

May 3, 2023

Via Electronic Mail  
Yamhill County Planning Commission  
525 NE 4th St.  
McMinnville, OR 97128

RE: Docket G-01-22: Proposal to Amend YCZO

Dear Members of the Planning Commission:

Please include this letter in the record of the above captioned matter. As you know we represent many Yamhill County farmers who are concerned about good planning. This firm has already provided detailed testimony for your consideration regarding the above code amendment proposal. This letter just summarizes that testimony and makes recommendations to you, in light of the staff report.

### **Bypass Interpretation**

If ODOT is happy with the Planning Director's "interpretation decision" that "other transportation facilities and improvements" for the Bypass are allowed without the need for any code amendments, then there is no need to change the existing Interchange Overlay District. Last I heard, however, ODOT was not happy with that interpretation decision. If ODOT views the Planning Director "interpretation decision" as inadequate, then the PC should recommend to the Board of Commissioners that they adopt the amendments to the Interchange Overlay District that I proposed. The specifics can be worked out at the Board level based upon what ODOT says it needs.

### **Other Zones**

"Roads, highways and other transportation facilities and improvements" should only be allowed as a *special type* of conditional use that is *only* authorized when it is a part of another permitted primary use, in the following zones:

- 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)

These facilities are “special” conditional uses because they should only be allowed when they are proposed to be in conjunction with applications for primary uses that are otherwise allowed in the zone - like a subdivision, partition, or industrial park. And then they should *only* be allowed if the allowed primary use is finally approved by the county after any appeals. Thus, if for example LUBA reverses a subdivision approval for whatever reason, then the road, path or bike trail approval would also go away because the road, path or bike trail can only be approved if it is a part of some other approved primary use.

### **Modifications of Existing Roads**

Existing roads (outside of the interchange area) could be modified/redesigned/lanes added etc., as “nonconforming” uses (which generally have a “compatibility” type standard for approval).

### **EFU Zone**

In answer to the Board’s question about what is included in the “roads, highways and other transportations and improvements” language: that terminology includes all transportation facilities including trails. That is a problem in the EFU zone.

The County cares deeply about its high-value farmland and cares about protecting that high value farmland to provide food and fiber for Oregonians and indeed the world. They are not making any more high value farmland. Accordingly, once it is paved over for a trail or recreational bike path, it is gone. Moreover, once a pedestrian path or recreational bike trail is established adjacent to high value farmland, accepted farming practices like pesticide spraying must stop because federal pesticide labels prohibit spraying near public recreational sites. **As such, the EFU zone should be amended to protect the County’s best farmland** – the EFU zone should be amended to say that it prohibits “roads, highways and other transportation facilities and improvements that are not otherwise allowed under ORS 215.283(1) on EFU ‘high value farmland’ as defined in ORS 215.710.” That would make clear that trails and other recreational paths are not allowed on Oregon’s best farmland.

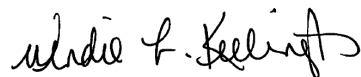
**Recommended Planning Commission Motion:**

We recommend that the Planning Commission should make the following motion to recommend to the BOC:

- I move that the Planning Commission recommend the following to the BOC:
  1. If ODOT is dissatisfied with the Planning Director’s interpretation, then the BOC should adopt attorney Wendie Kellington’s proposed amendments to the Interchange Overlay Zone with adjustments limited to the overlay zone that are adequate to respond to ODOT’s concerns.
  2. Planning should be directed to return to the BOC with amendments as proposed by attorney Wendie Kellington in her example zones, that make “roads, highways and other transportation facilities and improvements” allowed only as conditional uses in the following zones, but *only if they are proposed in conjunction with applications for primary uses that are allowed in the following zones* - like subdivision, partition, or industrial park *and then only* if the primary permitted use is finally approved by the County after any appeals. Affected zones are:
    - 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)
  3. Planning should be directed to return to the BOC with amendments to the County’s EFU zone that prohibit “roads, highways and other transportation facilities and improvements that are not otherwise allowed under ORS 215.283(1) on land zoned EFU that is ‘high value farmland’ as defined in ORS 215.710.”

Thank you for your consideration.

Very truly yours,



Wendie L. Kellington

WLK:wlk  
CC: Clients