

YAMHILL COUNTY PLANNING COMMISSION

Thursday, May 4, 2023 - 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE Fifth Street
McMinnville, Oregon 97128

Roll Call: Dan Armstrong, Mark Gaibler, Paulette Alexandria, Matt Dunckel, Alan Halstead, John Abrams
Absent: Brett Veatch **Staff:** Ken Friday, Lance Woods, Stephanie Curran

Chair Dan Armstrong opened the public hearing.

Approval of minutes from February 2, 2023, hearing.

DOCKET G-01-22, a proposal to update Sections of the Yamhill County Zoning Ordinance to add “*Roads, highways and other transportation facilities and improvements*” as a permitted use to the following zoning districts.

Parks, Recreation, Open Space District – Section 405 (PRO)
Rural Residential Districts –502 (VLDR), and 503 (LDR)
Public Assembly Institutional District – Sections 801 (PAI)

And adding “*Roads, highways and other transportation facilities and improvements*” as a conditional use to the following zoning districts:

Mineral Resource District – Section 404 (MR)
Rural Residential District – Section 501 (AF-10)
Commercial Districts – Sections 601 (RC), 602 (NC) and 603 (HC)
Industrial Districts – Sections 701 (RI), 702 (LI) and 703 (HI)
Public Works/ Safety District – Section 802 (PWS)
Public Airports/ Landing Fields District – Section 803 (PALF)

The Board of Commissioners has sent this issue back to the Planning Commission to consider the following:

Directives to the Planning Commission:

B.O. 22-353 - Motion 1:

1. Modify bypass overlay district to allow for roads, highways, and expressways. (YCZO 908)
2. Make sure the underlying zoning conforms to the overlay district (i.e. ensure ordinances allow as necessary.) [Motion passed 2:1]

B.O. 22-354 – Motion 2:

1. Provide justification as to why amendments are needed in each zone for roads and highways
2. Clarification as to why it’s conditional and why it’s permitted
3. Define “other transportation facility and improvements”. [Motion passed 2:1]

These amendments are being reviewed based on Section 1207.01 of the Yamhill County Zoning Ordinance.

Abstentions and objections: none from present members

Ken Friday read the staff report: In an appeal of Yamhails trail LUBA noted that transportation facilities were not allowed in certain zones, specifically AF-10. ODOT asked we update our code to add these uses. In April

of 2021 the Planning Commission voted to adopt it as a permitted use in certain zones and conditional use in other zones. The Board of Commissioners returned it to the Planning Commission with directives.

Dan: The omission of roads in the code, was it assumed or did people do not want roads?

Ken: We treated it as an accessory use which is permitted in the zone.

John: The main difference between permitted use and conditional use is the notification of the neighbors?

Ken: Yes

John: For roads, there is no site design review?

Ken: Correct.

Matt: If it is listed as a conditional use, it is like a permitted use but with conditions?

Ken: Yes, but notice is sent and interested parties get to request a hearing or appeal the decision.

Matt: I thought maybe it was worded that way because nobody could define it. Do we need the word accessories in the wording?

Ken: I said we treated it as an accessory use. Which is as something that is allowed in the zone. It is up to the Planning Commission as to what you want to recommend. If you want it as a permitted or conditional use.

Brett: Say we don't approve it as a conditional or permitted use, what would ODOT have to do to fix the road or complete the bypass?

Ken: I suggested to Dan Fricke applying for a non-conforming use, but with a nonconforming use it needs to be proven that that the new use has no greater adverse impact.

Brett: So, no mechanism to get a road in a subdivision application, unless we make it a permitted or conditional use.

Ken: Correct.

Paulette: Can't we add verbiage that we can't add trails to EF zones and put this to bed?

Ken: You can recommend whatever you want.

Public Testimony

Tom Hammer: I live in rural Yamhill County, zip code 97304. He read letter previously submitted as testimony prior to the hearing. He is for leaving all of these zoning codes alone.

Celine McCarthy, PO Box 417 Gaston: Is opposed, doesn't understand why we need the changes.

Lee Schrepnel: He read a letter that he previously submitted as testimony.

Christy: Do we have design standards for roads going into rural residential areas?

Ken: Yes, there are standards.

Matt: I don't know how we go forth with this, we need roads in all zones, but people are opposed to "the trail".

Christy: So, we have a provision for roads.

Ken: We have a method in the EFU and Agricultural/Forestry Large holding zones to allow roads, but not in the rural residential zones.

Katherine Jernstedt, FYC, PO Box in McMinnville: it would be great if this was left alone and F of YC would have a trump card to through down on rural development it didn't want to see it. But this is against orderly development. The fact that we don't have an exact reason for this right now, does not mean that it will not come up again. We need to look at a county wide set of rulemaking. We need to take many perspectives when we look at this. I like the idea of conditional use that would be dependent on an approved application. Before we get too committed to language, we need to remember this will be reviewed further down the road.

John: you think the conditional use process works?

Kathryn: I think it is pretty hit and miss, but I would like to see more focus on environmental impacts.

Dan: On the conditional use, usually the appeals come in from the neighbors and they tell us what conditions they would like to see. If they don't like those conditions, they can keep taking it up the line to higher powers.

Lindsey Berschauer: I realize this is a unique situation since I will be reviewing what you recommend to us. But I am here because the people sitting behind me were treated poorly by the trail decision. Just because something is a conditional use does not mean that property rights will not be affected. It is not a protection to make it a conditional use. There is a difference between a passive transportation system and an active (walkers, bikes, etc.). CPRD has a bridge they are proposing as park improvements but as a transportation facility, yet it will affect neighboring property owners. A transportation facility does include a trail, what we are asking for is justification to making these sweeping changes. We are not against trails; we are for private property rights.

Brett: Protecting the rights of the individual over the rights of the masses. I see where you're coming from, but there needs to be a balance. It sounds like your larger concern is not roads that need to be built, it is more the other or active uses of the roads themselves. Is that generally the nature of your concern?

Lindsey: Yes, BOC has had to approve some things that are very impactful to neighbors.

Brett: Are we talking about approving things transportation related, because that is what we are talking about tonight.

Lindsey: No, just in general.

Brett: If I proposed something that was just roads, but no trails, and does not affect section 902, would that be satisfactory?

Lindsey: I refer to Wendy Kellington's letter about roads being conditional use.

Paulette: What if we exclude trail and trail heads from "other transportation facilities".

Ken: You can do that if you want to come up with the language. Whatever you decide, you have to notify the state 35 days before the hearing, then it goes to the Planning Commission. It is a whole other process. It is up to the Planning Commission and the Board of Commissioners to define language.

Dan: when people come before this panel to testify, we never time limit anybody. If people feel like they came away from this with a raw deal, it isn't because of this body.

Closed public portion at 9:21

Deliberation

Dan: We work with the Department of Planning and Development; I think roads were so much part of development that roads were taken for granted. A year ago, we voted to make roads a permitted use in the VLDR zone, Park and Rec Zone and PAI zones. All Planning Commissioners at the time voted for it except for Paulette Alexander because she didn't like the terminology. I propose we follow our reasoning from a year ago to make permitted and conditional uses and leave it to the Board to come up with the definitions.

Matt: I don't know what to say because we haven't defined transportation facilities and I don't want to.

John: Would it be feasible to make an impact study required anytime a transportation facility is proposed?

Ken: Are you talking about a farm impact study, or an impact study that the use won't affect the neighboring properties?

John: Both

Brett: You can require an impact study in a conditional use.

Mark: I don't want another trail debacle, so I would just as soon leave all of this alone.

Christy: Can we take road as a permitted use out of the one zone we have it in?

Brett: The conditional use option, it is settling, like half a loaf, but that is what we've been given. I am for making it conditional uses in all zones. Brett motioned.

Jody stated Dan had a motion on the table, Dan withdrew it.

Brett motioned to make it conditional use in all zones.

Christy: I think it will add additional burden on people who would want to build a road. I think we should separate roads from transportation facilities.

Brett: Can we use the phrase "main purpose vehicular use"

Dan: I think conditional use is the best tool we have.

Dan: Brett, you have a motion to make all roads conditional use.

No second, motion failed.

Matt: I motion we recommend what we voted on a year before to make it a permitted use in the VLDR zone, Park and Rec Zone and PAI zones, John seconded.

Vote 4 to 4 a tie, with Paulette, Christy, Mark and Craig voting against.

Brett moves to return to BOC with no recommendation, John seconded; motion passed 6-2 with Christy and John voting against.

Other business: Ken indicated the Court of Appeals issued a decision to deny 9-bedroom bed and breakfast, and this decision will be appealed to the Oregon Supreme Court.

Hearing Adjourned: 10:15 pm