

JUL 3 2 45 PM '79

WALTER GATT
COUNTY CLERK
Yamhill County DEPUTY

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

4 In the Matter of an Ordinance)
5 to Amend the Yamhill County)
6 Comprehensive Plan, 1974, to)
7 incorporate the Willamette River)
8 Greenway Boundary, and to Amend) ORDINANCE NO. 203
9 the Yamhill County Zoning Ordin-)
10 ance, Ordinance #83 by creating)
11 a Willamette River Greenway)
12 District, and to incorporate the)
13 Willamette River Greenway bound-)
14 ary and declaring an Emergency.)

10 WHEREAS, the Board of Commissioners of Yamhill County
11 (the Board) enacted the Yamhill County Zoning Ordinance,
12 Ordinance #83, 1976, on the 11th of February, 1976; and

13 WHEREAS, the Board enacted the Yamhill County Comprehen-
14 sive Plan, 1974, Ordinance #67, 1974 on the 25th of September,
15 1974; and

16 WHEREAS, Goal #15 of the Statewide Planning Goals and
17 Guidelines (Goal #15) requires that Yamhill County protect, con-
18 serve, enhance, and maintain the natural, scenic, historical,
19 agricultural, economic and recreational qualities of lands within
20 the Willamette River Greenway Boundary as adopted by the Land
21 Conservation and Development Commission of the State of Oregon
22 (LCDC) on October 21, 1977; and

23 WHEREAS, the Yamhill County Comprehensive Plan, 1974,
24 supports the Greenway concept on pages 95 and 96; and

25 WHEREAS, the Yamhill County Planning Department held
26 citizen information meetings on the 18th of February, 1976, in

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1 Dayton, on the 19th of February, 1976 in Newberg, and on the
2 26th day of February, 1976 in McMinnville, and the Yamhill
3 County Planning Advisory Committees held public meetings on the
4 Greenway on the 10th and 11th days of March, 1976, and the Yam-
5 hill County Planning Commission held a public hearing on the
6 16th day of March, 1976, and the Yamhill County Board of Commis-
7 sioners held public hearings on the 24th and 31st days of March,
8 1976 in order to solicit public testimony and information; and

9 WHEREAS, Goal #15 requires that Yamhill County in-
10 corporate the approved Greenway boundary in its Comprehensive
11 Plan and implementing ordinances; and

12 WHEREAS, Goal #15 requires that the permitted and
13 conditional uses for the land within the Greenway Boundary shall
14 be incorporated into the Yamhill County Zoning Ordinance; and

15 WHEREAS the County has collected information and data
16 to determine the nature and extent of resources, uses and rights
17 associated with the Willamette River Greenway which are attached
18 as Schedule A and Schedule B to Resolution 76-2 recorded in Film
19 28, Page 753 of the Commissioners' Journal, which by this
20 reference are made a part hereof as if fully set forth herein.

21 Schedule A to Resolution 76-2 consists of an overlay map showing
22 proposed Greenway boundaries, an overlay map showing the
23 Willamette River flood hazard zoning, an overlay map showing
24 existing zoning along the Willamette River, two base maps showing
25 ownership patterns, roads and other features along the Willamette
26 River, a photomosaic map of the Willamette River, a soils map

1 along the river, and an overlay map locating wildlife habitats
2 and historic sites in the vicinity of the Willamette River.
3 Schedule B to Resolution 76-2 consists of an overlay map
4 describing potential and existing acquisition areas, an overlay
5 map of existing land uses, and a base map. This information and
6 data are the basis for the Board's decision to incorporate the
7 boundary adopted by LCDC as the Willamette River Greenway
8 boundary within Yamhill County based upon a review and analysis
9 of this data and information using the criteria set out in Goal
10 #15 and in LCDC's order approving the Yamhill County segment of
11 the Greenway boundary. NOW, THEREFORE,

12 THE BOARD OF COMMISSIONERS FOR YAMHILL COUNTY ORDAINS
13 AS FOLLOWS:

14 SECTION 1. The map element of the Yamhill County
15 Comprehensive Plan, 1974, Ordinance #62, 1974, is hereby amended
16 to include the Yamhill County segment of the Willamette River
17 Greenway Boundary as officially adopted by LCDC at a meeting on
18 October 21, 1977 (The Boundary). The Boundary is more particu-
19 larly described in Exhibit A to LCDC's Order approving the
20 Department of Transportation Willamette River Greenway Plan Seg-
21 ment in the County of Yamhill which was filed on January 25, 1978
22 in the Yamhill County Clerk's office and recorded in Film 33,
23 Page 044, of the Commissioners' Journal. The Boundary is, by
24 this reference, included herein as if fully set forth herein and
25 by this reference is made a part of the Yamhill County Comprehen-
26 sive Plan Map. The Planning Director is hereby authorized and

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1 directed to amend the Comprehensive Plan Map to incorporate The
2 Boundary as described herein.

3 SECTION 2. Article IV, General Provisions, Section 34,
4 Development Review, on Page 83 of the Yamhill County Zoning
5 Ordinance, Ordinance #83, 1976, is hereby denominated as "Article
6 IV, General Provisions, Section 34A, Development Review" and
7 Section 34.100 is renumbered as "Section 34.800."

8 SECTION 3. A Willamette River Greenway District (WRG)
9 is hereby made a part of and is hereby added to the Yamhill
10 County Zoning Ordinance, Ordinance #83, 1976, as Section 34.100
11 to 34.600 and shall read as follows:

12 "SECTION 34. WILLAMETTE RIVER GREENWAY DISTRICT (WRG)
13 34.100 Purpose. (1) The WRG District is intended to protect and
14 preserve the natural, scenic and recreational qualities of lands
15 along the Willamette River in Yamhill County, to preserve and
16 restore historical sites, structures, facilities and objects on
17 lands along the Willamette River for public education and enjoy-
18 ment and to further the policy of the State toward outdoor review
19 of any intensification, change of use or development of proper-
20 ties located within the Willamette River Greenway boundary as
21 indicated on the OFFICIAL ZONING MAP. The WRG District shall be
22 combined with at least one other Zoning District for all
23 property located within the Willamette River Greenway Boundary
24 and may be combined with any other Zoning District. All uses of
25 land and buildings and structures in the WRG District shall be
26 determined by and in accordance with the provisions of all of the
zoning districts read together which apply to a particular site
or property. If there is a conflict or inconsistency, the
provisions of the WRG district shall control and shall be applied.
(2) Uses of land and water not compatible with the purpose
of the Willamette River Greenway District or which are not
provided for in this Section shall be and hereby are prohibited.

24 34.200 Use Provisions and Specification Standards. (1) Permit-
25 ted Uses. The following uses are permitted within the WRG
26 District:

(a) The placing, by a public agency, of signs, markers,
aids, etc., to serve the public on public land or private land

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1 upon request by private landowner.

2 (b) Activities to protect, conserve, enhance and maintain
3 public recreational, scenic, historical and natural uses on
4 public lands, except that new or substantial increase in level of
5 development of existing public recreational, scenic, historical
6 or natural uses on public lands shall require review as provided
7 under Section 34.300 of this Ordinance.

8 (c) Agriculture.

9 (d) Reasonable emergency procedures necessary for the
10 safety or protection of property from natural hazards.

11 (e) Maintenance and repair usual and necessary for the
12 continuance of an existing use.

13 (f) Landscaping, construction of driveways, modifications
14 of existing structures or the construction of an existing use.

15 (g) The propagation of timber or the cutting of timber for
16 public safety or personal non-commercial use, not requiring a
17 permit in accordance with the Forest Practices Act.

18 (h) Water intakes and utilities in conjunction with an
19 agricultural use. Water intakes and utilities to serve an
20 individual single-family residence or mobile home.

21 (2) Conditional Uses. All uses provided for in the Zoning
22 District or districts with which the WRG District is combined
23 which are not permitted uses in the WRG District shall be
24 reviewed and may be approved as conditional uses. Except as
25 provided in Section 34.200(3), Conditional Uses shall be
26 reviewed and shall only be approved when found to be in accord-
ance with the provisions of Section 34.300.

(3) Conditional Uses Not Subject to Section 34.300. Section
34.300 shall not apply to the following conditional uses which
shall be reviewed pursuant to the procedure found in the Yamhill
County Flood Hazard District Ordinance No. 69, 1975 for the
approval of conditional uses:

(a) Gravel removal from the bed of the Willamette River
conducted under permit from the State of Oregon.

(b) Dredging and channel maintenance conducted under permit
from the State of Oregon.

(4) Non-Conforming Uses. Except as modified in this Section,
Article 37 of this Ordinance shall apply to the WRG District.
Any change or intensification, as those terms are defined in
Section 34.400, or any non-conforming use within the WRG District
shall be prohibited unless and until the change or intensifica-
tion is eligible for and is issued a Conditional Use Permit
pursuant to Section 34.300.

34.300. Willamette River Greenway Design Plan. (1) Except as
provided in Section 34.200(3) to the contrary, no conditional
use permit shall be approved or issued which would allow any
change of use, intensification of use, or development within the
WRG District unless and until the application is reviewed and the
following findings are made:

(a) Agricultural lands will be preserved and maintained for

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1 farm use consistent with LCDC Statewide Planning Goal #3.

(b) Significant fish and wildlife habitats will be protected.

2 (c) Significant natural and scenic areas, viewpoints and
vistas will be preserved.

3 (d) Areas of ecological, scientific, historical, or
4 archaeological significance will be protected, preserved, re-
stored, or enhanced to the maximum extent possible.

5 (e) The quality of the air, water and land resources in and
6 adjacent to the Greenway will be preserved in the development,
change of use, or intensification of use of land within the WRG
District.

7 (f) Areas of annual flooding, flood plains, water areas and
8 wetlands will be preserved in their natural state to the maximum
possible extent to protect the water retention, overflow and
natural functions.

9 (g) The natural vegetative fringe along the River will be
maintained to assure scenic quality, protection of wildlife,
protection from erosion and screening of uses from the River.

10 (h) The harvesting of timber will be conducted in a manner
11 which will ensure that wildlife habitat and the natural scenic
qualities of the Greenway will be maintained or will be restored.

12 (i) The proposed development, change or intensification of
use is compatible with the site, the surrounding area and the
environment.

13 (j) The proposed development, change or intensification of
14 use, if located within 50 feet of the ordinary high water line
and is a water or shoreline dependent use.

15 (k) Erosion potential will be controlled in areas considered
16 for development and change or intensification of use, by
appropriate means which are compatible with the character of the
Greenway.

17 (l) Extraction of aggregate deposits and reclamation will be
18 conducted in a manner designed to minimize adverse effects on
water quality, fish and wildlife, vegetation, bank stabilization,
stream flow, visual quality, noise and safety.

19 (m) Recreational needs will be satisfied by public and
private means in a manner consistent with the carrying capacity
of the land and with minimum conflict with farm use.

20 (n) Maintenance of public safety and protection of public
21 and private property, especially from vandalism and trespass,
will be provided to the maximum extent practicable.

22 (o) A minimum building setback line of 50 feet from the
ordinary high water line of the Willamette River will be provided
23 except for buildings other than residences provided in conjunc-
tion with farm use and except for buildings and structures in
conjunction with a water-related or a water dependent use.

24 (p) Public access, where necessary and appropriate, will be
25 provided to and along the River by appropriate legal means for
any public use or development.

26 (q) Any development will be located away from the River to
the greatest possible degree.

1 (r) The intensification, change of use or development
2 provides the maximum landscape area, open space or vegetation
that is feasible between the activity and the River.

3 (2) The procedure for reviewing and approving a Conditional
4 Use Permit pursuant to this Section shall be as follows:

5 (a) An application for a Willamette River Greenway Condition-
6 al Use Permit shall be made to the Director on a form prescribed
by the Director, together with a letter of intent or plans as
7 necessary to explain the proposed intensification, change of use
8 or development of the property, together with a filing fee
9 established by the Board.

10 (b) In addition to any other notice required by this
11 Ordinance or by law, the following persons shall be notified of
12 the application by the County in writing:

13 (i) Owners of land within 250 feet of the applicant's
14 property.

15 (ii) Persons requesting notice of such application.

16 (iii) The appropriate Planning Advisory Committee.

17 (iv) The Oregon Department of Transportation.

18 (c) If the Director determines that notice has been mailed
19 as provided above, the Director may approve or deny the applica-
20 tion, or approve the permit with such modifications and conditions
21 as may be necessary to assure compatibility with the purpose of
22 the WRG District, unless a request for a public hearing is re-
23 ceived in writing by the Director within fifteen (15) days of the
24 last notice given pursuant to subparagraph (b) of this Section.

25 (d) If a written request for a public hearing is received
26 by the Director pursuant to subsection (d) above, or if the
Commission, Board, Director or applicant requests a public hear-
ing, the Director shall schedule a public hearing before the
Commission and the Commission shall hear and decide the applica-
tion in the same manner as provided in Section 48.

(e) A decision by the Director shall include written
conditions, if any, and findings and conclusions. The conditions,
findings and conclusions shall specifically address the relation-
ships between the proposal and the purpose of the WRG District.
A copy of such decision shall be mailed to the applicant, ODOT,
and any other person requesting it.

(f) Any permit issued hereunder is not personal to the
applicant and shall be deemed to run with the land.

34.400. Definitions. As used in this Section, the following
words and expressions shall be interpreted in accordance with
the following definitions unless the context requires otherwise:

(1) Boot moorage - a structure located within the waters of
the Willamette River and attached to shore for the purpose of
securing one or more boats.

(2) Change of use - making a different use of the land or
water than that which existed on December 6, 1975, including a
change which requires construction, alterations of the land,

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1 or water or other areas outside of existing buildings or struc-
2 tures and which substantially alters or affects the land or
water.

3 (3) Development - Any activity within the Willamette River
4 Greenway Boundary which would alter the elevation of the land,
5 remove or destroy plant life, cause structures of any kind to be
installed, erected, or removed, or a change of any kind from the
conditions existing as of the effective date of this Ordinance,
but shall not include agricultural use.

6 (4) Intensification of use - any additions which increase
7 or expand the area or amount of an existing use, or the level
of activity.

8 (5) Natural vegetative fringe - the natural vegetative area
9 that provides a transition between the water of a River and the
most landward edge of such natural vegetated area.

10 (6) ODOT - the Oregon Department of Transportation.

11 (7) Ordinary high water - the level to which waters
12 ordinarily rise annually usually represented by the line of
13 permanent vegetation.

14 (8) Water dependent use - a use or activity which can be
15 carried out only on, in, or adjacent to water areas because
16 the use requires access to the water body for water-borne
17 transportation, recreation, energy production, or source of water.

18 (9) Water related use - uses which are not directly depend-
19 ent upon access to a water body, but which provide goods or
20 services that are directly associated with water-dependent land
21 or waterway use, and which, if not located adjacent to water,
22 would result in a public loss of quality in the goods or services
23 offered. Except as necessary for water dependent or water-
24 related uses or facilities, residences, parking lots, spoil and
25 dump sites, roads and highways, restaurants, business, factories;
26 and trailer parks are not generally considered dependent on or
related to water location needs.

34.500. Trespass by Public. Nothing in this Section is intended
to authorize public use of private property. Public use of
private property is a trespass unless appropriate easements and
access have been acquired in accordance with law to authorize
such use.

34.600. Appeals. Appeals from any decision of the Director or
the Commission made pursuant to this Section shall be as provided
in Section 45, Appeals."

SECTION 4. The Official Zoning Map of the Yamhill
County Zoning Ordinance, Ordinance #83, 1976, is hereby amended
to include the Yamhill County segment of the Willamette River

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1 Greenway Boundary as officially adopted by LCDC at its meeting
2 on October 21, 1977 and as more particularly described in
3 Section 1 of this Ordinance, which by this reference is included
4 herein as if fully set forth herein and by this reference is
5 made a part of the Official Zoning Map of the Yamhill County
6 Zoning Ordinance. The Planning Director is hereby authorized
7 and directed to amend the Official Zoning Map to incorporate the
8 Willamette River Greenway Boundary as described in Section 1
9 above. All of the property lying within the Willamette River
10 Greenway Boundary shall be, and hereby is, designated WRG
11 Zoning District in combination with the zoning district existing
12 on the property on the effective date of this Ordinance.

13 SECTION 5. This Ordinance being necessary for the
14 health, safety and welfare of the people of Yamhill County, and
15 the Board of Commissioners having declared an emergency to exist,
16 it shall be effective upon the approval hereof.

17 APPROVED this 13th day of June, 1979, at
18 McMinnville, Oregon.

19 ATTEST:
20 by Patricia A. Mullen
21 Patricia A. Mullen,
22 Deputy

YAMHILL COUNTY BOARD OF COMMISSIONERS:

Colin Armstrong
Chairman Colin Armstrong

Ted Lopuszynski
Commissioner Ted Lopuszynski

22 APPROVED AS TO FORM:
23 [Signature]
24 Robert S. Willoughby
25 Yamhill County Counsel

John P. Macaulay
Commissioner John P. Macaulay