

IN 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 Agriculture/Forestry Large Holding (AFLH) to Commercial (C), and a Zoning Map Amendment from EF-80, Exclusive Farm Use District, to NC, Neighborhood Commercial District; and Declaring an Emergency

ORDINANCE 925

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 2, 2023, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

WHEREAS, On October 13, 2021, the Maralynn Abrams Trust requested a comprehensive plan amendment for Tax Lot No. 4418B-01600, located at 2150 SW Homer Ross Loop in McMinnville, Oregon, from Agriculture/Forestry Large Holding (AFLH) to Commercial (C) and a zone change from EF-80, Exclusive Farm Use District to NC, Neighborhood Commercial District; and

WHEREAS, This matter came before the Planning Commission for public hearing on November 3, 2022, and the Planning Commission voted 5-0 to recommend approval of the application by the Board of Commissioners; and

WHEREAS, The Board held a public hearing on the application on February 16, 2023. Following deliberation, the Board voted 3-0 to approve the application; and now, therefore

THE BOARD ORDAINS AS FOLLOWS:

Section 1. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 2. The Comprehensive Plan Map and Zoning Map of Yamhill County are hereby amended to reflect a Plan Map designation of "Commercial" and a Zoning Map designation of "Neighborhood Commercial District" for Tax Lot No. 4418B-01600, as identified on the attached Exhibit "B" map, incorporated herein by reference.

Section 3. A Limited Use Overlay District (YCZO, Section 904) is hereby applied to the subject property, limiting allowed use of the tract to those "Conditions of Approval" identified in Exhibit A.

Section 4. 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 immediately.

DATED this 2nd day of March, 2023, at McMinnville, Oregon.

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

Lindsay Berschauer

KERI HINTON
County Clerk

Chair LINDSAY BERSCHAUER

Kit Johnston

By: *Caroline Rook*
Deputy CAROLINA ROOK

Commissioner KIT JOHNSTON

FORM APPROVED BY:

Jodi Gollehon

Mary Starrett

JODI GOLLEHON
Assistant Yamhill County Counsel

Commissioner MARY STARRETT

Accepted by Yamhill County
Board of Commissioners on
3.2.23 by Board Order
B.O. 23-75

EXHIBIT A
FINDINGS IN SUPPORT OF APPROVAL
ORDINANCE 925
(Board Order 23-75)

HEARING DATES: November 3, 2022 – Planning Commission Hearing
February 16, 2023 – Board of Commissioners Hearing

DOCKET NO.: PAZ-05-21

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding (AFLH) to Commercial (C) and a zone change from EF-80, Exclusive Farm Use District to NC, Neighborhood Commercial District.

APPLICANT: John Abrams

OWNER: Maralynn Abrams Trust

TAX LOT: 4418B-01600

LOCATION: 2150 SW Homer Ross Loop, McMinnville

CRITERIA: Sections 402, 602, and 1208.02 of the *Yamhill County Zoning Ordinance*. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

A. Background Facts

1. *Tract size:* 2.52-acres
2. *Access:* Direct access to SW Homer Ross Loop.
3. *On-site Land Use:* Currently undeveloped and is a fallow, open field.
4. *Surrounding Zoning and Land Use:* The surrounding area to the west, north, and south is zoned for Exclusive Farm use and is within the EF-80 zone. The surrounding area was subdivided following a Measure 37 claim and subsequent vesting decision, Docket M37-01-05 and Circuit Court decision, Case # CV08-232. The subject parcel and the surrounding parcels created through an approved subdivision, Docket S-05-05, which was permitted through the aforementioned Measure 37 waiver and vesting decision. The surrounding lots in the EF-80 zoned area are approximately 2.5-acres in size and the majority of these properties have been developed into residential lots, with the exception of the 20-acre lot directly south of the subject parcel, Tax Lot 4418-01001, which appears to be used agriculturally for grass seed or hay production.

The surrounding parcels to the east, southeast, and northeast are located within the City of McMinnville. The majority of these lots have been developed for urban-scale residential use with single-family dwellings, townhomes/condominiums, and apartments in the surrounding area. The McMinnville School District owns an approximately 11-acre lot located to the southeast of the subject parcel which is currently undeveloped.

5. *Water*: The application indicates the parcel is to be served by an existing community water system.
6. *Sewage Disposal*: The application indicates that any use occurring on the property will be served by a septic system.
7. *Previous Actions*: Measure 37 Waiver and Vesting decision, Docket M37-01-05. A subdivision approval which led to the creation of the subject parcel as part of the Westwind Estates subdivision, Docket S-05-05.

B. Zone Change and Plan Amendment Provisions and Analysis

The Applicant states that the intent of this request is functionally a “housekeeping” activity to follow-through on the unchallenged judgment issued by the Circuit Court judgement issued in 2008, Circuit Court Case No. CV08-232 (the “Judgment” or the “M37 Decision”). The Applicant asserts that the proposed comprehensive plan amendment and zone change will bring this property into conformity with the Judgment which permitted the residential and commercial use of the parcels established through the Measure 37 vesting and subdivision decisions, Docket M37-01-05 and Docket S-05-05. The Judgment involved the subject parcel and, “up to 50 residential lots with dwellings on 50 acres and commercial development of balance.”

The Neighborhood Commercial (NC) section of the Yamhill County Zoning Ordinance (YCZO), Section 602.02, provides a list of permitted uses in the NC zone, and all permitted uses in this zone are subject to site design review prior to initiation of a requested use. Section 602.01 of the YCZO establishes that, “the purpose of the NC District is to provide limited convenience commercial services for a specific residential market area outside urban growth boundaries.” Uses permitted in the NC zone include automobile service and repair stations, restaurants, refreshment stands, small food stores (of less than 1,000-square feet), beauty salons, and furniture sales, amongst a number of other uses. These permitted uses appear as though they could benefit the predominantly residential nature of the surrounding community. The Applicant has proposed a Limited Use Overlay be established on the property to restrict commercial use to those standards and restrictions established in YCZO, Section 1004, *Home Occupation*. Home occupation requests may be submitted to the Planning Department for any zone in Yamhill County that allows for the establishment of a dwelling, as home occupations must be operated from within a dwelling or other building normally associated with uses permitted in the underlying zoning district. Other requirements and standards that would limit the scale of the commercial use of the subject parcel, if the Limited Use Overlay is established as requested by the Applicant, include: 1) the requirement that the business be operated by a resident of the property, the requirement that the

business employ no more than four employees, 2) the requirement that only a single commercial business be operated on the parcel, 3) the requirement that the business cannot generate noise, fumes, or other disturbances beyond what normally would occur in the Neighborhood Commercial zone, 4) the requirement that there shall be visual screening and minimal visible evidence that a business is being conducted on the property, and 5) several other standards that further limit the scale of a commercial use on the parcel.

A comprehensive plan amendment and zone change application must comply with the Yamhill County Comprehensive Plan, the Oregon Revised Statutes, and the Oregon Administrative Rules, which will be addressed throughout this report. The application must also comply with the standards and criteria in YCZO Section 1208.02, which includes:

- (A) *The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan; and*
- (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; and*
- (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; and*
- (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; and*
- (E) *The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*

An analysis of each respective provision follows.

1. Analysis: *Is the proposed change consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan?*

Though the majority of the Yamhill County Goals and Policies are aspirational and not to be mistaken for, or interpreted as, approval criteria it is required that they be considered. It is a fact that some of the goals and policies conflict with one another. They are simply to be used as a guide to aid decision makers. For example, where goals or policies conflict the decision makers need to weigh the evidence and decide which goal or policy the request satisfies. Therefore, the County would need to decide whether it is more appropriate for the 2.5-acre parcel to be preserved for

rural residential or agricultural uses, or if it is better suited to providing neighborhood commercial services to the surrounding residential developments in the surrounding area.

The M37 Decision affirmed that the subject parcel could be developed residentially or commercially regardless of the limitations normally imposed on resource lands. In its findings for the approved subdivision that created the subject parcel, Docket S-05-05, the County found that, in lieu of payment of just compensation for a Measure 37 claim, the governing body of a local government is authorized to modify, remove, or not apply the land use regulation. This finding is what ultimately led to the approval of the subdivision, which then led to the creation of the subject parcel and the subsequent decision by the Circuit Court authorizing the residential and commercial development of these subdivision lots. In addressing this standard, the application states, in part, that the zone change facilitates the establishment of a neighborhood commercial use, on a scale that will be further limited by the establishment of a Limited Use Overlay on the parcel to ensure any business operated onsite will be of a scale commonly associated with other home occupations commonly approved within both resource and non-resource zones in Yamhill County.

Yamhill County Comprehensive Plan Goals and policies applicable to this request are as follows:

- *Commercial Development Goal Statement I.G.1: To create an environment for commercial development which will preserve and enhance the vitality of the central business districts, assure safer, more convenient and attractive community and neighborhood commercial centers, and protect prime commercial sites for use in advance of need.*
- *Policy I.G.A: Small neighborhood or local commercial uses will be encouraged to locate or relocate only within or immediately adjacent to the residential development or area intended to be served and be spaced in a pattern reflecting this market.*

These goals and policies encourage the location of commercial uses within the urban growth boundaries. Although not located within an urban growth boundary, the subject parcel is located adjacent to the McMinnville city limits, which is located directly to the east of the subject parcel, east of NW Hill Road. The surrounding area is predominantly characterized by rural residential uses to the west and north and denser, urban-scale residential development within the city limits to the east. The location of the subject parcel is essentially surrounded by neighborhoods with little land set aside for the type of small-scale commercial development which the Comprehensive Plan Policy I.G.A. encourages occur adjacent to residential developments and in proximity to a city. The uses permitted in the Neighborhood Commercial zone are intended to serve small residential neighborhoods, similar to the area surrounding the subject parcel. If approved, the commercial development of this property will be at a scale akin to what could be operated as a home occupation on either a resource or non-resource property elsewhere in Yamhill County, and this can be assured with the imposition of a Limited Use Overlay, as discussed further below. The proximity of this parcel to the city of McMinnville strongly suggests that this small commercial lot, although outside of an urban growth boundary, can be adequately served by necessary major utility services.

An analysis of all available land zoned for neighborhood commercial use within the unincorporated areas of Yamhill County found that most neighborhood commercial zoned land is found near the outskirts of incorporated cities, near rural unincorporated communities where neighborhood commercial uses were established prior to the implementation of Oregon's statewide planning system, and for two lots that were otherwise re-zoned. The County's analysis found that there are currently thirteen (13) NC-zoned lots in Yamhill County:

- The County found that all but two of the thirteen NC-zoned lots are smaller than the subject parcel, and both of these larger lots are found northeast of McMinnville in an area commonly referred to "Bunn's Village". Bunn's Village is sandwiched between the northeast-bound and southwest-bound lanes of Pacific Highway West (State Highway 99W) and just east of the OR-99W and Tualatin Valley Highway (State Highway 47) intersection. There are a total of four (4) NC-zoned lots in Bunn's Village and the largest of these lots measures 6.84-acres (Tax Lot 4411-02500), the next largest lot is 5.5-acres (Tax Lot 4411-02300), with the remaining two lots in Bunn's Village measuring 2.5-acres (Tax Lot 4411-02200) and 0.35-acres (Tax Lot 4411-02300). There are no vacant lots in Bunn's Village and land use on Tax Lot 4411-02500 runs the gamut of uses permitted in the Neighborhood Commercial zone, with more intensive uses more specifically being a car dealership located on Tax Lots 4411-01400 and 4411-02200 and a furniture retail business located on Tax Lot 4411-02300.
- One of the two Tax Lots that was re-zoned to Neighborhood Commercial use is 3325BD-00400, which was re-zoned from Very Low Density Residential (VLDR-2.5) in 2000 (Docket PAZ-05-00). This 0.75-acre parcel is located east of Dundee, and adjacent to the city limits, on the southside of OR-99W. This lot is currently being used to support a tow truck service business. There is a second NC zoned lot just east of the Dundee city limits, Tax Lot 3325-00900, which measures approximately 2-acres in size and is being used as a motorcycle repair and sales business.
- The second Tax Lot that was re-zoned is Tax Lot 5332BB-00301, which was re-zoned from Public Assembly Institutional (PAI) to Neighborhood Commercial (NC) in 2001 (Docket PAZ-04-01). This 1-acre lot is located in the unincorporated community of Hopewell, near the intersection of SE Lafayette Highway (State Highway 154) and Hopewell Road NW. This lot is currently being used residentially with no commercial use evident or recently approved on the property.
- There is a second NC zoned parcel in the Hopewell area (Tax Lot 5332BB-00900), located just 220-feet south of the first NC zoned lot in the area. This parcel is 1-acre in size and is currently being used commercially as a small food store and curio shop, with a caretaker's residence also on the parcel.
- There are three (3) NC zoned lots (Tax Lots 5316-02101, 5316-02100, and 5321-02200) located just west of the junction of SE Grand Island Loop and SE Wallace Road (State Highway 221). Two of these lots (Tax Lots 5316-02101 and 5316-

02100) are located north of SE Fairview Road and west of SE Wallace Road and are currently being used to support a small food store (Grand Island Grocery & Deli). Together these two lots are approximately 0.66-acres in size. The third NC zoned lot in this area is located across the street (south) from the Grand Island Grocery and Deli. This 0.6-acre parcel is currently unused.

- The remaining two NC zoned lots in Yamhill County are located near the Grand Ronde community, Tax Lots 6801-01000 and 6801-00900. Tax Lot 6801-01000 is approximately 0.33-acres in size and received land use approval in 2017 for the operation of a drive-through refreshment stand with a caretaker's dwelling onsite. Tax Lot 6801-00900 is approximately 0.4-acres in size and in 1984 received a similar use approval for the operation of a tavern, Docket SU-07-84, although the parcel appears to be used residentially at this time.

The Yamhill County Comprehensive Plan Policy I.G.A states that commercial uses should be located in, "Small neighborhood or local commercial uses will be encouraged to locate or relocate only within or immediately adjacent to the residential development or area intended to be served and be spaced in a pattern reflecting this market." The purpose of this policy is to ensure that commercial uses located in the unincorporated areas of Yamhill County be established in close proximity to the residential districts that will be served by the non-intensive uses permitted in the Neighborhood Commercial zone, such as beauty salons, drive-in food or refreshment stands, and automobile service/repair stations that could conveniently serve residents in the surrounding neighborhoods. Water will be provided to the subject parcel by way of an existing community water system, and a septic system would need to be engineered and built on the property to serve any future residential and/or limited commercial use. The subject parcel's proximity to the city limits of McMinnville assures that the infrastructure in the surrounding area is fairly extensive and designed to support dense residential development, the future development of a school on the property owned by the McMinnville school district adjacent to the subject parcel, and a parcel zoned for Neighborhood Commercial use appears to be in conformity with this Comprehensive Plan Policy.

The proposed zone change and comprehensive plan amendment appears to be in keeping with the planning goals and policies provided in the County's comprehensive plan that encourages the development of small-scale commercial developments designed to provide limited services to surrounding residential districts. The proximity of this property to both rural and urban residents suggests that a use permitted in the Neighborhood Commercial zone could serve residents of the Westwind Estates subdivision in the unincorporated area. The surrounding area appears to have adequate utilities and services in place to serve the proposed use of the property with wastewater management service and fire safety service being the new services needed if the plan amendment and zone change request is approved and the Applicant proceeds with a site design review request for the operation of a limited commercial business on the subject parcel. Any future development on this property would be required to receive authorization of a wastewater management system prior to the issuance of building permits for any future development. Aside from the development of an approved septic system and potentially fire safety service such as a fire hydrant, the subject parcel will not require the extension or expansion of services to accommodate the proposed zone change and plan amendment.

The County's analysis finds that existing NC zoned parcels in Yamhill County provide a diverse set of uses that benefit the local community where they are located. There appears to be a demand for additional NC zoned land to support neighborhood-scale commercial enterprises. The neighborhood commercial zoning ordinance also allows for the construction of a caretaker's dwelling in conjunction with an approved use on the property. The onsite residency by a caretaker can provide some additional security to the business owner and potentially low-cost housing for an employee or business owner. The Applicant's plan for the property, as described in the application, provides a balance to the County's comprehensive planning goals related to commercial growth in Yamhill County without sacrificing the provision of housing for an employee or caretaker.

2. Analysis: *Is 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.*

The application states that a small-scale home-based business will be established on the parcel if the plan amendment and zone change request is approved by the County. There are a wide variety of uses permitted in the NC-zone which are either inherently small-scale in nature or are uses that can be scaled down to conform to the Applicant's proposed Limited Use Overlay. Small-scale uses in the NC-zone include beauty salons, drive through food or refreshment stands, automobile repair garage, and a home occupation is also a conditional use in the NC-zone, which provides a variety of options to any future resident of the property. The lack of Neighborhood Commercial zoned parcels in the surrounding area in conjunction with the rapid residential growth within McMinnville and the surrounding rural areas suggest that a parcel zoned for Neighborhood Commercial use could provide a beneficial service to the surrounding area and can be accomplished in a manner that does not disrupt the farm and residential uses prevalent in the surrounding area.

3. Analysis: *Is the proposed change appropriate considering the surrounding land uses, the density and pattern of development in the area, and any changes which may have occurred in the vicinity to support the proposed amendment, and is there availability of utilities and services likely to be needed by the anticipated uses in the proposed district?*

A portion of criterion (C) requires the proposed change to be shown to be appropriate considering the surrounding land uses along with the density and pattern of development in the area. A more comprehensive description of the surrounding land uses, the development pattern in the area, and changes to the surrounding area, as well as existing utilities and services in the area, can be found in Sections A.4 and B.1. The County will consider whether the proposed zone change and comprehensive plan amendment from EF-80 to NC is appropriate considering the surrounding land use information presented in these findings, including the M37 Decision for this lot. The subject property is located near a residential subdivision, Westwind Estates, that was also permitted through a Measure 37 vesting decision. Westwind Estates borders the subject parcel to the north and west. To the east the subject parcel is bordered by the McMinnville city limits. This urban area of McMinnville is predominantly dedicated to residential use, with a single large (11-acre) lot also held by the McMinnville School District but is currently undeveloped. The only

additional services that will need to be established on the property include a connection to the community water system and a septic system designed to adequately manage wastewater generated by a future commercial use. Access to the property is via SW Homer Ross Loop which serves the residential uses of the area, with no plans to have access from NW Hill Road. Residents in the surrounding EF-80 zoned area can currently submit a conditional use permit request for the operation of a home occupation which is the type and scale of commercial development proposed by the Applicant, with the establishment of a proposed Limited Use Overlay. If the plan amendment and zone change request is approved, any future development of the tract itself would be subject to the County's site design review process. This site design review allows the County to evaluate the potential impacts more specifically to the properties in the surrounding area prior to approval of a use permitted in the Light Industrial zone. The site design review process provides the County and Applicant to evaluate the existing services to verify those in place are sufficient to support the specific development, or if not, to what extent improving existing services or establishing new services would be required. The County did not receive comments or concerns from any of the surrounding property owners regarding the Applicant's request for a plan amendment and zone change.

4. *Analysis: Are other lands in the county already designated for the proposed uses either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors?*

As discussed in greater detail in Section B.1, there are thirteen NC zoned lots located in Yamhill County, many of which are smaller in size than the subject parcel and already dedicated to specific uses that are serving the communities surrounding these Neighborhood Commercial lots. The analysis found that the only Neighborhood Commercial zoned lots in the McMinnville area are fully developed and located to the east of McMinnville, while the Applicant's lot is located adjacent to the northwest-most area of McMinnville which has seen rapid residential development in recent years. The County's analysis indicates that Neighborhood Commercial properties can provide vital, albeit small-scale, commercial services to the residential area surrounding these NC zoned lots. The Applicant notes that the Measure 37 vesting decision granted approval for the development of either residential or commercial use on the lots through the Measure 37 vesting judgement. The proposed zone change from EF-80 to NC will bring the County's zoning map into conformance with the development opportunities that the Circuit Court found to be available on the subject parcel. If approved, the rezoning of the parcel to the Neighborhood Commercial zone will allow for the development of a small-scale and neighborhood-oriented business while still allowing for the development of a caretaker's residence. If approved, the request appears to be in conformity with the Measure 37 vesting judgement issued by the Circuit Court.

7. *Is the amendment consistent with the current Oregon Administrative Rules for exceptions, if applicable?*

The M37 Decision obviated the need for a committed exception to Goal 3 (Agricultural), Goal 4 (Forestry), and Goal 14 (Urbanization). However, the Applicant has requested the establishment of a Limited Use Overlay on the subject parcel which would limit the use of the parcel to a scale under the same limitations as those that can be requested as a home occupation in any of the zones that permits dwellings in Yamhill County. Additional limitations, such as

setbacks and septic requirements, would further limit development of additional structures on the property, thus limiting the scale to conform with other rural Neighborhood Commercial properties in the county. The County may establish additional standards and limitations through its Limited Use Overlay, which can place limitations on the type of use(s) permitted on the property and/or to place more strict parcel coverage limitations, maximum building height, or other standards and limitations that the County feels are a reasonable way to limit impacts to surrounding properties.

C. Goal 12 (Transportation Rule) Provisions and Analysis

The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-0060 contains the provisions that must be met:

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Regarding subsections (a) and (b) above, one of the reasons the Applicant has requested the imposition of a Limited Use Overlay is to limit the scale of any commercial development that could occur on the property. As mentioned previously, the Limited Use Overlay proposed by the Applicant would limit commercial development of the property to be no larger than of a home

occupation, which is conditionally permitted in the Exclusive Farm use, Forestry, Agriculture/Forestry, or rural residential zones in Yamhill County. More specifically, the Limited Use Overlay will prohibit having more than four employees working onsite, prohibit the use from unreasonably interfering with existing uses on nearby land, allow operation of no more than a single business on the property, require off-street parking, and require any business operated on the property to be personal to the Applicant so that any future owner will need to submit a new request to the County and notify the surrounding residents of any change in ownership or use.

D. Limited Use Overlay Provisions

Section 904.03 of the YCZO contains provisions for Limited Use Overlays. It states:

- (A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.*
- (B) *The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*
- (C) *Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*
- (D) *Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*

If the plan amendment and zone change request is approved, the Applicant has requested that a Limited Use Overlay be placed on the subject parcel. The Limited Use Overlay would establish requirements and standards that would ensure any commercial enterprise established on the property be at a rural rather than an urban scale. Additionally, any use proposed on the subject parcel would also be subject to site design review which allows the surrounding property owners to evaluate the request and submit comments and concerns to the county planning department which allows the County to establish additional conditions on any approval that would limit the potential negative impacts to a property in the surrounding area. The Applicant notes that the parcel can access an existing community water service to serve any commercial development that may occur on the property in the future. A septic system or other approved wastewater treatment system will need to be approved to serve a proposed business prior to issuance of building permits or initiation of an approved commercial use. The subject parcel has direct access to NW Homer Ross Loop, and the driveway serving a business will need to be inspected and approved by the McMinnville Fire Department prior to issuance of any building permits or initiation of a use permitted on the property.

If the County adopts a Limited Use Overlay, as proposed by the Applicant, it will limit the scale of development on the property to a scale similar to what a resident in the resource or non-resource zones in the county could currently request anywhere else in the unincorporated areas by way of a conditional use permit request for the operation of a home occupation. The imposition of

a Limited Use Overlay would also limit the amount of traffic to the property by employees or potential patrons which would also limit the impact to the community water service and to the area that will need to be set aside for the development of an appropriately engineered septic system. The County may also limit the parcel coverage permitted on the property which could, in turn, limit the size of the commercial development on the property which may further decrease the amount of traffic impacts to the surrounding transportation system. A future property owner could also request that the Limited Use Overlay be modified through a zone change, and while the Limited Use Overlay can be challenging to revise, these limitations are not etched in stone, and future owners of the property would have the opportunity to make changes if market demands require it.

CONCLUSIONS FOR APPROVAL:

1. The proposal is consistent with Comprehensive Plan goals and policies.
2. The proposal is consistent with Section 1208.02 of the Yamhill County Zoning Ordinance.
 - a. There is an existing demonstrable need for the particular uses allowed by the requested zone change.
 - b. 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.
 - c. Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses.
 - d. The M37 Decision obviated the need for a committed exception to Goal 3 (Agricultural), Goal 4 (Forestry), and Goal 14 (Urbanization); however, imposition of a Limited Use Overlay will limit the use of the parcel to those limitations that can be requested as a home occupation in any of the zones that permits dwellings in Yamhill County.
3. The Applicant has demonstrated that the use complies with the (Goal 12) Transportation Planning Rule in that it will not have a significant effect on transportation facilities in the area.

CONDITIONS OF APPROVAL:

A Limited Use Overlay (YCZO Section 904) is hereby imposed on the subject tract, limiting allowed uses of the tract as follows:

1. The commercial business shall be operated by a resident of the property on which the business is located.

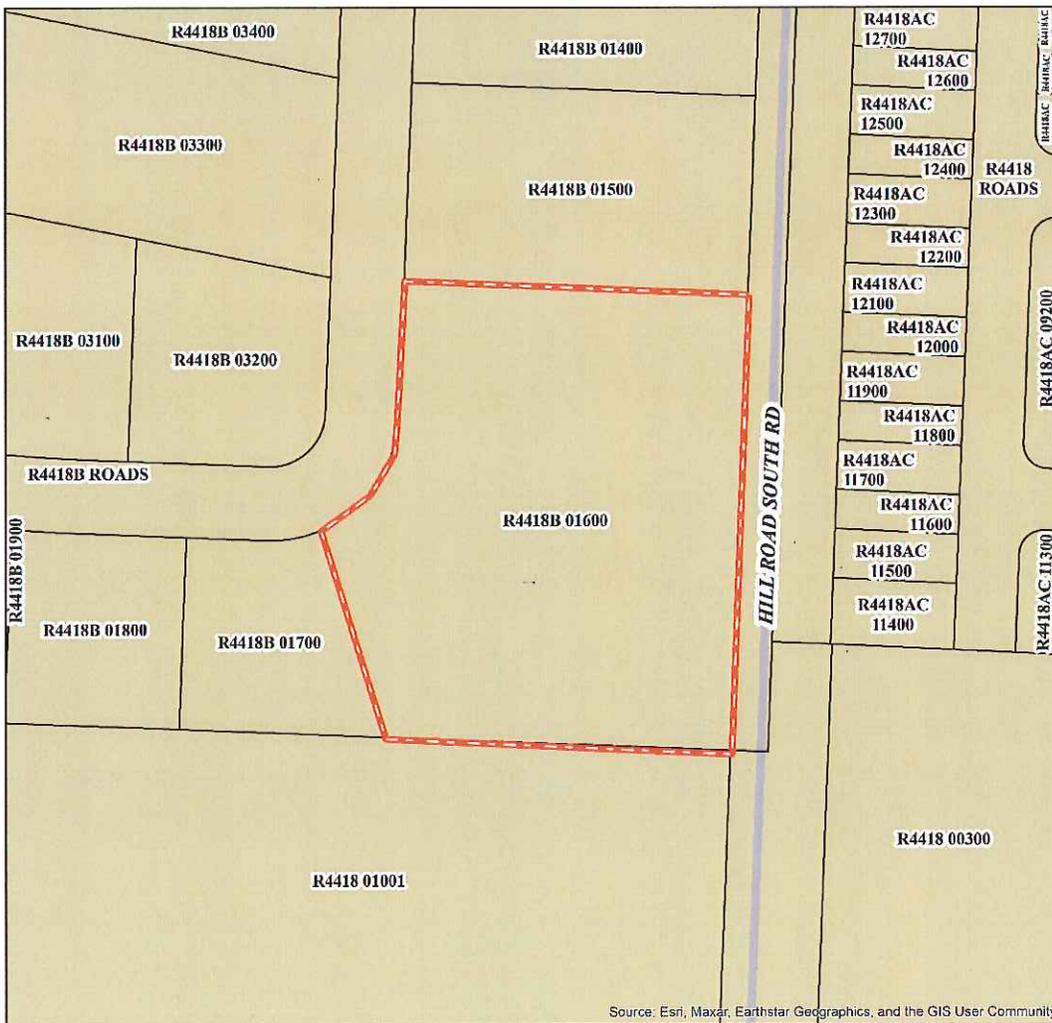
2. The commercial business will employ on the site no more than four (4) full or part-time employees on-site.
3. The commercial business shall be operated substantially in buildings normally associated with uses permitted in the West Wind Country Estates subdivision in which the parcel is located and a part of.
4. The commercial business shall not unreasonably interfere with existing uses, including residences, on adjacent and nearby land by causing either traffic, noise, air quality, or odor issues.
5. No more than one commercial business shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate businesses.
6. The Neighborhood Commercial (NC) zone and any associated commercial business shall not be used to permit construction of any structure that would not otherwise be allowed in the zone.
7. The total area used for outdoor storage shall not exceed the allowable parcel coverage in the Neighborhood Commercial Zone.
8. There shall be minimal visible evidence of the conduct of the commercial business from any road or adjacent property, other than the permitted buildings and sign (see item "12" below). All commercial production and associated storage shall be within a building or be effectively screened by vegetation, fence, or other permitted structures.
9. A commercial business shall not generate noise, vibration, glare, fumes, odor, electrical interference, or other disturbances beyond what normally occurs in rural residential districts.
10. A commercial business shall not generate traffic or on street parking significantly beyond what normally occurs within the surrounding residential area.
11. Off-street parking spaces shall be provided to clients and patrons and shall not be located in any required yard.
12. One on premise sign shall be permitted in conjunction with the commercial business and shall be located along the subject business's access driveway. The on-premise sign shall not exceed two square feet in size.
13. Activity involving employees, shipping and/or deliveries shall take place between the hours of 7:00 A.M. and 6:00 P.M. on Monday through Saturday (excluding Sunday) to the greatest extent possible.
14. No dwelling, use, or parcel shall be allowed direct access from NW Hill Road.

15. The following uses shall be prohibited:

- a. Lumber sales;
- b. Furniture sales of items built, manufactured and/or assembled off-site; and
- c. Automotive Service Center, specifically drive-up type maintenance centers or fuel sales.

END

EXHIBIT B - MAP FOR ORDINANCE 925
 ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
 MARCH 2, 2023
 FOR A PLAN AMENDMENT FROM
 AGRICULTURE/FORESTRY LARGE HOLDING
 TO
 COMMERCIAL
 AND
 ZONE CHANGE FROM
 EF-80, EXCLUSIVE FARM USE
 TO
 NC, NEIGHBORHOOD COMMERCIAL



YAMHILL COUNTY
TAX LOT INFORMATION
&
CONTEXTUAL MAP



Property Information
 Docket: PAZ-05-21

2150 SW Homer Ross Loop

 Subject Parcel(s)

Tax Lot: R4418B 01600
 Lot Acreage: 2.52

1 inch = 100 feet



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Last Update: February 28, 2023

CHANGE APPLIES TO TAX LOT 4418B-01600 AS HIGHLIGHTED ABOVE. APPROXIMATE SCALE - 1 INCH = 100 FEET