

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

FILED
YAMHILL COUNTY, OREGON
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CHARLES STERN
COUNTY CLERK
DEPUTY

82-406

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Amendment to the)
Yamhill County Zoning Ordinance No.)
83 as Amended by Ordinance No's. 203,)
204 and 233, Establishing a Revised)
MR Zone District, Creating MR-1 and)
MR-2 Zones, Establishing Setbacks,)
Setting Performance Standards and)
Repealing Prior Section 26 of Ordi-)
nance No. 83 as Amended.)

ORDINANCE NO. 302

The BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON, (the Board), on the 1st day of September, 1982, sat for the transaction of County business, Commissioners Ted Lopuszynski, Colin Armstrong and Robin Hamblet being present.

WHEREAS, the Board enacted the Yamhill County Zoning Ordinance, Ordinance No. 83 on the 11th of February, 1976; and

WHEREAS, said Zoning Ordinance was amended and revised by Ordinance Nos. 203, 204 and 233 (the Zoning Ordinance); and said Zoning Ordinance as amended and revised was acknowledged by the Land Conservation and Development Commission as implementing an acknowledged comprehensive plan in conformance with Statewide planning goals on the 5th day of June, 1980; and

WHEREAS, as part of Yamhill County's plan and zoning ordinance update process, review of the provisions regulating activities relating to mineral resources was commenced on December 3, 1980 by the appointment of a Yamhill County Mineral Aggregate Task Force, which Task Force reported their recommendations on June 18, 1981; and

WHEREAS, said Task Force Report was reviewed by the County Planning Advisory Committees and County Planning Commission; and

WHEREAS, said review established the need for further citizen input and on October 21, 1981, a Mineral Resource Committee was established, which Committee issued their majority and minority reports on January 6, 1982; and

WHEREAS, said report was considered by the Yamhill County Planning Commission on March 18, 1982, April 1, 1982, April 15, 1982, May 20, 1982, June 3, 1982, June 17, 1982, July 1, 1982 and on July 15, 1982,

said Commission recommended the amendment of the Zoning Ordinance as set forth in the record before the Board; and

WHEREAS, the Board met on August 11, 1982, August 18, 1982 and August 25, 1982, to receive public testimony, review the reports of the Mineral Aggregate Task Force and the Mineral Resource Committee, and review the record and consider the recommendation of the Planning Commission; and

WHEREAS, the Board on September 1, 1982 enacted Ordinance No. 301 revising the Yamhill County Comprehensive Plan text, policies and goals relating to Mineral Resources; and

WHEREAS, the revised goals and policies in Ordinance No. 301 recognize the conflicts between residences and quarry operations, and the public testimony indicated that a setback of 500 feet from existing dwellings would minimize these conflicts while not working an undue hardship upon quarry operations, which setbacks are provided for in this Ordinance; and

WHEREAS, the revised goals and policies in Ordinance No. 301 recognize the need for reclamation of mined lands and the public testimony and the record established that reclamation must be dealt with by taking into account the unique characteristics of each mineral resource site while maintaining flexibility to ensure that reclamation occurs in a timely, efficient and orderly manner, which flexibility is provided for in this Ordinance by allowing the County to establish the timetable by which total or partial reclamation is to take place; and

WHEREAS, testimony and the record indicate that the existing permitted uses in the MR District under Zoning Ordinance No. 83 as amended may not be appropriate for all quarry sites, particularly portable hot-mix and batching plants, which concern is dealt with in this Ordinance by creating MR-1 and MR-2 zones with portable hot-mix and batching plants as permitted uses in the MR-1 zone and conditional uses in the MR-2 zone; and

WHEREAS, concern was also expressed in public testimony and the record about allowing brick and tile manufacturing in both

THE MR-1 and MR-2 zones as a permitted use, which given the unique nature of brick and tile operations and the resource location (Willamina area) was determined by the Board to not be of sufficient magnitude to require its deletion from the lists of permitted uses in both the MR-1 and MR-2 zones; and

WHEREAS, testimony was received to the effect of eliminating the MR Zone District and making mineral resource activities a conditional use in other zoning districts, which concerns is best dealt with through site-specific review scheduled to follow the adoption of this Ordinance since:

1. Conditional use provisions for quarry operations in other zoning districts are not affected by this Ordinance;
2. Site-specific review will allow the conflicts, importance and unique elements of each site to be dealt within an appropriate manner;
3. Preservation of the MR District will allow quarry operators a certain amount of security for sites zoned MR, allowing them to secure long-term financing for their operations and subsequent reclamation; and
4. The use which generated the greatest public opposition was portable concrete batching and portable hot-mix plants which are conditional uses in the MR-2 zone, allowing even greater flexibility during the site-specific review; and

WHEREAS, testimony was received regarding the impact of blasting by quarry operators on the quiet enjoyment of adjoining property owners which is dealt with through limits upon the hours of operations under this Ordinance; and

WHEREAS, the revisions to Goal 5 require the development of conflict resolution mechanisms, which is addressed in the Plan under Ordinance No. 301 and implemented by this Ordinance's provisions for additional criteria to be addressed for a zone change to MR; and

WHEREAS, testimony and proposals were presented during the course of the hearings on this Ordinance seeking to restrict quarry operations when groundwater was affected, which proposals were not made a part of this Ordinance upon the basis of County Counsel's comments regarding their doubtful legality and Planning Staff's comments regarding the lack of expertise and Staff on the part of the County to monitor and enforce; and

WHEREAS, this Ordinance implements Ordinance No. 301, which Ordinance is in compliance with the applicable Statewide planning goals and the Yamhill County Comprehensive Plan; NOW, THEREFORE,

THE BOARD OF COMMISSIONERS FOR YAMHILL COUNTY ORDAINS AS FOLLOWS:

SECTION 1. The provisions for the Mineral Resource District attached hereto as "Exhibit C", which by this reference are made a part hereof, are hereby adopted by the Board and made a part of Yamhill County Zoning Ordinance No. 83 as amended by Ordinances No. 203, 204 and 233.

SECTION 2. Section 26 of Yamhill County Zoning Ordinance No. 83 as Amended by Ordinances 203, 204 and 233 is hereby repealed. Said repeal shall not affect or prevent application of remedies or punishment of a person for an act done or committed prior to the date of adoption of this Ordinance and in violation of the Section hereby repealed.

SECTION 3. This Ordinance shall be effective upon passage hereof.

APPROVED and Adopted this 1st day of September 1982, at
McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

by: Elaine Pearcey
Elaine Pearcey, Deputy

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

Robin J. Hamblet
Commissioner ROBIN J. HAMBLET

Colin Armstrong
Commissioner COLIN ARMSTRONG

APPROVED AS TO FORM

for by: D. S. Garrettson
DARYL S. GARRETTSON
County Counsel

EXHIBIT "C"

Textual Amendments to the
Mineral Resource (MR) District of the
Yamhill County Zoning Ordinance, Ordinance No. 83, As Amended

Section 404. MINERAL RESOURCE DISTRICT (MR)

404.01 Purpose.

The purpose of the MR District is to provide for the development and utilization of identified deposits of mineral aggregate resource materials on land which is not identified for urban or rural residential use on the Comprehensive Plan; to provide for the exploration for, and the subsequent extraction and development of, identified deposits of geothermal resources and oil, gas and other hydrocarbon resources produced in liquid and gaseous form; to establish siting criteria and operating standards for mineral resources that minimize present and future on-site and off-site land use and environmental conflicts; and to provide for the timely and satisfactory reclamation of land used for mineral resource activity.

404.02 Permitted Uses--MR-1

In the MR-1 District, the following uses shall be permitted:

- A. Quarry or mining operations for the extraction of rock, clay, soil, sand and gravel.
- B. Exploration for oil, natural gas or geothermal resources.
- C. Rock crushing, washing or screening.
- D. Stockpiling of rock or earth products in conjunction with the operation of the mineral resource business on-site.
- E. Portable concrete batching or portable hot-mix batching plants.

- F. A single-family dwelling for the owner, in conjunction with a permitted or conditional use as established by Sections 404.02(I) and 404.02(J).
- G. A single-family dwelling and accessory structures for a caretaker or watchman in conjunction with the operation of a mineral resource business.
- H. Storage of heavy equipment in conjunction with the operation of the mineral resource business on-site.
- I. Farm uses, as follows; the current employment of land, including that portion of such lands under buildings supporting accepted farming practices, for the purpose of obtaining a profit in money by raising, harvesting and selling crops, or by the feeding, breeding, management and sale of, or the production of livestock, poultry, furbearing animals, or honeybees; or by dairying and the sale of dairy products and other agricultural or horticultural use or animal husbandry; or by any combination thereof. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use.
- J. Propagation and harvesting of a forest product, subject to the requirements of this Ordinance.
- K. Manufacture and storage of brick and tile, provided that the aggregate needs are supplied from the same site as storage and manufacture takes place.

404.025 Permitted Uses--MR-2

In the MR-2 District, the following uses shall be permitted:

- A. Quarry or mining operations for the extraction of rock, clay, soil, sand and gravel.
- B. Exploration for oil, natural gas or geothermal resources.
- C. Rock crushing, washing or screening.

- D. Stockpiling of rock or earth products in conjunction with the operation of the mineral resource business on-site.
- E. A single-family dwelling for the owner, in conjunction with a permitted or conditional use as established by Sections 404.02(I) and 404.02(J).
- F. A single-family dwelling and accessory structures for a caretaker or watchman in conjunction with the operation of a mineral resource business.
- G. Storage of heavy equipment in conjunction with the operation of the mineral resource business on-site.
- H. Farm uses, as follows: the current employment of land, including that portion of such lands under buildings supporting accepted farming practices, for the purpose of obtaining a profit in money by raising, harvesting and selling crops, or by the feeding, breeding, management and sale of, or the production of livestock, poultry, furbearing animals, or honeybees; or by dairying and the sale of dairy products and other agricultural or horticultural use or animal husbandry; or by any combination thereof. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use.
- I. Propagation and harvesting of a forest product, subject to the requirements of this Ordinance.
- J. Manufacture and storage of brick and tile, provided that the aggregate needs are supplied from the same site as storage and manufacture takes place.

404.03

Conditional Uses.

In the MR District, pursuant to Section 42 of the Yamhill County Zoning Ordinance, Ordinance No. 83, as amended, and pursuant to any other criteria established by this Ordinance, the following uses may be allowed conditionally:

- A. Manufacture and storage of concrete and aggregate products such as preformed steps, beams, fences, vaults and similar products, provided that the aggregate needs are supplied from the same site as storage and manufacture takes place.
- B. Extraction and development of oil, natural gas or geothermal resources, subject to the requirements of Section 404.09.
- C. Coal and precious metals extraction, processing and stockpiling from the same site as extraction takes place.
- D. Any structure necessary and appurtenant to the above uses.
- E. Permanent concrete batching or hot-mix batching plants.
- F. The following use may be allowed conditionally in the M-2 District:
 - 1. Portable concrete batching or portable hot-mix batching plants.

404.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this Section are prohibited in the MR District. In order to preserve MR lands for mineral resource uses, residential subdivisions shall be prohibited; however, land divisions for purposes of conveyance of mineral resource operations shall be permitted.

404.05 Standards and Limitations.

In the MR District, the following standards and limitations shall apply:

- A. The minimum parcel size for a permitted or conditional use shall be five (5) acres.
- B. The maximum building height of a residential structure shall be thirty-five (35) feet and the maximum height of all other structures shall be sixty (60) feet.

- C. The minimum setbacks for all yards of a residential dwelling in the MR District shall be thirty (30) feet.

404.06 Operating Standards.

All mineral resource operations, either permitted or allowed by conditional use, shall conform to the following standards:

A. Operating setbacks.

1. Extraction shall not be conducted within twenty-five (25) feet of any zone district boundary; and shall not be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance.
2. Processing activities shall not be conducted within five hundred (500) feet of any VLDR or AF-10 zone district boundary; or within two hundred fifty (250) feet of any other zone district boundary. In no case shall processing and other processing-related activities be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance.

B. Screening.

Adequate screening with indigenous planting shall be preserved or established to block the view at the site from any public road, residential zoning district and from any existing dwelling located within one thousand (1000) feet of the site prior to establishment of the MR zone. Existing trees and other natural vegetation shall be preserved and maintained at the perimeter of the site to provide screening. This landscaping, fencing for safety purposes, berms or other similar devices shall be submitted as a site plan for Planning Commission approval.

C. Environmental Standards.

1. All excavation, including blasting, processing, maintenance and truck traffic shall be conducted in a manner that minimizes the adverse effect to persons and activities on adjoining property due to noise, dust, odor, vibration or surface water pollution or erosion.
2. Any mining operation shall not exceed Department of Environmental Quality noise emission, air contamination and water quality standards. Additionally, appropriate federal environmental quality permits shall be obtained for each site.
3. Excavation which results in ponding shall be deep enough to prevent stagnation and development of mosquito-breeding areas or shall be backfilled with a material that will not impair groundwater quality.

D. Roadways.

In the MR District for all mineral resource sites approved by the Board, all access to a mineral resource site shall be by a route or routes approved by the Board and shall be constructed and maintained in such a manner as to eliminate, as far as practicable, noise or dust which adversely affects persons living in the vicinity, or crops or livestock being raised in the vicinity.

E. Site Operation and Safety.

All excavation, processing and stockpiling of mineral resources shall take place under conditions which will provide for the reclamation of the site for future uses and will protect the safety of the public.

1. Blasting shall be restricted to the hours of 7:00 A.M. to 6:00 P.M. Monday through Saturday. No blasting shall occur on Sundays or holidays. In the event the operator cannot comply with this restriction due to unforeseen circumstances, the operator may exceed the

limitations set forth above; provided that in no event shall the owner or operator blast outside the restrictions set forth above more than four (4) times in any one calendar year.

2. Prior to a blasting operation, the operator shall be responsible for notifying adjacent property owners as to the date and approximate time of the blasting activity.

F. Land Reclamation.

1. Any lot or site used as a mineral resource site for which a reclamation plan is required by the Department of Geology and Mineral Industries shall be reclaimed in accordance with the site operation and reclamation plan on file with and approved by the County.
2. The approved reclamation plan shall be implemented in accordance with a schedule contained therein showing the planned order and sequence of said reclamation.
3. The approved reclamation plan shall require all excavations to be backfilled, contoured or terraced or put to a use shown on the reclamation plan which is compatible with the final depth and slopes within the excavation site.
4. The approved reclamation plan shall require topsoil to be saved and stored in such a manner as to prevent erosion, and that said topsoil shall be replaced to at least the depth of the original overburden, or to a depth adequate to achieve the approved reclamation use.
5. The approved reclamation plan may, in the County's discretion, provide for reclamation of portions of the site prior to total exhaustion of the resource found on the site.

G. Performance Agreement.

Pursuant to the requirements of Section 404 of this Ordinance and any conditions imposed thereunder,

the applicant shall enter into a performance agreement with the County, using the applicant's performance agreement with DOGAMI as a minimum standard. Should the Board find that the DOGAMI performance agreement for a specific site to be inadequate, the Board shall modify it accordingly.

404.07 Application for Zone Change to MR District:

In addition to the application requirements set forth in Section 43 of the Yamhill County Zoning Ordinance, Ordinance No. 83 as amended, application for a MR zone shall contain:

- A. The documentation, as applicable, required for any application for a planned-unit development as set forth in this Ordinance;
- B. Plans showing the location, area, dimensions, acreage and legal description of the lot or site to be developed or used, together with north point, scale, date of application, and all intended uses, including estimates of the total volume of the resource to be mined and initial contours for the proposed site.
- C. Provisions for landscaping and screen-planting of all parts of the site;
- D. Provisions for preventing the collection and stagnation of water at all stages of the operation;
- E. Plans, profiles and cross-sections of all access roads; and
- F. Plans for the reclamation of the site.
- G. All plans prepared and submitted shall be prepared at a scale no smaller than one (1) inch to 200 feet, with five (5) foot contours, and such information shall be furnished for a distance beyond the site sufficient to determine the impact of the operation on adjacent and surrounding lands.

404.08 MR Zone Change Criteria.

Approval of a zone change to the MR District shall be based upon the satisfactory compliance with the requirements set forth in Section 404.07 and the following findings that:

- A. A sufficient quality and quantity of mineral resource exists at the proposed site to fulfill a market need.
- B. Approval of the zone change will not cause immediate or long-term land use conflicts that cannot be satisfactorily mitigated. If conflicts are identified, findings shall be made concerning the environmental and energy consequences of allowing the MR use; and a determination that the benefits to the public outweigh the detriments suffered as a result of said conflict.

DEFINITIONS

1. Mineral resources--sand, gravel, rock, stone, precious metals, oil, gas, coal, ore, soil or other earth materials.
2. Mineral resource site/operation--a tract of land from which mineral resources are removed or excavated, stockpiled, or processed for sale and intended for use off-premise as commercial or industrial products through retailing, wholesaling, contract purchase or other means. Operation does not include site preparation such as land clearing.
3. Mineral resource extractions--the initial removal or excavation of a mineral resource from the deposit area by mechanical techniques, and including the removal of overburden and stockpiling of the raw material.
4. Mineral resource processing--the blasting, crushing, washing, screening, weighing, sorting, blending or refining of mineral resources.
5. Abandonment of surface mining--a cessation of surface mining operation for more than twenty-four (24) consecutive months when the cessation is not a part of an approved Department of Geology and Mineral Industries permit.