SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

An Amendment to the present
Yamhill County Zoning Ordinance No. 83, 1976,
Changing the procedures and requirements for alteration,
restoration and replacement of Non-conforming uses and
setting a fee for applications

THE BOARD OF COMMISSIONERS of Yamhill County, Oregon,
transaction of County business, in regular session, Commissioners
John P. Macaulay, Colin Armstrong and Ted Lopuszynski being
present.

WHEREAS, on September 10, 1979, the Board created the Land Use Ordinance Task Force and gave it the responsibility to review all Land Use Ordinances in the County; AND

WHEREAS, the Task Force has reviewed section 37 et seq. of the Yamhill County Zoning Ordinance No. 83, 1976, and made recommendations for changes thereto; AND

WHEREAS, pursuant to ORS 215.110, Yamhill County Planning Commission reviewed the recommendations of the Task Force and has made recommendations to the Board for amendment to Section 37; AND

WHEREAS, pursuant to ORS 215.050, the Board published notice on December 4, 1980, in four newspapers within the County, of a public hearing on the amendment to Section 37 of the Zoning Ordinance; AND

WHEREAS, on December 24, 1980, the said public hearing was had at the special session of the Board; AND

WHEREAS, the Board finds that it would be of the best interest of the citizens of Yamhill County for the proposed changes as recommended by the Land Use Task Force and the Planning Commission to be made to Section 37 of the Zoning Ordinance, NOW THEREFORE,
IT IS HEREBY ORDAINED by the Board of Commissioners of Yamhill County, that the Yamhill County Zoning Ordinance No. 83, 1976, be and hereby is amended as follows:

I. Sections 37.100, 37.300, 37.400, 37.500 and 37.600 of the Yamhill County Zoning Ordinance #83, 1976, hereby repealed and the following sections are hereby enacted in their place:

37.100 PURPOSE AND SCOPE.
Nonconforming lots, uses and structures are those lots, uses or structures which were lawful before the date of adoption or amendment of this Ordinance, but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of nonconforming uses to conforming uses. However, nonconforming uses of land structures are permitted to continue, and structures may be altered, restored or replaced if the criteria in 37.300 is met. Nonconforming lots of record may be built upon subject to Section 37.200.
A change of ownership or occupancy of a nonconforming use shall be permitted. If any nonconforming use is discontinued for a period of one year, then the nonconforming use shall not be resumed and any subsequent use shall conform to the requirement of the Zoning Ordinance.
Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of any structure for which a building permit has been issued and actual construction has commenced prior to the date of adoption or amendment of this Ordinance.

37.250 DEFINITIONS
As used in this Section, the following words, terms, and expressions shall be interpreted in accordance with the following definitions unless the context required otherwise:

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(a) ALTERATION. An "alteration" may be a change in structure, an increase in the number of structures, or change of use. Where the term "alteration" is applied to a change of structure, it is intended to apply to any change, addition, or modification in structure. When the term is used in connection with a change of use, it is intended to apply to changes of use from one trade or use to another, or from one division of trade or use to another.

(b) ACTUAL CONSTRUCTION. The placing of construction materials in permanent position and fastened in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such excavations or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

37.300 CRITERIA

(a) The Director shall authorize alterations, restoration or replacement of a nonconforming use or structure pursuant to Section 37.100 when any of the following circumstances apply:

(1) The alteration is necessary to comply with any lawful requirement for alteration of said use or structure.

(2) Restoration or replacement is made necessary by fire casualty, or natural disaster. Any restoration or replacement approved pursuant to this subsection shall be commenced within one year from the occurrence of the fire, casualty, or natural disaster.

(b) The Director may authorize alteration, restoration or replacement of a nonconforming use or structure pursuant to Section 37.100 when the following circumstances apply:
1. The alteration of the use would result in a reduction in nonconformity of use or have no greater adverse impact to the neighborhood; and

2. The alteration of the structure or physical improvements would result in a reduction in nonconformity or have no greater adverse impact to the surrounding neighborhood.

37.400 PROCEDURE

An application for an alteration, restoration or replacement of a nonconforming use or structure shall be made to the Director on a form prescribed by him. It shall be accompanied by sufficient evidence to prove the nonconformity, a Letter of Intent, any plans necessary to explain the request, and appropriate fees. The procedure for review shall be as follows:

(a) The application shall be made in the manner described above. The Director shall have the right to reject any application which is incomplete, illegible, or is not accompanied by the appropriate fee.

(b) Owners of property within 250 feet of the property for which the alteration, restoration or replacement has been requested shall be notified of the application in writing. All other persons shall be given notice of the application by publication in a newspaper of general circulation in the County. The Director shall have the right to provide written notice to such other persons as he deems appropriate.

(c) If no written request for a public hearing is received within fifteen (15) days of the last notice given pursuant to the above paragraph, the Director shall review the application, then grant or deny it in accordance with the criteria set forth in Section 37.300 of the Ordinance and other applicable County or State law, rule or regulation. The Director's written decision shall explain the facts and conclusions relied upon in making the decision. The applicant may appeal the Director's
decision to the Commission fifteen (15) days from the date it is sent.

(d) The Director shall submit a written report to each member of the Commission within fifteen (15) days of any action taken pursuant to Section 37.400. The Commission may initiate review of any action taken by the Director pursuant to Section 37.400 within thirty (30) days of the date of the Director's action and may sustain or reverse any decision of the Director in accordance with the criteria set forth in Section 37.300 of this Ordinance and other applicable County or State Law, rule or regulation.

(e) Should the Director receive a request for a public hearing within fifteen (15) days of the last notice given the Director will schedule, upon receipt of the appropriate fee from the applicant, a public hearing before the Commission. Once the applicant receives notification of a request for a hearing, the applicant shall have thirty (30) days to pay the appropriate fee or the application will be deemed to have been withdrawn.

(f) Approval of any alteration, replacement, or restoration approved hereunder shall be null and void one year from the date it is granted unless completion, substantial construction, or substantial expenditure of funds has taken place. The Director shall extend the approval for one (1) additional year upon a showing of good cause for the delay in the commencement of construction by the applicant and provided the request to extend approval is received by the Director prior to the expiration of the original approval.

(g) Any approval issued hereunder in not personal to the applicant and shall be deemed to run with the land.

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(h) The Commission shall be empowered to impose such conditions on an approval of an alteration, restoration or replacement as it deems appropriate to ensure the purpose of this Section is carried out. Said conditions shall be reasonably related to the criteria set forth is Section 37.300.

(i) Any appeal shall be filed within fifteen (15) days from the date written notice of the decision was sent.

(j) Building permits issued in connection with any part of an approved nonconforming use, alteration, replacement or restoration shall be issued only on the basis of the approved plan.

(k) Any proposed changes in connection with an approved plan shall be reviewed and approved in accordance with the same procedures prescribed under Section 37.400.

II. Section 37.700 be and the same is hereby renumbered 37.500.

III. The fee for application under Sections 37.100 et seq. for alteration, restoration and replacement of nonconforming uses shall be set by order of the Board.

IV. Except as herein repealed, replaced and remembered, Ordinance #83 shall remain in full force and effect.

V. Effective Date. This Amendment to the Zoning Ordinance No. 83, 1976, being necessary for the health, safety and welfare of the people of Yamhill County, and the Board of Commissioners having declared an emergency to exist, it shall be effective upon approval hereof.
Dated this 29th day of December, 1980, at McMinnville.

ATTEST:

WANDA CATT, County Clerk

Patricia A. Mullen, Deputy

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chairman, ED KOPUSZYNISKI

Commissioner, JOHN P. MACAULAY

Commissioner, COLIN ARMSTRONG

APPROVED AS TO FORM:
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BOARD ORDER NO. 257