



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

January 22, 2007

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 016-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 2, 2007

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. Pursuant to ORS 197.830 (2)(b) 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.

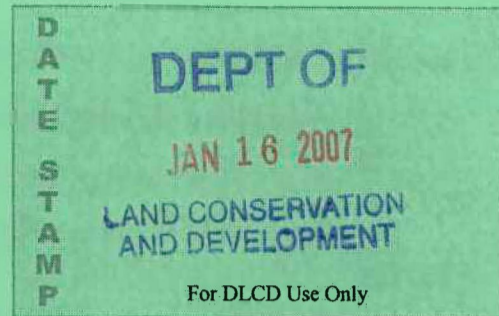
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Martin Chroust-Masin

<paa> yal

FORM 2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: Yamhill County Local file number: Z-04-06

Date of Adoption: 1/3/2007 Date Mailed: 1/12/2007

Date original Notice of Proposed Amendment was mailed to DLCD: 11/13/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Zone Change from AF-10 to VLDR-2.5 of land currently Plan dezignated Very Low Density Residential.

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"

Plan Map Changed from: _____ to: _____

Zone Map Changed from: AF-10 to: VLDR-2.5

Location: 23915 NE Dayton Avenue, Newberg, OR Acres Involved: 7.78 (3 P)

Specify Density: Previous: 1/10 New: 1/2.5

Applicable Statewide Planning Goals: _____

Was and Exception Adopted? YES NO

DLCD File No.: 016-06 (15682)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Newberg, City of Dundee, Y.C. Public Works

Local Contact: **Martin Chroust-Masin** Phone: **(503) 434-7516** Extension: _____

Address: **525 NE Fourth Street** City: **McMinnville**

Zip Code + 4: **97128-** Email Address: **martinc@co.yamhill.or.us**

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 not 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 **mara.ulloa@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

January 4, 2007

Pat and Cindy Downer
23805 NE Dayton Avenue
Newberg, OR 97132

RECEIVED

JAN 08 2007

YAMHILL COUNTY PLANNING

RE: Planning Docket Z-04-06
Ordinance 801

Dear Pat and Cindy:

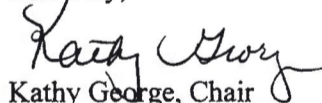
At the January 3, 2007 formal session of the Board of Commissioners, the Board adopted Ordinance 801, approving the request for a zone change on Tax Lots 3229-1300, 3324-7700 and 3324-7701.

Findings in support of the Board's decision are contained in Exhibit "A" of Ordinance 801, 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 525 NE Fourth 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 January 3, 2007. 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,


Kathy George, Chair
Board of Commissioners

KG-CW:cw
Enclosure

cc: Planning Department & Martin Chroust-Masin
aka Mr. Friday

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 Approval of a Zone Change from AF-10 Agriculture)
/Forestry Small Holding to VLDR-2.5 Very Low Density Residential)
for Three Parcels, Tax Lots 3229-1300 and 3324-7700 & 7701,) Ordinance 801
Docket no. Z-04-06, Applicant Pat Downer, and Declaring an)
Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on January 3, 2007, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Pat Downer applied to the Yamhill County Department of Planning (Planning Docket Z-04-06) for a Zone change from AF-10 Agriculture/Forestry Small Holding to VLDR-2.5 Very Low Density Residential use , and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Commission at a duly noticed public hearing on December 7, 2006, after which the Commission voted to recommend approving the application, and no-one has appealed that approval. 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 3rd day of January, 2007, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

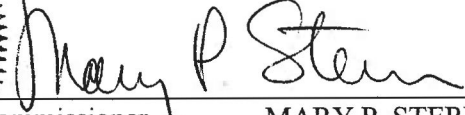
JAN COLEMAN
County Clerk

Chair


KATHY GEORGE


Deputy Anne Britt


Commissioner


MARY P. STERN

APPROVED AS TO FORM:

Commissioner


LESLIE LEWIS


Rick Sanai, Assistant County Counsel

B.O. 07-52

Exhibit "A" Findings for Docket no. Z-04-06

REQUEST: Zone change from AF-10 Agriculture/Forestry Small Holding to VLDR-2.5 Very Low Density Residential use.

APPLICANT: Pat Downer.

TAX LOTS: 3229-1300 and 3324-7700 & 7701

LOCATION: 23915 NE Dayton Avenue, Newberg, Oregon 97132

CRITERIA: Sections 501, 502 and 1208.04 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

A. Background Facts

1. *Access:* Dayton Avenue between the Cities of Newberg and Dundee.
2. *On-site Land Use:* Tax Lots 3229-1300 and 3324-7700 & 7701, located on the north side of Dayton Avenue, are relatively flat and sparsely vegetated. All 3 parcels contain a dwelling and various accessory structures.
3. *Surrounding Land Use:* The surrounding area is primarily rural residential in character, approximately 1.0 to 3.0 acres and averaging 2.5 acres in size. There are several subdivisions that have been created in the surrounding area. The subject property is almost halfway between the City of Newberg and the City of Dundee.
4. *Surrounding Zoning:* Except for the three subject parcels all surrounding lots to the south of Hwy 99W and all subdivisions south of and across Dayton Avenue are zoned VLDR-2.5 Very Low Density Residential use and all parcels in the area have the Comprehensive Plan designation of Very Low Density Residential.
5. *Water:* The applicants indicated that the parcels are and will be served by a well.
6. *Sewage Disposal:* Septic systems are the only option in this area.
7. *Previous Actions:* Previous partition and lot-line adjustment applications created these Tax Lots. The applicant wishes to separate Tax Lot 3229-1300/3324-7802 into two parcels.

B. Ordinance Provisions and Analysis

1. The request complies with the standards and criteria in the *Yamhill County Zoning Ordinance (YCZO)* Section 1208.02. These provisions are as follows:
 - A. *The proposed change is consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan.*
 - B. *There is an existing, demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*
 - C. *The proposed change is appropriate considering the surrounding land uses, the density and*

pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.

- D. *Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors.*
- E. *The amendment is consistent with the current Oregon Administrative Rules (OAR's) for exceptions, if applicable.*

2. Regarding criterion (a), a zone change to VLDR is consistent with the Comprehensive Plan designation of Very Low Density Residential (VLDR). Comprehensive Plan policy (a) of Goal I.B.2 states:

Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers,...

The subject area complies with this policy because it is part of a large exception area zoned for residential use located between and in close proximity to Cities of Newberg and Dundee. The area is committed to residential use and there are a number of subdivisions adjacent to the subject area.

3. Regarding the need for additional residential lots in the area, the subject property is part of an exception area located between Newberg and Dundee (Exception area 1.8). The area lying south of Highway 99W and SPRR tracks was considered for this application. The following table shows the zoning designation, the total number of lots within the consideration area, and the number of lots that were developed and vacant as of June 1, 2000:

Zoning	# of Lots	Built Lots	Vacant Lots
AF-10	30	12	18
VLDR-5	9	5	4
VLDR-2.5	138	114	24
Total	177	131	46

This analysis showed that 74% of the existing lots within the exception area are already developed and 83% of the lots that are zoned VLDR-2.5 are developed. (However, it should be noted that several lots in the exception area are large enough to be partitioned, so the supply of vacant lots is potentially higher. If the exception area were to be subdivided to maximum density, there would be total of 36 additional lots all zoned VLDR-2.5). The county has tried in the past to use market availability as a measure of need for the property to be rezoned. In a similar land use request the LUBA ruled:

"The number of VLDR-2.5 zoned properties on the market for sale at any given point in time is at best an indirect measure of the need or market demand for such properties." (LUBA No. 91-200)

Therefore, the county cannot use market availability *alone* as a basis for a determination of need.

Information is also available to show the increase in development since 1981, when only 61% of the lots zoned VLDR-2.5 were developed. There was no change in the percentage of developed lots in 1986. By 1990, 66% of the lots were developed. This information shows that rural residential growth

was relatively slow throughout the 1980s, but has increased substantially from 1990 to 2000 (from 66% developed to 74% total and 83 VLDR-2.5 parcels developed).

The 1990 Census reported the population of Yamhill County at 65,551. On July 1, 1999 the Center for Population Research and Census at Portland State University estimated the Yamhill County population at 83,100. This is an increase of 17,549 or 26.7% over a period of nine years. The overall county 2005 population estimate was 90,310 or approximately 9% more than six years ago.

The increase in the rate and amount of development, combined with the relatively small number of existing vacant lots and an increasing population may indicate a demand and need for additional VLDR zoned lots in this area.

An analysis submitted for a similar application, processed in June 2006, indicated the existing market demand and availability of VLDR-2.5 zoned properties in Yamhill County. It included a sheet of information from the RMLS of Yamhill County as of May 8, 2006. It shows the number of available VLDR-2.5 lots in the county. It is of note that there were only 10 available lots out of a total of 437 active listings for all properties. In addition to the extremely limited number, it should be noted that for people needing or wishing to live in or around the Newberg/Dundee corridor area, the total number of properties to chose from diminished to only 1. Property in this area is highly desirable due to its proximity to the two cities (less than 1 mile to either), availability of services and shopping and the quality of road surfaces.

Further, *The Oregonian* reported a 24% increase in prices for metro area property from 2004 to 2005, while property in the small acreage category in the Newberg area increased closer to 45% (RMLS 5/8/06). This coupled with the fact that Newberg's population increased by 500 from 2003 to 2004, then accelerated by 1000 from 2004 to 2005 (source: Newberg Chamber of Commerce) and by all sales indicators will top that figure for 2005 to 2006, shows a tremendous need and desire for this type of property and a very limited available inventory.

Additionally, staff reviewed Tax Assessor, Planning and Building office records for parcels located to the south of Highway 99W, which includes development along Dayton Avenue between Newberg and Dundee. The review indicated that total of 78 new lots were created between 1990 and 2000. At that time, all these lots were sold and 64 lots (82%) were developed. This would tend to indicate that there is a fairly substantial market demand for VLDR lots in the area, as well as illustrating that few lots are available for sale.

Once this zone change is approved, one (1) additional lot could be created.

The subject area appears to be as well suited for residential development as the other available lots in the area. Issues related to suitability will be discussed further in Finding B.5.

4. Regarding criterion (c), the proposed zone change is appropriate because adjacent zoning is VLDR-2.5, and the majority of these lots have already been developed with residences. There are no large scale commercial farm or forest uses in the vicinity that would be impacted by the residential lot that could be created if the zone change is approved.

Changes which have occurred most recently in the vicinity, which support the request, include the approval, sale and development of 78 new lots. Most of these lots were created in four subdivisions on the south side of Dayton Avenue and one subdivision southeast of the proposed site. Usual services such as fire and police protection, schools, telephone and electricity are available to the site. Community water systems serve most of the subdivision lots, and there is water service in the immediate area, however this property will be served by a drilled well. The County Sanitarian did not indicate whether the soils in the area are acceptable for a subsurface sewage disposal system, however,

there are many parcels in the area that have this type of disposal. In the event that a septic system was not allowed the applicants would not be able to get building permits to develop the lot. The County Engineer did not submit any opinion regarding the roadway. Dayton Avenue is County maintained roadway and any easement onto the property will be by maintained by the surrounding property owners who signed a roadway maintenance agreement. A condition of approval of the future partition application will suggest that the applicant shall sign the same agreement.

5. Criterion (d) requires a finding that other VLDR designated land is either unavailable or not as well suited for residential development. The Board so finds. As indicated in Finding B.3, the applicant indicated that there was only one lot available in the immediate vicinity and only 10 lots were available in the entire county. The availability of lots appears to be low, and market demand appears to be fairly high. However, as noted in Finding B.3, if all the lots in the subject area were to be subdivided to the maximum density, there would be few additional new lots zoned VLDR 2.5. A few of the vacant lots in the vicinity have some limitations on development because of slopes, flood hazards and poor soil drainage. Other lots, especially along Highway 99W, are somewhat limited for development because there is no local road access. The subject area currently has an access on Trillium Lane and Dayton Avenue which are public and county roads respectively. Except for the question of water and septic, as discussed in Finding B.4, the subject parcel does not appear to be any less suitable for residential development than any of the other lots in the area.
6. Regarding criterion (e), the subject area is part of exception Code Area 1.8 which was excepted on April 23, 1980 as part of Yamhill County Ordinance No.234, therefore, the area is not subject to Goals 3 and 4. The proposed 2.5-acre minimum lot size is not considered to be an urban scale of development, so Goal 14 does not apply. No other Goals apply to this request, and no exception is required.

CONCLUSION:

1. The request is for a zone change from AF-10 Agriculture/Forestry Small Holding to VLDR-2.5 Very Low Density Residential for three parcels totaling 7.78-acre area.
2. The request complies with the Comprehensive Plan Goals and Policies and is consistent with the Plan map designation of VLDR.
3. The majority of properties zoned VLDR-2.5 in the area are already developed with residences, and there appears to be a market demand for new lots.
4. There was no information at the time of this writing about whether water and sewage disposal would be available to serve the 1 additional lot that could be created if the zone change is approved. These concerns can be addressed when an application is made to partition the property.
5. The area has substantially changed in the past ten years with the addition of new residential development. The location of this property, next to rural residential zoning, does not lend itself to small farm uses. Therefore, additional residential development is appropriate for this location.

Based on the above findings, analysis, and conclusions, the Board of Commissioners approves the request by Pat Downer for a zone change from AF-10 to VLDR-2.5 on Tax Lots 3229-1300 and 3324-7700 & 7701.

EXHIBIT "B" FOR ORDINANCE No. 801

ZONE CHANGE FROM "AF-10", AGRICULTURE/FORESTRY SMALL HOLDING
TO "VLDR-2.5", VERY LOW DENSITY RESIDENTIAL



Legend

 Z-04-06



ORDINANCE No.: 801

EXHIBIT "B"

B.O. 07-52

Prepared by Yamhill County Department of Planning and Development