

November 7, 1979
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall

23. COMMISSIONERS' ANNOUNCEMENTS AND BUSINESS

a. Coastal Subarea Zoning

Weinstein stated that the zoning of this area had been adopted by a four to nothing vote. He wanted to have the record show that had he been there he would have voted against the zoning and also against the adoption of the Coastal Subarea Plan.

b. Executive Session was announced for 2:00 p.m. Thursday, November 8.

24. PUBLIC WORKS

- a. PUBLIC HEARING AND ORDER 79-11-7-17 Vacating an Alley in Block 5, Blue River City
Applicant: Herbert Sain, et al, ORDER 79-9-26-11
Location: Echo and Dexter Streets, Blue River

Bob Ezell, Public Works, stated that this alley was not being used and the plan was to use it for a fire station. The public hearing was opened.

Donald Husband, attorney for the Blue River Water District, stated that this alley existed only on paper and not on the ground, and that the existing owner would convey it for the Fire Station use. No one else spoke and the public hearing was closed.

t'Hooft moved approval of the Order; Rutherford seconded; all voted aye and the motion carried.

- b. CONTINUED PUBLIC HEARING AND ORDER 79-11-7-15 Vacating Harrison Street Between 21st Street and 22nd Street

Ezell showed the area in the Glenwood District on the map and noted that there are several trees within the right-of-way concerned; also a shed. The public hearing was opened.

One citizen spoke in favor of the vacation saying that all of the lot owners in the area have buildings or other items on the right-of-way which they think is their property. He said there were large fir trees and a couple of buildings and that the vacation is proposed because it would take care of two people that do not have it by adverse possession. He said there was another street called Morton where there was no barrier and which could be used in the future. t'Hooft inquired how many people were involved and the reply was that there were 10 lots but not all developed. He said there was no traffic to speak of and it would not make sense to complete Morton Street at present. He said that Far West Steel had a parking lot on the corner of 21st and Henderson. Rutherford inquired about an easement, and Ezell said that there was room for an easement for the

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sanitary sewers of the City of Eugene. Freeman asked if Eugene was going to provide sewage for Glenwood and Ezell said apparently so since they have a trunk line there.

Vern Gleaves spoke against the vacation on behalf of Fischer Investment Company, owners of the property on which Far West Steel was located and also on 21st Street extending from Henderson to Harrison on the north half of the block. He said his client was the abutting property owner and objected to both the north and south halves of the street being vacated. He stated that property in the area had been static for some period of time and had remained undeveloped probably because of the lack of sanitary sewers, which are in the future plans of the City of Eugene. He said that the city was having troubles getting an easement on Henderson Street because it was vacated. He suggested granting facility permits for the privately owned objects in the right-of-way but thought that the street should be available for future development. Once it was vacated it would become very valuable land and would not be available in case of public need.

In rebuttal the previous speaker said that the street would be only three blocks long, blocked by the railroad at one end and by I-5 at the other. An easement would take care of the sewer problem. He said the street was platted in 1898 but that there had never been a street there. The public hearing was closed.

Rust said he would be conservative on this type of thing because vacation was an irrevocable act, with condemnation as the only solution. Rust moved to deny the vacation; Rutherford seconded; all voted aye and the motion carried. Freeman said he thought that Assistant Legal Counsel Van Vactor was going to look into the matter of the facilities permit, and that such problems could not be legally cured without a showing of compelling public need.

25. ENVIRONMENTAL MANAGEMENT

- a. ORDER 79-11-7-16 Extending Period Within Which to Adopt Zoning by Legal Description: Siuslaw-Lake Creek and Western-Half of Willamette-Long Tom Subareas

Rust moved to extend by 180 days from the date that the 120-day period specified in Lane Code 10.315-91(1) would expire, the time period within which ordinances shall be adopted establishing zoned district boundaries by legal description in the Siuslaw-Lake Creek and West one-half Willamette-Long Tom Subareas; Rutherford seconded; all voted aye and the motion carried.

- b. CONTINUED SECOND READING, PUBLIC HEARING AND ACTION/Ordinance No. 752
Rezoning Certain Land in Section 31, Township 17 South, Range 5 West, W.M., From Agriculture, Grazing and Timber Raising (AGT-5) District to Rural Residential (RR-2) District With Possible Exception to Statewide Land Use Goal #3 (Agriculture)
Applicant: Daryl Sole, ZC 79-179
Location: Huston Road, Adjacent to Veneta City Limits
(Request to Postpone by Applicant to Wednesday, November 28, 1979, 1:30 p.m.)

Freeman read a letter from applicant Daryl Sole stating that he would not be back in Oregon until November 21 and would like to request that the hearing be rescheduled to November 28. The public hearing was opened and one citizen, an abutting property owner, stated he would delay his testimony until November 28. t'Hooft moved to continue to November 28 at 1:30 p.m.; Rust seconded; all voted aye and the motion carried.

- c. CONTINUED SECOND READING, PUBLIC HEARING AND ACTION/Ordinance No. 751
Rezoning Certain Land in Section 1, Township 17 South, Range 4 West,
W.M., From Agriculture, Grazing and Timber Raising (AGT) District to
Rural Residential (RR-1) District, With Possible Exception to
Statewide Land Use Goal #3 (Agriculture)
Applicant: J. E. Grove, ZC 79-165
Location: 1925 East Beacon Drive

Harry Taylor, Planning, stated that this hearing had been continued for information on the soils. He said there was a predominance of Newberg soils Class IIw, some Camas soil in the flood channel of about two acres. He said there was an excellent potential for agricultural production with proper management on Newberg soils. The public hearing was opened.

Mrs. J. E. Grove stated that they could not produce any kind of crop economically. She said that their land was assessed at a higher rate than adjoining land and went through the list of adjoining property owners. She stated that they had paid their full share of taxes while the others with AGT zoning took farm deferrals.

Legal Counsel Margie Hendriksen reminded Mrs. Grove of the LCDC goal three requiring findings concerning nonagricultural use of land with agricultural soils on it. Mrs. Grove listed various homes in the area which were on less than one acre of ground. Rust asked her about need for providing residential property and whether she had looked at alternative places. Mrs. Grove said she had not looked at other places but that she knew there was need because of the number of requests they received. She cited personal hardship because of her husband's arthritis and also their previous experience in trying to raise peaches, cherries, and wheat which was raised by a renter and produced only 16 bushels to the acre.

Rutherford asked her to answer some of the specific questions required by goal three. On the economic effect Mrs. Grove said that it would improve the area because each individual would be able to have their own garden. On the social impact she thought there would not be much of a problem but in any event it should not be negative. Regarding the energy problem she said they were only half a mile from the bus line and the utilities were already in. Weinstein said that regarding compatibility there was a good case for saying that this was a residential node. He said he thought that residential was the highest and best use and that personal hardship should be taken into consideration. Rutherford inquired of staff if there was potential plan conformity, and Taylor answered no.

Thomas Martin spoke in favor of the rezoning and asked that his statement concerning the agricultural capability of the land in the staff report be stricken from the record.

Appearing against the rezoning was Keith Walton, Beacon Drive, a farmer, who said that the agricultural potential of the land was quite high, citing a farmer with 10 acres who makes a living on it. Concerning the crop of wheat mentioned by the applicant, he said it was planted after the rains had come in the spring and that the land drains very quickly. Regarding the social impact of additional residences he cited his experience of people pulling up fences and trees and driving into the fields. On the energy question he said that farmland near the city would be valuable in the future for the production of food for the city. He said that someone managing the land for the agricultural potential would be contributing more to the economy than commuters. He stated that the reason the land is Class II is that it is subject to flooding and that it needs to be cover-cropped during the winter. Weinstein asked how old the man was who made a living on 10 acres and Walton replied about 37. Walton said he thought the Groves were taxed exorbitantly and that they should be under farm deferral. Weinstein brought up the subject of Mr. Grove's age and difficulties with arthritis. Walton said that he thought maybe selling to a farmer would be a solution. Rutherford asked if he would be willing to lease the property from them, and Walton said that someone could do it and that there were a lot of possibilities. Weinstein stated the American dream of spending one's twilight years on property that one had lived on for a long time.

David Walton, East Beacon Drive, in opposition spoke of the vandalism by people from neighboring suburbs driving through the fields and throwing trash on farmers' property.

Page Walton, also in opposition, stated that he was one of the elderly himself. Regarding the wheat crop on the Grove property he said that when it was ready to be harvested it rained before it was harvested. He thought that someone who rented would not take care of the land as well. He also mentioned the lack of cover crop in winter and stated that it had been mismanaged. He said that he did not think of farm deferral as a form of welfare, and that they had to pay taxes on areas which were not farmable, where there was a creek. He mentioned that the creek was contaminated by septic tanks draining in the area.

In rebuttal Mrs. Grove said the Walton farm had no cover crop on it and that when you have peach and cherry trees you do not use a cover crop. She said that they had tried to build up the soil but it was still not productive. Regarding vandalism she thought that this did not originate with neighboring residents. She cited the expenses that the renting farmer had had in trying to grow a crop. The public hearing was closed.

Rutherford said that it was great to have a place which would produce food 40 years from now but he thought people of today were just as important. He felt that the Groves had answered the criteria and were entitled to the subdivision. He thought that Walton had some points but that the area was committed to residential use already. Regarding

the exception he noted that agricultural use would not produce a living for the owner; that there was a demand for property in that location; and that there was compatibility with surrounding areas which had many lots much smaller.

Rutherford moved to approve Ordinance No. 751; Weinstein seconded.

Rust brought up the testimony regarding the high quality of the soils and also the problem of flooding. Regarding Goal #2 he thought that no compelling reasons to take agricultural land had been shown, and that zoning was a public matter not related to personal hardship. He said the question of alternative locations for residents in the area had not been answered, and that farming did not mix well with high residential development. Freeman mentioned that using a lawyer might look expensive but might be worthwhile. t'Hooft said that he would vote against the motion but that he did want to recognize the inequities. He thought the exception criteria had not been addressed and that the Planning Commission had looked into it pretty thoroughly, but he felt that the result was not very equitable. Weinstein stated that he was satisfied with the testimony that there was no way for the property to be farmed. On the question a roll call vote was taken and Freeman, Rust and t'Hooft voted no; the other two Commissioners voted aye; and the ordinance failed.

d. SECOND READING, PUBLIC HEARING AND ACTION/Ordinance 13-79 Amendment to Unzoned Area Development Permit Ordinance

Lee Miller, Planning Director, presented the amendments. A public hearing was opened but nobody spoke. Rust moved adoption of the ordinance; Freeman seconded. Both Rutherford and Weinstein made statements opposing the ordinance. Weinstein stated his view that farmland means that it is in farm production. t'Hooft inquired about a problem recently in the Long-Tom Subarea regarding a mobile home park and wondered if this addressed that issue. Miller said that it would come under a permit. t'Hooft mentioned that there had been a real outbreak of community resentment caused by that kind of problem. On a roll call Rutherford and Weinstein voted no; the other three Commissioners voted aye and Ordinance 13-79 was adopted.

e. SECOND READING, PUBLIC HEARING AND ACTION/Ordinance 14-79 Amendment to Lane Code, Chapter 13, To Include an Exemption From the Definition of "Partition Land" Relative to Parcels Created as a Result of Lien Foreclosures

Joe Hudzikiewicz, Planning, presented this amendment as a housekeeping matter which would allow portions of properties to be mortgaged without going through the partition process. In case of foreclosure the bank would get the portion and the lot resulting would be considered conforming. Rutherford moved approval; Rust seconded; on a roll call t'Hooft and Weinstein abstained; the other three Commissioners voted aye and the ordinance was adopted.

*f. CONTINUED APPEAL of Land Development Review Committee's Denial of a Major Partition
Applicant/Appellant: Clarence Horn, John and Janet Reynolds, M 426-79
Location: 94600 Johnson Road, Marcola

Hudzikiewicz, Planning, presented the partition request and maps. The public hearing was opened. Mike Evans, representing the applicant, said there had been a revision in the proposed lots to make them more site specific. Number 1 of 15 acres would include all the timber; number 2, five acres in the northwest portion, was poor soil, rocky, with some hardwood growth; and number 3, all the ground is being used as pasture, the existing home site and the mobile home. Rust stated that what is needed is how the exception would be met since the designation RWG normally means 20-acre minimum, and findings must be met for secondary use, RR-5.

Evans stated that there were approximately 15 dwellings in the immediate vicinity, mostly on much smaller property and that it was committed to residential use. There were very mixed soil types, limited sunlight and early frosts. He said there was a need for rural housing in Lane County and that LCDC goals and guidelines call for restricting areas of residential use in rural areas to those areas which were already being developed as residential. Regarding long-term effects and the agriculture goal he said that activities were limited to hay production, grazing, tree farming and home gardens. This site was being used to the maximum possible extent and would be in the future under the partition proposed. As to social consequences he noted that the applicant had support of neighbors in their project. Regarding energy, the clustering of rural residential was favored and would also allow the County to maintain roads that would be used by a larger number of people. Mass transit was going rapidly into the rural areas and a pickup site would develop soon. Residential property this large would make possible the maximum use of solar energy. Having family members nearby would make sharing of work on the timber possible and wood wastes would be used as energy sources. Regarding compatibility there were 15 homes in the area, the majority on smaller than five-acre lots. He maintained that the entire area was committed to rural homesites and that each one would have woodlot, livestock, garden, etc. As to alternative locations he said there were none in the area which would be better because it was not suitable for agricultural. Rutherford asked if the parceling would not materially affect the use of the land, why an exception was necessary. Hendriksen stated because of the soils. Evans said he would prefer to address the goals. t'Hooft inquired about current use and Evans said it was being used for farming and that senior members of the family lived in a mobile home. They feel that through a joint operation they can handle the timber and pasture operation since Mr. Horn is physically incapable of doing the work by himself. Mr. Reynolds works out and does not have a great deal of time. Evans said he did not take exception to the forest lands goal because of the fact that the area was irrevocably committed to rural residential. Rust suggested that he would advise keeping the record open for another week and t'Hooft said that a written presentation of findings would be better. Evans said that he had the data but could do it better in a week. He said this proposal would not affect the timber

ground except to allow for increased productivity by providing residences for other family members. The purpose of the partition was to separate the timber parcel. He stated that the long-term impacts, economically, socially, etc., were of nothing but beneficial consequence, and that another residence would represent infilling of an area already in residential use which would be consistent with the comprehensive plan. Hendriksen inquired if there were forest land adjacent and Evans replied that Tax Lot 100 was being reforested nearby but not adjacent. t'Hooft inquired about the environmental aspects regarding water, septic systems, etc. Evans said this had been addressed under the statewide goals. The DEQ required drainfields 100 feet from running water and on this property there would be 200 feet. Regarding preservation of natural resources, he said this proposal was designed to take into account the best use of each parcel of the property. t'Hooft inquired about social consequences, for example schools; Evans said that the Marcola School District ran a bus on this road and that they are only 80 percent of capacity at the high school level. The public hearing was closed.

t'Hooft moved approval of the major partition; Rutherford seconded. Rutherford stated that he would like to have the applicant's memo and findings included in the record. He said by using this land for homesites there would be no impact because no physical changes in the property would be made. Likewise there would be no adverse energy impact and the wood waste on the property would be used for energy. Population density would be comparable with neighboring properties. Additional family members would be able to increase the productivity of the property and allow for intensified management. t'Hooft spoke to the agriculture and forestry exceptions, summarizing information presented on behalf of the applicant. On the question all voted aye and the partition was granted.

- *g. CONTINUED APPEAL of Land Development Review Committee's Denial of a Major Partition
Applicant/Appellant: Walter Peterson, M 450-79
Location: Upper Camp Creek Road

Hudzikiewicz, Planning, stated that this was a revised proposal for one five-acre piece and the other 105 acres left as is, designated timber resource land. The public hearing was opened. William A. Eimstad, 1717 Washington, Eugene, speaking for the applicant stated that there was a clearing where the five-acre parcel was proposed, and a friend who could help Walter Peterson with the forest resource would occupy it. t'Hooft inquired what the designation was, and Hudzikiewicz said it was RWG along the road and Forestry up the hill. Soils along the road were of a poorer type so that the Board could interpret the requested parcel as being in the RWG designation. t'Hooft asked about addressing the exceptions. Hudzikiewicz said that his information was that the front portion did not appear to have Class I through IV soils and had no woodland capability. Hudzikiewicz passed around a soil map and the other Commissioners inquired about meeting the criteria. The criteria were placed upon the screen and t'Hooft asked the applicant to address the goals, which the applicant did briefly. H. P. "Jack" Palmer, the friend of Peterson who would

live on the place and help with the timber spoke briefly in favor of the partition. The Public Hearing was closed.

t'Hooft moved to approve the appeal; Rutherford seconded. Rust said he was not comfortable with this partition, and Freeman pointed out that it had been granted last year but that the partition had not been completed within the year. He compared it to the situation in the cities where an extension can be given. t'Hooft discussed the findings briefly. On the question Rust voted no; the other four Commissioners voted aye and the partition was granted.

26. EMERGENCY BUSINESS

a. Reconsideration of Zoning in the Coastal Subarea

Ronald Gerber, attorney, Florence, representing the Whitehalls, asked for reconsideration of the zoning action taken on November 1, 1980. Rutherford moved reconsider; Freeman seconded. Rust asked what was the new evidence. Rutherford said that in his opinion the plan did not address the need for industrial property, and Rust said that that was because the plan was in error and did not have to do with the rezoning. Gerber stated that there had been no opportunity to give evidence on the error in the plan. He said the issue was never argued. Legal Counsel Hendriksen said that she had some discussion with Mr. Gerber and explained that if the client has an industrial use that would not make it a mistake in the plan. Her understanding was that it was a legislative hearing. The question was whether quasi-judicial standards would apply, and she thought that a plan amendment was called for rather than rezoning. Gerber said he thought a public hearing was needed since there was no other area there that has a nonconforming use. t'Hooft stated that at the November 1 meeting it was agreed that more information could come back to the Board. Gerber asked if there would be a full-blown public hearing and said he saw no problem in amending the ordinance. t'Hooft said he would like to see a staff report on it, and Weinstein reminded that there was a moratorium on plan amendments. Rust said he thought that this would be giving special treatment to the applicant, and t'Hooft repeated the agreement to consider further information at the time of the November 1 meeting. Rutherford moved to reconsider zoning on this property and to continue the public hearing to November 21; Freeman seconded; Rust voted no; the other four Commissioners voted aye and the motion carried.

Freeman adjourned the meeting at 6:40 p.m.

Reba Charles
Recording Secretary to the Board