

ORDINANCE NO. 4524

An ordinance rezoning certain property from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a City R-3 PD (Two-family Residential Planned Development) zone on approximately 23.49 acres of land located at the northwest corner of Hembree Street and Burnett Road.

RECITALS:

The Planning Commission received an application from Mildred Maulding and Les Toth for a zone change (ZC 3-92) dated July 14, 1992, for property located at the northwest corner of Hembree Street and Burnett Road, and further described as Tax Lots 2000 and 2001, Section 9, T. 4 S., R. 4 W., W.M.

A public hearing was held on August 13, 1992, at 7:30 p.m. before the Planning Commission after due notice had been given in the local newspaper on August 5, 1992, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, testimony was received, the application materials and a staff report were presented; and

The Planning Commission, being fully informed about said request, found that said change conformed to the review criteria listed in Chapter 17.72.035 of Ordinance No. 3380 based upon the material submitted by the applicant and findings of fact and the conclusionary findings for approval contained in the staff report, all of which are on file in the Planning Department, and that the zone change is consistent with the Comprehensive Plan; and

The Planning Commission approved said zone change and has recommended said change to Council; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the Council adopts the findings and conclusions of the Planning Commission, staff report on file in the Planning Department, and the application filed by Mildred Maulding and Les Toth.

Section 2. That the property described in Exhibit "A," which is attached hereto and incorporated herein by this reference, is hereby rezoned from a County EF-40 (Exclusive Farm Use - 40-acre minimum) zone to a City R-3 PD (Two-family Residential Planned Development) zone, subject to the following conditions:

- (a) That the owners of the property initiate with the City Council a local assessment district for the improvement of Burnett Road where it abuts the subject site. The owners may, as an alternative, improve Burnett Road to city standards where it abuts the subject site without going through the assessment district process.
- (b) That waivers of remonstrance against assessment for future improvement of Burnett Road and Hembree Street be signed by the property owner. Said waivers shall be prepared by the City.

- (c) That no mobile home lots created on the subject site may take driveway access onto Burnett Road or onto Hembree Street. That no street access shall be allowed onto Hembree Street from the subject site until, and unless, the owners of the property first initiate with the City Council a local assessment district for the improvement of Hembree Street where it abuts the site.
- (d) That a strip of land 10 feet in width and bordering the existing Hembree Street right-of-way and bordering the existing Burnett Road right-of-way be deeded to the City for right-of-way purposes.
- (e) That a final detailed drainage plan must be submitted to and approved by the City Engineering Department. The environmental impact of the storm sewer outfall on Baker Creek and the abutting properties must be addressed to the satisfaction of the Planning Director and the City Engineer.
- (f) That the sewer system for the subject property be designed and constructed to the satisfaction of the City Engineer. The owners agree to pay, on demand by the City, their fair share of the costs associated with the construction of a future trunk sewer and pump station. Fair share to be determined by a formula developed by the City Engineer and adopted by the City Council. The owners also agree to construct the portion of the system which is on, or adjacent to, their site at such time as the connecting portions of the system are constructed, and to provide easements to the City over those portions of the system which will be located on the subject site.
- (g) That the mature trees on the site as well as the historic structures will be preserved.
- (h) That the applicant record a perpetual non-exclusive easement waiving all common law rights to object to normal and necessary farm management activities legally conducted on lands adjacent to the subject site. Said easement to be approved as to form and content by the Planning Director, and to be executed prior to issuance of any building permits for the proposed manufactured home park.

Passed by the Council this 8th day of September, 1992, by the following votes:

Ayes: Aleman, Massey, Hansen

Nays: \_\_\_\_\_

Approved this 8th day of September, 1992.

Edward J. Tomley  
MAYOR

Attest: Conle M. Berdick  
RECORDER

EXHIBIT A

Being a part of that certain tract conveyed to Clifford Maulding and Mildred Maulding by O.C. Yocum in deed Film Volume 6, Page 128, Deed Records of Yamhill County, Oregon and being in the Southeast 1/4 of Section 9, Township 4 South Range 4 West, Willamette Meridian, Yamhill County, Oregon and being in the George W. Burnett Donation Land Claim No. 66, Notification No. 1213 and the James T. Hembree Donation Land Claim No. 46, Notification No. 1215 and being more particularly described as follows:

Beginning at a point on the North line of Burnett Road, a 40.00 foot roadway accepted by Yamhill County, May 5, 1887, County Road Survey No. 314, Commissioners Journal 9, Page 210, said point being 20.00 feet North 00°21'00" East and 853.75 feet North 89°39'00" West (Basis of Bearings from Cs 2690, Volume H, Page 199, Yamhill County Surveyor Records and Film Volume 6, Page 128) of a Brass Cap on a 1-1/2-inch iron pipe marking the Southeast corner of the George W. Burnett Donation Land Claim No. 66; thence along said North line of said Burnett Road, South 89°39'00" East, a distance of 799.82 feet to the P.C. (Point of Curve) of a 153.5 foot radius curve to the left, said P.C. being the most southwesterly corner of that certain tract conveyed to Yamhill County, April 4, 1933, in Book 107, Page 569-570, Deed Records of Yamhill County, Oregon, said P.C. also being 20.00 feet North 00°21'00" and 117.50 feet North 89°39'00" West of said Southeast corner of the George W. Burnett Donation Land Claim No. 66; thence along the west line of said deed Book 107, Page 569-570 and the arc of said 153.5 foot radius curve to the left, a distance of 204.54 feet, being still on the west line of said deed and also being on the east line of that certain tract conveyed to Clifford Maulding and Mildred Maulding in deed Film Volume 6, Page 128; thence continuing along said west line of said Book 107, Page 569-570, North, a distance of 849.36 feet to the south line of that certain tract conveyed to Evergreen Agricultural Enterprises, Inc. in deed Film Volume 230, Page 1391-1392, Deed Records of Yamhill County, Oregon; thence leaving said west line of said Book 107, Page 569-570, along south line of said Evergreen, North 89°52'07" West, a distance of 1,066.92 feet to the center of Baker Creek (as it existed in March 1993); thence upstream following the meandering of Baker Creek South 29°56'27" East, 30.93 feet, South 59°01'14" East, 26.98 feet, South 07°39'57" East, 25.60 feet, South 19°27'44" East, 17.55 feet, South 16°00'46" East, 48.20 feet, South 32°14'57" West, 91.42 feet, South 45°03'48" West, 20.48 feet; thence leaving said Baker Creek South 60°00'00" East, a distance of 98.5 feet, more or less, to a iron rod set in County Survey C.S. P-6643, Volume T, Page 973, Yamhill County Surveyor Records; thence South 89°39'40" East, a distance of 90.03 feet to a iron rod set in said survey C.S. P-6643; thence South 00°54'17" West, a distance of 722.43 feet to the Point of Beginning of this description and containing 21.2 acres, more or less.

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