



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

January 11, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Yamhill County Plan Amendment
DLCD File Number 007-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 11, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Ken Friday, Yamhill County

<paa> ya/ph



FORM 2

DEPT OF
DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision 4 2006
per ORS 197.610, OAR Chapter 660 - Division 18
(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: Yamhill County Local File No.: PAZ-040505-04
(If no number, use none)

Date of Adoption: December 21, 2005 Date Mailed: January 3, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: April 13, 2005

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
- Land Use Regulation Amendment Zoning Map Amendment
- New Land Use Regulation Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

A request to change the comprehensive plan and zoning from LDR-12000 Low Density Residential to NC Neighborhood Commercial.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same (Adopted with limited use overlay which limits the use to a motorcycle sales/service)

Plan Map Changed from: *Low Density Residential to Commercial*

Zone Map Changed from: *LDR-12000 Low Density Residential to NC Neighborhood Commercial*

Location: 207 North Highway 99W, Newberg Acres Involved: 1.74 + Acres

Specified Change in Density: Current: _____ Proposed: _____

Applicable Statewide Planning Goals: 14

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: _____

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes: X No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: City of Dundee, ODOT

Local Contact: Ken Friday Area Code + Phone Number: 503-434-7516
Address: 401 NE Evans Street
City: McMinnville, OR Zip Code +4: 97128

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

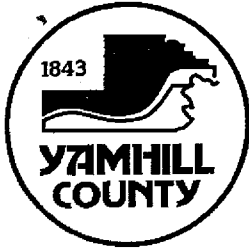
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.

6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



BOARD OF COUNTY COMMISSIONERS

KATHY GEORGE • LESLIE LEWIS • MARY P. STERN

535 NE Fifth Street • McMinnville, OR 97128-4523
(503) 434-7501 • Fax (503) 434-7553
www.co.yamhill.or.us • TTY (800) 735-2900

December 21, 2005

Jeff and Tammy Coffman
270 North Highway 99W
Dundee, OR 97115

RECEIVED

DEC 22 2005

YAMHILL COUNTY PLANNING

RE: Planning Docket PAZ-04-05
Ordinance 777

Dear Mr. and Mrs. Coffman:

At the December 21, 2005 formal session of the Board of Commissioners, the Board adopted Ordinance 777, approving your request for a plan amendment and zone change on Tax Lot 3325-900.

Findings in support of the Board's decision are contained in Exhibit "A" of Ordinance 777, a copy of which is enclosed. Copies may also be reviewed in the Planning Department during normal business hours. The Planning Department is located at 401 North Evans Street, McMinnville, Oregon.

This action constitutes a final action by Yamhill County on the application, but you should be aware that a final land use decision by a local government may be appealed to the Land Use Board of Appeals in most circumstances. An appeal must be filed within 21 days of the date the decision became final, which was December 21, 2005. A successful appeal could revoke this approval.

If you have any questions regarding the county's action, you may contact me at the phone number listed above or the Planning Department (434-7516).

Sincerely,

Coral White, Paralegal
for Mary P. Stern, Chair
Board of Commissioners

MPS-CW:cw
Enclosure

cc: Planning Department & Martin Chroust-Masin
Interested parties per attached list (w/out attachment)

Notice of Recession

PAZ-05-04

Jeff & Tommy Roffman

Elaine Hamilton
310 NW Alpine St.
Dundee, OR 97115

Wayne and Betsy Umfleet
289 NW Alpine St.
Dundee, OR 97115

Darrell Mount
205 NE Bienz Rd
Dundee, OR 97115

Jesse and Charity Beaudry
256 NW Alpine St.
Dundee, OR 97115

Cary M. Riley
193 NW Alpine St.
Dundee, OR 97115

Herb Mitchell
209 NW Alpine St.
Dundee, OR 97115

Doug Bartlett
309 NW Alpine St.
Dundee, OR 97115

James and Florence Jones
192 NW Alpine St.
Dundee, OR 97115

Attila, Alin & Dominique Gombos
241 NW Alpine St.
Dundee, OR 97115

Samuel, Maomi & Polly Stukey
147 NW Alpine St.
Dundee, OR 97115

City of Dundee
Eve L. Foot, City Administrator
PO Box 220
Dundee, OR 97115

Lancaster Engineering
Geoffrey A. Judd, P.E.
800 NW 6th Ave., Suite 206
Portland, OR 97209

Matt Willcuts
PO Box 490
Newberg, OR 97132

Jeff Coffman
270 N. Hwy 99W
Dundee, OR 97115

Lancaster Engineering
Todd Mobley
800 NW 6th Ave., Suite 206
Portland, OR 97209

Jessica Cain
PO Box 1046
Newberg, OR 97132

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

In the Matter of a Comprehensive Plan Amendment from)
Low Density Residential to Commercial, a Zoning change)
From LDR-12000 Low Density Residential to NC Neighborhood) ORDINANCE 777
Commercial, and Taking an Exception to Statewide Planning)
Goal 14, for Tax Lot 3325-900, Applicant Jeff and Tammy)
Coffman, Docket PAZ-05-04, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on December 21, 2005, Commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that Jeff and Tammy Coffman applied to the Yamhill County Department of Planning (Planning Docket PAZ-05-04) for a Comprehensive Plan amendment from Low Density Residential to Commercial, a zone change from LDR-12000 Low Density Residential to NC Neighborhood Commercial and an exception to Statewide Planning Goal 14, and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Department at a duly noticed public hearing on October 6, 2005, which voted to recommend approval of the application; and the Board held a duly noticed public hearing December 7, 2005, at which the applicant appeared and testified, there being no opponents, and the Board tentatively voted to approve the application, NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

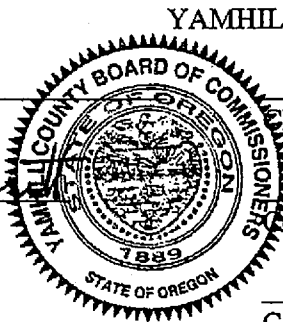
DONE this 21st day of December, 2005, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

Jan Coleman
County Clerk

By: Ann Britt
Deputy Anne Britt



Chair:

Mary P. Stern

Commissioner:

Leslie Lewis

Commissioner:

Kathy George

APPROVED AS TO FORM:

Rick Sanai
Rick Sanai, Assistant County Counsel

B.O. 05-1068

FINDINGS AND CONCLUSIONS for Ordinance 777, Exhibit "A"

The following findings of fact and conclusions of law are hereby adopted, and are based on substantial evidence in the record in this case:

1. The Findings and Conclusions set forth in the Staff Report for the October 6, 2005, Public Hearing are hereby adopted in full, just as if they were set forth verbatim herein, except as specifically provided below. A copy of said Staff Report is attached hereto and by this reference incorporated herein.
2. The Planning Commission and the Board of Commissioners determined that the application does satisfy Yamhill County Zoning Ordinance Section 1208.02(A) in that the application would not allow strip development in accordance with Yamhill County Comprehensive Plan Policy I.G.1.b. The subject property is already being used for motorcycle parts sales and the surrounding uses are residential in nature. The Planning Commission and Board of Commissioners determined that approval of the application will not expand strip commercial - nor provide for an opportunity to redevelop strip commercial - areas.
3. The Planning Commission and the Board of Commissioners determined that the applicant has provided adequate justification to show there is an existing demonstrable need for a motorcycle repair shop at this location. The undisputed testimony of the applicant was that he has operated his motorcycle parts shop in this same location for over 20 years, that his shop has become a recognizable landmark near Dundee, Oregon that is well known in the greater Portland metropolitan area and beyond, and that the applicant receives numerous requests and inquiries, on a weekly basis, about whether or not applicant can perform motorcycle repair and customization on site. Therefore, the Planning Commission and Board of Commissioners determined that applicant has satisfied Yamhill County Zoning Ordinance 1208.02(B).
4. The Planning Commission and the Board of Commissioners determined that applicant did not need to demonstrate that other areas already zoned for the proposed use are unavailable or not as well suited for the proposed use. *Green et al v. Hayward et al*, 275 Or. 693, 552 P.2d 815 (1976) holds that when a land use action is taken to accommodate the expansion of an existing business, the applicant does not need to demonstrate that other areas already zoned for the proposed use are unavailable or not as well suited for the proposed use.

Applicant's motorcycle parts shop was an allowed use by a Conditional Use Permit for a home occupation under the Low Density Residential zone. See Yamhill County Zoning Ordinance 502.03(b). A motorcycle repair shop is only a permitted use in a Commercial zone. See Yamhill County Zoning Ordinance 602.02(A) and (B). Therefore, in order to be able to expand his business to include motorcycle repair and ensure his business is in compliance with the County zoning laws, a change to Neighborhood Commercial is required. Therefore, *Green v. Hayward* holds that applicant did not need to examine or

consider other Commercially-zoned property to accommodate expansion of his business to include motorcycle repair.

Therefore, the Planning Commission and the Board of Commissioners determined that, pursuant to *Green et al v. Hayward et al*, 275 Or. 693, 552 P.2d 815 (1976), Yamhill County Zoning Ordinance 1208.02(D) was not applicable to this application.

5. The Planning Commission and the Board of Commissioners determined that the Yamhill County Transportation System Plan, planning for and incorporating the Newberg-Dundee Bypass, does satisfy the Transportation Planning Rule and Oregon Administrative Rule 660-12-060 with regard to this application. The Planning Commission and the Board of Commissioners noted that the Highway 99 and Fox Farm Road intersection is operating over capacity, but that the traffic "bottleneck" existing there is a direct result of traffic light at the Highway 99 / 5th Street intersection within the City of Dundee.

The Planning Commission and the Board of Commissioners also received undisputed testimony from Lancaster Engineering that the proposed use would create less traffic than other allowed uses under the existing LDR-12000 zoning and that the proposed use would also potentially create less traffic than the existing motorcycle parts shop. This may be accomplished by instead of having a single customer make numerous trips over many days to and from the subject site to purchase motorcycle parts, the same customer may now make only one round trip, wherein he leaves motorcycle at the shop, and all repairs are made there. This shows compliance with OAR 660-12-060(1)(c) by reducing the demand for automobile travel to and from the subject property.

6. The Planning Commission and the Board of Commissioners determined that the application does comply with Statewide Planning Goal 14. A Goal 14 exception is not necessary because the current zoning of LDR 12,000 is not rural residential in nature and the change in zoning is still designed to be placed in rural area, residential in nature. The impact of the change to neighborhood commercial under the County zoning plans are to in fact allow for development of commercial services for the residential market outside of the urban growth boundaries. The zoning itself is designed to be placed in rural residential areas, not urbanized areas, and is intended to provide services to those very areas. The service and repair elements are specifically permitted uses under this zoning.

The Board of Commissioners found that if a Statewide Planning Goal 14 exception was necessary, a Statewide Planning Goal 14 exception could be applied because the subject property is already built and developed to commercial uses. The Board of Commissioners made this determined that the subject property is built and developed due to the prior conditional use as a motorcycle parts shop and Applicant's commercial structures on the property related to such conditional use. The subject property also has Dundee City water access. As such, the subject property has been extensively physically developed to conform to the commercial uses.

7. The Planning Commission and the Board of Commissioners determined that it is appropriate to place a Limited Use Overlay on the property to limit the outright permitted

uses to a motorcycle parts and repair shop and related facilities. All other outright permitted uses listed in Yamhill County Zoning Ordinance 602.02 shall hereafter be considered to be permitted conditional uses, subject to complying with all procedures for obtaining a conditional use permit. Nothing in Yamhill County Zoning Ordinance 602.03 shall be considered contrary to this condition as to the subject property. All other provisions of Yamhill County Zoning Ordinance Chapter 602 shall continue to apply.

END.