Indus-)
trial)
ORDINANCE NO. 430

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on the 25th day of June, 1986, Commissioners Donald D. Porter, David E. Bishop and Ted Lopuszynski being present.

WHEREAS, applicant Ed Hoem, in Planning Department Docket Number PA-3-86/Z-2-86 has operated a metal fabrication business on Tax Lot 4411-3800 since 1958; and

WHEREAS, the Board approved a zone change for the subject property from "Agriculture" to "Light Industrial" on October 6, 1971, by Ordinance # 39; and

WHEREAS, Ordinance # 39 is still in effect, having never been amended or repealed by the board; and

WHEREAS, the comprehensive plan map was never amended to reflect the correct designation of Tax Lot 4411-3800; and

WHEREAS, in 1974 Tax Lot 4411-3800 was incorrectly and inadvertantly included in a Very Low Density Residential exception area instead of the Light Industrial exception area on which it borders; and

WHEREAS, on June 18, 1986, the Board held a public hearing and heard testimony concerning this matter and on June 25, 1986, unanimously adopted the findings of fact set forth in the attached Exhibit "A" incorporated herein by this reference; and

WHEREAS, the Board finds that sufficient evidence has been presented to justify the taking of an exception to the Yamhill County Resource Goal and Statewide Planning Goal 3 based on the extent of the physical development of the subject property; and

WHEREAS, the evidence supports an amendment to the Yamhill County Comprehensive Plan Map, Ordinance No. 62, 1974, changing the designation of Tax Lot 4411-3800 from Very Low Density

Residential to Light Industrial;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD as follows:

Section 1. The Yamhill County Comprehensive Plan Map, Ordinance No. 62, 1974, is amended to change the designation of Tax Lot 4411-3800 as identified in the attached Exhibit "B", incorporated herein by this reference, from Very Low Density Residential to Light Industrial for the reasons set forth in the attached Exhibit "A", constituting the findings of fact and conclusionary findings for approval.

Section 2. An exception to the Yamhill County Resource Goal and Statewide Planning Goal 3 is hereby taken for the reasons set forth in the attached Exhibit "A", constituting the findings of fact and conclusionary findings for approval 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 having been declared to exist, shall be effective immediately upon passage.

DONE this 25th day of June, 1986, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



Donald D. Porter
Chairman DONALD D. PORTER
Date: 6/25/86

By: *Elaine Pearcy*
Deputy ELAINE PEARCEY

David E. Bishop
Commissioner DAVID E. BISHOP
Date: 6-25-86

APPROVED AS TO FORM:

Todd Sadlo
TODD S. SADLO
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI
Date: 6-25, 1986

EXHIBIT "A"

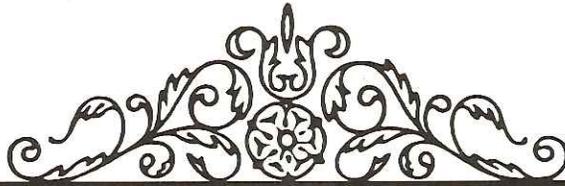
FINDINGS OF FACT

1. Mr. Ed Hoem has operated light industrial businesses on a 5.1 acre parcel, Tax Lot 4411-3800 continuously since 1957. (See Attachment 1 for list of light industrial uses made since 1957)
2. In 1971, Mr. Hoem placed a business identification sign on his property. Because the property was zoned "Agriculture" at the time, the Planning Department informed Mr. Hoem that placement of the sign constituted an expansion of a nonconforming use. In order to remedy the situation, Mr. Hoem was advised by the Planning Department to apply for a comprehensive plan amendment and zone change to "Light Industrial".
3. On May 25, 1971, a plan amendment/zone change application was filed by Mr. Hoem with the County (Docket G-12-71/Z-46-71). Notice of the comprehensive plan and zone change were posted on the property and published in the local newspaper as required by the law and regulations then in effect. The County Planning Commission held a hearing, heard no opposition to the application, and approved the request on July 6, 1971.
4. The Yamhill County Board of Commissioners approved the zone change for the subject property from "Agriculture" to "Light Industrial" on October 6, 1971, by Ordinance 39. The Ordinance is recorded in Film Volume 23, page 392-393 of the County Clerk Records.
5. In 1974, the Board of Commissioners approved Ordinance 62, adopting a county-wide Comprehensive Plan map for Yamhill County Ordinance 39 was not repealed by that ordinance. However, two other site-specific, previously adopted county plan maps were repealed.
6. In 1976, County Zoning Ordinance No. 83 was adopted. In Section 52.100 of that ordinance, Ordinances 36, 42, and 59 were specifically repealed. Ordinance 39, dealing with the zoning of the Hoem property, was not repealed by Ordinance 83.
7. Other properties that were rezoned prior to adoption of Ordinance 83 remain zoned per prior ordinances. Those ordinances dealing with other properties that were rezoned in a manner similar to the Hoem property were never repealed and all of those properties retained the zoning they received prior to 1976.
8. In 1982 the existing county zoning ordinance, Ordinance 310, was adopted. In Section 103.06 of that ordinance, only Zoning Ordinance 83 and amendments thereto were repealed, along with the Floodplain Ordinance, No. 69.
9. To this date, Ordinance 39, 1971, rezoning the Hoem property from "Agriculture" to "Light Industrial" has never been repealed.
10. At the time the first county-wide zoning map was prepared, the zone change approved as Ordinance 39 to change the zoning of the Hoem property to "Light Industrial" was not incorporated into that map.
11. Even though Ordinance 39, zoning the Hoem property as "Light Industrial", had never been repealed, zoning maps drawn in 1976 showed the property in a rural residential zone, AF-10, even though no action has ever been taken to include the property in that zone.

12. The first county-wide Comprehensive Plan map, adopted in 1974, designated the Hoem property as "Rural Residential". Although evidence and testimony concerning events in 1974 are not conclusive, it appears that original errors in failing to incorporate the site-specific zone change onto the county-wide zoning map were perpetuated in the development of the Comprehensive Plan map.
13. Because of the small scale of the County-wide Comprehensive Plan map, individual parcels of the size of the Hoem property are not accurately reflected, therefore it cannot be determined what plan classification was intended for that specific property.
14. When exceptions to the Statewide Goals were taken in 1979, as part of the county Plan acknowledgment process, the Hoem property was erroneously included in the Rural Residential exception area rather than being listed along with the similar light industrial exception properties to the east.
15. The County's intent in the exception process to include property in that exception or category established by the use(s) to which the property was committed, and to recognize the comprehensive plan and zoning designation of such properties. If the zoning map error had been noticed, and the property shown on the plan and zone maps as light industrial, the County would have included the property in the light industrial exception category.
16. In late 1985, the Hoems put their property on the market for sale and discovered at that time zoning maps designated the property for rural residential uses. In order to rectify the plan/zone problem, the Hoems again requested a plan amendment and zone change to Light Industrial. During staff investigation of prior records it was discovered that the property had in fact never been rezoned, nor the Comprehensive Plan amended, and therefore has continued to be zoned and Plan-designated as "Light Industrial" since 1971.
17. The Board of Commissioners (Board) finds that the LI plan and zone designations on the subject property which were mistakenly omitted through drafting and clerical errors on the Official Comprehensive Plan Map and Zoning Map are appropriate and reflect the actual use of the subject property. In taking a modified exception "plan and zone designations shall limit uses to uses which are the same as the existing types of land uses on the exception site". As per attachment 1 listing the types of uses that the subject property has been put to, the existing uses are light industrial in nature and , therefore, the LI plan and zone designation on the property does limit uses to those which are the same as existing uses on the subject property.
18. The Board finds that the subject property was previously excepted from applicable goals because it was found to be committed to nonresource uses, specifically rural residential. The Board also finds that the light industrial uses that have existed on the property were present prior to and during the 1979 and 1980 County-wide exceptions process and that an oversight was made in not recognizing the light industrial use, plan designation and zoning of the subject property in addition to the rural residential use of the property.
19. In the event that a modified exception must be made to address the light industrial use rather than the rural residential use of the subject property, the Board finds:
 - A. That the use of the property for light industrial purposes is consistent with applicable Goal requirements in that industrial type uses have been

made of the property since 1957, and a comprehensive plan amendment and zone change to LI was approved for the property in 1971 by Ordinance No. 39 to reflect that industrial type use of the property. Further, abutting lands to the east were specifically excepted for light industrial uses in 1979 (Code Areas 4.5 and 4.9) by Ordinance No. 202. The Board finds that the subject property was mistakenly omitted from those Exception Code Areas and that the findings made to except the abutting lands is equally applicable to the subject property and, therefore, the findings set forth in Ordinance No. 202 for taking an exception to Code Areas 4.5 and 4.9 are adopted by reference thereto.

- B. The use of the subject property for light industrial purposes will not commit adjacent or nearby resource land to nonresource uses in that the subject property is buffered from other lands by State Highway 99W and Southern Pacific Railroad tracks, is bordered on 3 sides by existing nonresource designated lands, and abuts an LI zoned and plan designated area presently existing in the area in apparent compatibility with area resource lands. Further, the subject property has been used for industrial uses since 1957 without committing area resource lands to nonresource uses and there has been no indication that this situation will change. Finally, Section 702 of the Zoning Ordinance, No. 310, 1982 provides that prior to any development of LI zoned lands site design review is required. The Board has specifically added a provision that the site design plan for development of the property be subject to public review to provide nearby landowners with an opportunity to review the design plan in consideration of the characteristics of adjoining and surrounding land uses.
- C. The use of the subject property is compatible with adjacent or nearby resource uses in that the industrial type use of the property has existing in that location since 1957 and has been zoned and planned for LI use since 1971 without apparent adverse impact on area resource lands. As noted in Attachments 1 and 2, the industrial use made of the subject property has, in part, catered to the farming community and has, therefore, been very compatible with area agricultural lands. Further, prior to any new development of the subject property, a site design plan consistent with Section 1100 of the Zoning Ordinance, No. 310, 1982 must be approved. Among the provisions which must be considered in reviewing a site plan are the characteristics of adjoining and surrounding uses. The Board finds that the Site Design Provisions of Section 1100 of the Zoning Ordinance and the accompanying public review required by the Board will adequately ensure that future use of the subject property will be compatible with area resource uses.



Hoemkraft Ornamental Iron

April 15, 1986
Dept. of Planning and Development
Yamhill County Courthouse

Att: Lynn Steiger and Mike Brandt
Re: PA-3-86/Z-2-86

In answer to the request from your office concerning the kinds of work taken on by the Hoem Steel and Hoemkraft Ornamental Iron Shop at St. Joe since 1957, we respectfully submit the following partial list:

FABRICATION

Truck dump beds
Trailers
Dumpsters for City Sanitary
Paper roll hoist for News Register
Trusses for Ford Garage
Bench components for A-Dec, Newberg
Storage units for Evergreen
Spray booms for Evergreen
Work benches, metal racks for Field Emission
Bases for 2 MEV X-Ray Units for both Field Emission and Hewlett-Packard

Basket-ball posts
Support columns for commercial buildings
Fire escapes
Misc. metal work on U. S. Bank building

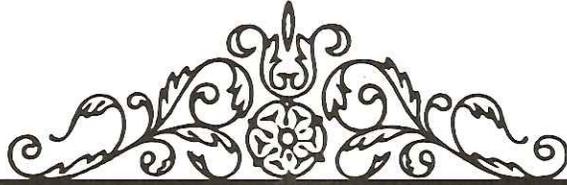
REPAIR

City Sanitary trucks
Sunshine Dairy misc. repairs
Portable welding, incl. misc. farm machinery repair
Heliarc (aluminum welding), including miles of irrigation pipe
Burch Concrete truck cabs
Logging equipment
Rebuilding of old woolen mill plant
Boats and motors
Trailers and field burners for Mac Gas
Antique repairs, such as rebuilding the frame for "Mom" Jenkins Pop-Corn Wagon



Edw. & Jean Hoem
(503) ~~472-5240~~ 364-0858

~~Rt. 2, Box 22~~
~~McMinnville, OR 97128~~



Hoemkraft Ornamental Iron

SUB-CONTRACT jobs on Mobeas Ironworker

Material for catch basins
Lightening bars for utility poles

ORNAMENTAL IRON

Apartment railings
Church balcony railings
Church entry-way rails
Porch columns and railings
Misc. home-improvement projects
Security doors and window guards
Metal butterfly steps
Spiral stairways
Misc. furniture, such as chairs, tables, etageres, baker's racks,
plant stands
Mobile home steps
Bird cages
Weather vanes
Christmas tree stands
Decorative wall pieces
Gift items, such as candle stands, book-ends, paper towel holders
Fireplace tools
Fireplace screens
Wood boxes
Shoe scrapers

The particular location of our property - between the railroad and Hwy. 99W - has been ideal for our business because of its accessibility to the public. It is our hope that the zoning can be returned to the more appropriate classification, Light Industrial, so that it can continue to be available for a service type of business.

Sincerely,
Edw. Hoem
Jean Hoem

Edw. and Jean Hoem
Hoemkraft Ornamental Iron
1480 Brush College Road N. W.
Salem, Oregon 97304

*RS. Must Mention
Blacksmithing
Edw. Hoem*



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PROPOSED FINDINGS OF FACT

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Applicant EDWARD A. HOEM, presents the following proposed findings of fact in connection with Docket PA-3-86/Z-2-86:

1. The property in question has been used since 1957 by applicant in his business. The use has been repair and general metal fabrication and ornamental iron fabrication and repair. These are light industrial-type uses.

2. In 1971, applicant placed a sign advertising his business on the property where it borders Highway 99 W.

3. Applicant received a letter from Yamhill County that demanded that the sign be removed. The letter informed applicant that the sign could be reinstalled after applicant applied for and received the correct light industrial zoning on the property.

4. Applicant promptly removed the sign.

5. Applicant applied for a comprehensive plan and zone change as required. The application was filed in May of 1971 and the required filing fees were paid. Notice of the comprehensive plan and zone change were posted on the property and published in the local newspaper as required by the law and regulations then in effect. At Planning Commission hearing was held in July of 1971, applicant presented testimony and there was no opposition. The staff recommended approval and applicant understood that the comprehensive plan and zone changes were approved on July 6th, 1971. Later in 1971, Yamhill County Ordinance No. 39 was adopted by the Board of Commissioners. This Ordinance was silent on the comprehensive plan in question, but

1 - PROPOSED FINDINGS OF FACT

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1 specifically zoned applicant's property as light industrial.

2 8. Applicant replaced his sign and continued his light
3 industrial use of the property.

4 9. In 1974, Yamhill County went through the process of enacting
5 a new county-wide comprehensive plan.

6 10. The county specifically considered the appropriate
7 comprehensive plan and zone designation for applicant's property and
8 decided that the appropriate comprehensive plan and zone designation
9 was light industrial.

10 11. Mr. Craig Greenleaf, former Yamhill County Planning
11 Director, was employed in the Yamhill County Planning Department
12 during the consideration of the 1974 comprehensive plan process.
13 Mr. Greenleaf was not working for Yamhill County in 1971 when the
14 original zoning and comprehensive plan decision was made, so his
15 specific recollection of finding of fact No. 10 must have related to
16 the 1974 process, not the 1971 decision.

17 12. In reflecting the decision not to change the Hoem property
18 comprehensive plan or zoning (but to leave it light industrial), an
19 error occurred in the mapping process. This error probably occurred
20 because of the size and scale of the map in question.

21 13. In 1976 a new county-wide zoning ordinance (Ordinance No.
22 83) was adopted. This ordinance specifically repealed several other
23 zoning ordinances, but did not repeal Ordinance No. 39 which granted
24 a light industrial zone to the Hoem property. Ordinance No. 39 has,
25 in fact, never been repealed.

26 14. The appropriate zone and comprehensive plan for the Hoem

2 - PROPOSED FINDINGS OF FACT

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1 property in 1976 was light industrial. This was also the appropriate
2 zone in 1971 and 1974 and continues to be the appropriate zone for
3 the property.

4 15. In 1976 zoning maps were drawn in error again. This
5 perpetuated the comprehensive plan map error and indicated that the
6 Hoem property was zoned rural residential, rather than its achieved
7 light industrial zone.

8 16. In 1979, exceptions were taken to the agricultural goal.
9 An exception for this property was required because it was committed
10 to a non-agricultural use.

11 17. In 1979 in the area of the Hoem property, there were two
12 exemption areas (a) light industrial and (b) rural residential. The
13 intention of the exception process and the County was to include
14 property in the area associated with the use to which the property
15 was committed and to follow the correct comprehensive plan and zoning
16 designation of the property. The mapping error concerning the Hoem
17 tract was perpetuated and the Hoem property was included in the rural
18 residential exception area rather than the light industrial exception
19 area.

20 18. The Hoem property is on the boundary between these two
21 exception areas.

22 19. If the zoning map error had been noticed and the property
23 shown on the map as light industrial, it would have been included in
24 the light industrial exception area.

25 20. The light industrial exception area is, in fact, correct
26 because the criteria for exception area is "to what use is the

3 - PROPOSED FINDINGS OF FACT

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1 property committed instead of agriculture".

2 21. This property is physically buffered from non-industrial
3 uses by the railroad to the north and south and west, Highway 99W to
4 the north and St. Joseph Road and a light industrial zone to the east.

5 22. Applicants have established that it is appropriate to
6 modify the exception taken to the agricultural goal to include the
7 subject property in the light industrial exception rather than the
8 rural residential exception area. In addition, if it is necessary,
9 applicants have also met the requirements of OAR 660-04-18. The
10 purpose of the administrative regulation is "physically developed
11 and irrevocably committed exceptions under OAR 660-04025 and 028 are
12 intended to recognize and allow continuation of existing types of
13 development in the exception area. Adopting of planning and zoning
14 provisions which allow changes in existing types of uses requires
15 application of standards outlined in this rule". The proposed action
16 does not involve changes in existing types of uses on the Hoem
17 property since it has been in light industrial use since 1957.

18 In the event that OAR 660-04-018 does apply, the proposed action
19 meets the requirements of the administrative rule in that the plan
20 and zone designation shall limit uses to uses which are the same as
21 existing types of land use on the exception site OAR 660-04-018(2)(a).
22 The present types of uses on the site are light industrial and the
23 plan and zone designation corrections shall limit uses to light
24 industrial uses.

25 In addition, the alternative criteria OAR 660-04-018(2)(b) is
26 also met in that, based upon the previous findings, the Commission

4 - PROPOSED FINDINGS OF FACT

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1 finds the rural light industrial use is consistent with all other
 2 applicable goal requirements because the property is irrevocably
 3 committed to the light industrial use, has been developed and used
 4 in that way for many years and that it is part of an area which
 5 involves other light industrial and compatible uses, and an exception
 6 was taken to the agriculture and other goals. The light industrial
 7 use will not commit adjacent or nearby resource land to non-resource
 8 use as defined in OAR 660-04-028 because any impact of the use of
 9 this property on adjacent and nearby land has already occurred long
 10 ago. Finally, the rural light industrial use is compatible with
 11 adjacent and nearby resources uses. This property has been in this
 12 use for many years without any compatibility problems.

13 Finally, as a third alternative method of meeting OAR 660-04-
 14 018 under Provision 2(c), the zone is identified and authorized by
 15 specific related policies contained in the acknowledged plan. These
 16 specific related policies are the County Ordinance dealing with
 17 correction of errors in the zoning map.

18 BASED UPON THE FOREGOING findings of fact, applicant respectfully
 19 requests that the Board of Commissioners:

- 20 1. Enter an order correcting the comprehensive plan map to
 21 reflect the decision made in 1971 and 1974 that the property be
 22 comprehensively planned for light industrial use; and
- 23 2. Correct the zoning map to reflect the decision made in
 24 1971 and 1974 that the property be zoned for light industrial use; and
- 25 3. Correct the light industrial exception area to reflect the
 26 decision to correct a clerical error and add this property to the

5 - PROPOSED FINDINGS OF FACT

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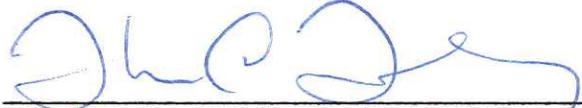
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1 light industrial exception area and at the same time delete this
2 property from the rural residential exception area; and

3 4. Take a modified agricultural goal exception to reflect the
4 light industrial uses.

5 Respectfully Submitted,

6 DRABKIN, TANKERSLEY AND RICHARDSON

7 

8 THOMAS C. TANKERSLEY #75361 of
9 Attorneys for Edward Hoem

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6 - PROPOSED FINDINGS OF FACT

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