

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON
JUL 12 10 35 AM '83

83-232

FOR THE COUNTY OF YAMHILL

CHARLES STERN
COUNTY CLERK
DEPUTY

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
to Implement the Planning Com-)
mission Resolution No. 83-2,)
Together with Board Modifica-)
tions Thereof, Authorizing an)
Amendment to the Yamhill County)
Zoning Ordinance, Ordinance No.)
310, 1982, Requested by Lau-)
rence P. Payne)

ORDINANCE NO. 349

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 25th day of May, 1983, sat for the transaction of County business, in special session, Commissioners Robin J. Hamblet, Dave Bishop and Ted Lopuszynski being present, and the subject matter herein being continued to the regular session of the Board on the first day of June, 1983.

WHEREAS, pursuant to ORS 215.402 to 215.422 and 1301.01(C)(8) of the Yamhill County Zoning Ordinance, decisions by the Yamhill County Planning Commission to approve or deny requests for amendment to the Zoning Ordinance are final, unless an aggrieved party appeals to the Board within fifteen days, or unless the Board in its discretion elects pursuant to §1301.05 of the Zoning Ordinance to review the decision on its own motion within fifteen days, and

WHEREAS, the Yamhill County Planning Commission has adopted a Resolution approving an amendment to the Zoning Ordinance, upon the application of Laurence P. Payne, a copy of said Resolution being attached hereto and by this reference incorporated herein, as if fully set forth herein, and whereas the Board has elected to review this decision on its own motion, within the time required by Ordinance, and

WHEREAS, after public hearing and deliberation, the decision of the Board was to amend the recommendation of the Planning Commission set forth in Resolution No. 83-2 to reduce the total area affected by the zone change to an amount which does not include the dwelling on the subject property,

NOW, THEREFORE, based upon and for the reasons set forth in the attached Resolution and for the reason that it is the policy of the Board of Commissioners to retain agricultural farmlands in the County whenever possible, IT IS HEREBY ORDAINED that the official zoning map of the Yamhill County Zoning Ordinance be and hereby is amended, consistent with and as set forth in the attached Resolution of the Yamhill County Planning Commission, as modified by the attached Exhibit "C".

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 hereof.

DONE this first day of June, 1983, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



Robin J. Hamblet
Chairman ROBIN J. HAMBLET

By:

Deputy ELAINE BEARCELY

Dave Bishop
Commissioner DAVE BISHOP

APPROVED AS TO FORM:

John M. Gray, Jr.
John M. Gray, Jr.
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

In the Matter of an Amendment to the)
Yamhill County Zoning Ordinance,) RESOLUTION NO. 83-2
Ordinance No. 310, 1982 as requested)
by Laurence P. Payne

THE PLANNING COMMISSION of Yamhill County, Oregon, on the 7th day of April, 1983 sat for the transaction of County business at a regularly scheduled session. Planning Commissioners Sadler, Schatz, Grimm, Weidemann, Bennette, Stockhoff, Miller, Bunn, and Treadway were present.

WHEREAS, the Yamhill County Board of Commissioners adopted the Yamhill County Zoning Ordinance, Ordinance No. 310, 1982 on the 1st day of December, 1982, being the Yamhill County Zoning Ordinance text and Official Zoning Map; and

WHEREAS, ORS 215.020 provides that a governing body may create a county planning commission and, pursuant to ORS 215.406, may designate the planning commission to serve as a hearings officer with all the power and duties of a hearing officer as prescribed by ORS 215.010 and 215.402 to 215.422; and

WHEREAS, the Yamhill County Board of Commissioners created the Yamhill County Planning Commission by adoption of an unnumbered Board Order on the 6th day of November, 1957 and designated that planning commission as the hearings body for petitions for amendments to the Yamhill County Zoning Ordinance, Ordinance No. 310, 1982 by adoption of Ordinance No. 138 on the 1st day of June, 1977; and

WHEREAS, it appears to the Planning Commission that a petition submitted on behalf of Laurence P. Payne has been filed with the Yamhill County Department of Planning and Development, pursuant to Section 1207 of Ordinance No. 310 to amend said Ordinance, and change the Official Zoning Map designation from EF-40 to Highway Commercial for a parcel described as being 1.4 acres of a larger 2.19 acre tract; and

WHEREAS, the Sheridan Planning Advisory Committee reviewed the amendment request at a public meeting and recommended denial of the request; and

WHEREAS, the Planning Commission, on the 7th day of April, 1983 held a public hearing as required by ORS 215.223 and 215.416 on the proposed amendment and voted to recommend approval of the request based on the findings and conclusions attached hereto as Exhibit "A" and by this reference made a part hereof;

NOW THEREFORE, IT IS HEREBY RESOLVED that the Official Zoning Map be and hereby is amended to show the Zoning Designation on a 1.4 acre portion of Yamhill County Tax Lot 5521-900 as Highway Commercial as shown on the sketch plan attached hereto as Exhibit A and by this reference made a part hereof.

This resolution shall be in force and effect from and after the date the change is properly recorded on the Official Zoning Map. The Yamhill County Planning Director be and hereby is directed and authorized to amend said Official Zoning Map in conformance with this Ordinance.

DONE this 7th day of April, 1983.

AYES: Bunn, Weidemann, Miller, Sadler, Stockhoff, Bennette.

NAYES: Treadway, Grimm, Schatz

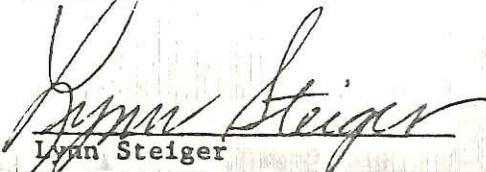
ABSTENTIONS: None

Approved by the Chairman on this 21st day of April, 1983.

This resolution shall be in force and effect from and after the date the change is properly recorded on the Official Zoning Map. The Yamhill County Planning Director be and hereby is directed and authorized to amend said Official Zoning Map in conformance with this Ordinance.

DONE this 21st day of April, 1983.

ATTEST:


Lynn Steiger
Planning Director

YAMHILL COUNTY PLANNING COMMISSION


Dick Sadler, Chairman

Exhibit A

Findings of Fact:

1. The applicant's request is to rezone that portion of Tax Lot 5521-900 retained in an AFLH Comprehensive Plan designation and EF-40 zoning district, through Docket No. PA-41-77/Z-118-77. It appears that the entire parcel area was requested for rezoning in 1977, but the area was ultimately reduced to accommodate only that portion of Tax Lot 5521-900 in use as a greenhouse and florist business; the approval excluded the area containing the existing dwelling.
2. The applicant contends in his application that the earlier rezoning approval, as well as the original zoning was in error. The property had been in a commercial retail use that pre-existed the 1974 plan, and 1976 zoning implementation.
3. Since its rezoning in 1977, from PAI to HC, the Lawrence Gallery has proven very successful. Its operation has been expanded through the inclusion of the Amity Vineyards Tasting Room. Wescott's Market, adjoining the applicant's property on the east has also proven successful at its location. The applicant has negotiated with both the gallery and market interests to be able to sell, by readjustment of common boundary, that portion of his property zoned HC; the negotiations have not resulted in the conveyance of property.
4. The site uses are rural residential in that area zoned EF-40, and the HC zoned area has been used in the past for parking. The greenhouse and nursery business is no longer operational. Development of an additional attraction, or complimentary business to the gallery would be a fitting use for the property. However, the portion zoned HC, approximately .79 acres, has insufficient area to accommodate development requirements.
5. The soils on the 2.19 acre tract are Willamette silt loam, the agricultural capability is site Class I. The soil is appropriate for vegetables, berries, bulbs, orchards, grain, seed crops, hay and pasture crops. There is negligible slope on the property, 0-3%; according to the USDA/SCS, Soil Survey of Yamhill Area, Oregon, 1974.
6. The applicant indicates that of the 2.19 acres in the tract approximately one acre is engaged in the house and drainfield, leaving approximately 1/2 acre for exclusive farm uses. The applicant indicates that an error was made when only a portion of the property was rezoned to HC in 1977.
7. The applicant lists several factors in his justification, page 2, outlining how the property is denied its reasonable economic use. These items are: the location of the well serving other commercial uses; the small area zoned HC; the pre-existence of commercial uses before the establishment of zoning; the lack of farmability due to its small size and commitment to other uses.
8. The subject property is more closely affiliated with the highway commercial uses at Bellevue than it is with surrounding agricultural uses.
9. The applicant in "Exhibit A" sets forth findings and justification for the taking of an exception, considering the four factors set out in Statewide Planning Goal 2, part II. (see attached).
10. The Sheridan PAC will review the request at their April 4, 1983 meeting.
11. The following public agency comments have been received:
 - a. O.D.O.T. - No conflicts with their interests.
 - b. Sanitarian - No conflicts with their interests.No other referrals have been received as of this writing.

Conclusionary Findings:

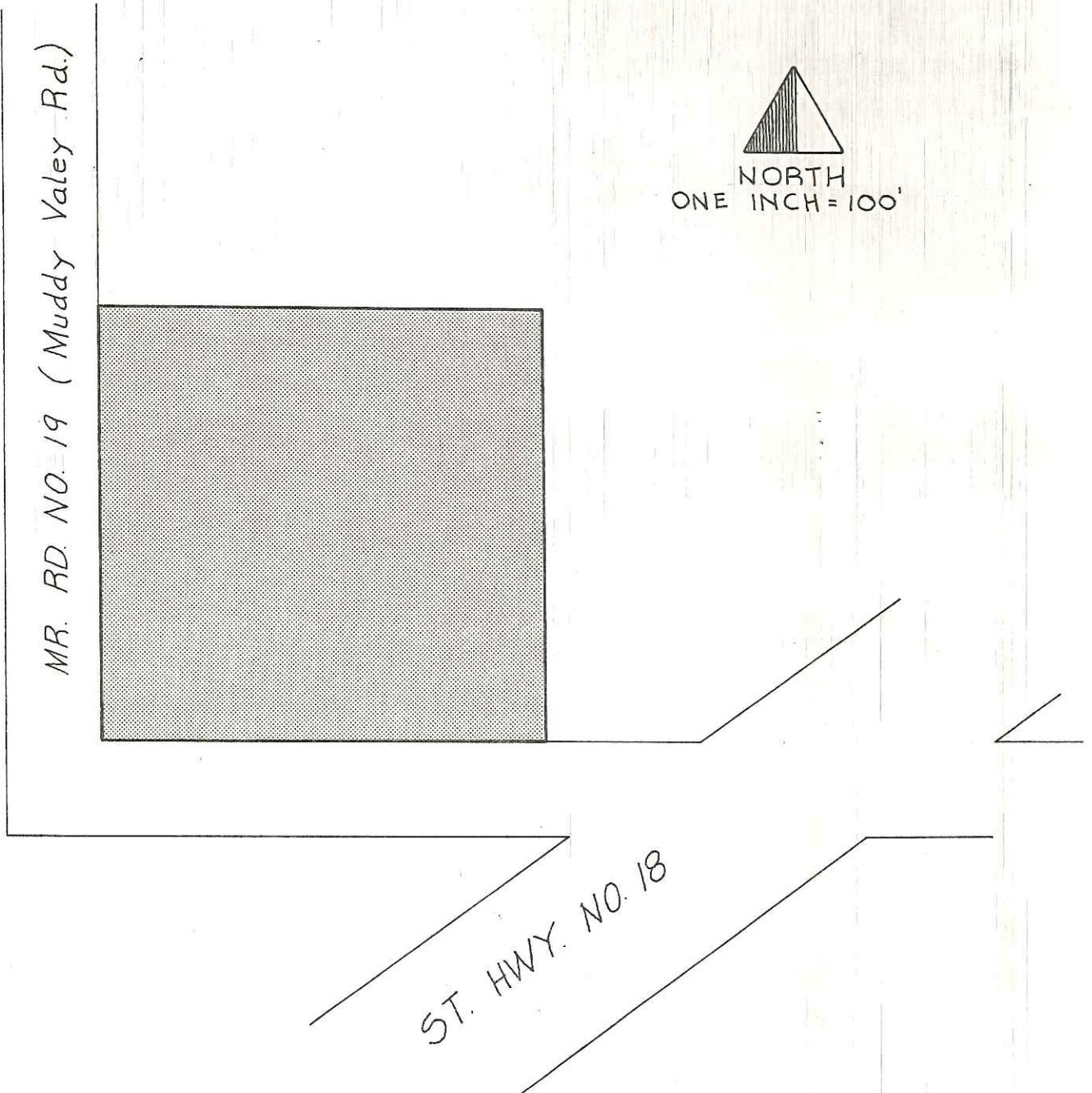
The following findings may be made in support of the application:

1. The rezoning in 1977 partially recognized the pre-existing commercial use of the property; however, the action precluded the separation of the HC zoned area from the EF-40 zoned area, which left the parcel at a disadvantage in the market place.
 2. The applicant has sought the sale of the HC zoned area to adjoining commercial uses; while somewhat interested, no bargain could be struck enabling the applicant to sever the existing residence from the HC zoned area.
 3. The proposal is consistent with the economic development goal of the Revised Comprehensive Plan Goals and Policies; it is part of a highway commercial enclave serving the traveling public. It would provide for additional jobs in the area; and perhaps would place locally grown or processed products before the traveling public.
-
4. The proposal is timely, in that the applicant has endeavored to sell the HC zoned area to adjoining commercial uses, to no avail. In a growing economy the location provides an opportunity to expand a successful tourist oriented business in the County, providing for additional jobs, products outlet, together with a greater range of service to the traveling public.
 5. Other lands in the area are not suited to the use; the request is predicated on the location of the proposal to established, successful business enterprises which serve the traveling public as well as the local populace.
 6. The Exception Statement, "Exhibit A", submitted by the applicant addresses the relevant criteria and supports the application. In addition:
 - a. The commercial potential of the property cannot be realized in its present situation due to development limitations related to the parcel's size; also, the parcel lacks sufficient site area to be utilized in conjunction with any commercial agricultural uses suited to the soil type.
 - b. Given the historical uses of Bellevue, the establishment of the art gallery, and the continuing success of the market, there are no alternative sites that would be appropriate. The collection of established businesses, and the County's past recognition make this location unique.
 - c. To deny the request would leave the applicant at a real disadvantage in the marketplace; there does not appear to be any significant long term consequence if the site is approved.
 - d. With few exceptions the existing businesses have been compatible with adjacent and surrounding agricultural uses; they provide the backdrop for the small business enclave. Granting the request would not bring rural residential pressure to bear in the farm zone, largely due to its tourist orientation.

SKETCH PLAN FOR COMPREHENSIVE PLAN AMENDMENT

EXHIBIT "B"
COMPREHENSIVE PLAN AMENDMENT ADOPTED BY THE
YAMHILL COUNTY BOARD OF COMMISSIONERS
May 25, 1983
TO CHANGE THE COMPREHENSIVE PLAN DESIGNATION
FROM "Agriculture/Forestry Large Holding"
TO "Highway Service Commercial"
and
TO CHANGE THE OFFICIAL ZONING MAP
FROM "EF-40" TO "HC"

Applicant: Laurence P. Payne
Address: Rt. 3, Box 138
McMinnville, OR 97128
Phone: 843-3945
Tax Lot: 5521-900
Docket No.: PA-122-83/Z-231-83



Change applies to the shaded portion.

Sketch prepared by Yamhill County Department of Planning & Development.

LEGAL DESCRIPTION

Part of the Hathaway Yocum Donation Land Claim #51 in Section 21, Township 5 South, Range 5 West of the Willamette Meridian in Yamhill County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of said Donation Land Claim and running thence North 221.00 feet to a point in the center of the County Road; thence S.88 49'36"E. 132.21 feet to a 5/8" iron rod; thence South 80.14 feet to a 5/8" iron rod; thence S.88 49'36"E.18.47 feet to a 5/8" iron rod; thence South 140.88 feet to a point in the center of said County Road; thence N.88 49'36"W. 150.68 feet to the Point of Beginning.

Subject to the rights of the public in and to public roads.

Communia

LEGAL DESCRIPTION

Part of the Hathaway Yocum Donation Land Claim #51 in Section 21, Township 5 South, Range 5 West of the Willamette Meridain in Yamhill County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of said Donation Land Claim and running thence North 221.00 feet to the True point of Beginning; thence continuing North 87.68 feet to a point in the center of the County Road; thence S.88 49'36"E. 313.88 feet to a 10"x13"x8" stone; thence South 308.68 feet to a point in the center of said County Road; thence N.88 49'36"W. 163.20 feet to a point in the center of said County Road; thence North 140.88 feet to a 5/8" iron rod; thence N.88 49'36"W. 18.47 feet to a 5/8" iron rod; thence North 80.14 feet to a 5/8" iron rod; thence N.88 49'36"W. 132.21 feet to the True point of Beginning.

Subject to the rights of the public in and to public roads.