



Memorandum

Date: May 7, 2002
To: Board of County Commissioners
From: Gary Clifford, Senior Planner
RE: Issues raised by public speakers during First Reading of "Lot of Record" Ordinance

This memo is a short summary of the major points/questions raised by the four citizens that spoke at the First Reading of the proposed "Lot of Record" Ordinance last Thursday (May 2nd). Below are the speakers concerns that they expressed, followed by my comments on the particular situations after doing some research.

(1) Phil Thompson, 709 N. Tomahawk Island Drive, Portland, OR

Mr. Thompson owns properties that are zoned Commercial Forest Use-5 (CFU-5). The CFU-5 zone is different from the other CFU zones in that there is no requirement for "aggregation" or grouping of adjacent parcels in the same ownership. Mr. Thompson stated that he agrees with the proposed Ordinance as long as there is no change in that part of the Code.

No change is proposed to the CFU-5 zone on this subject.

(2) Scott Anderson, 3213 NE 110th Street, Vancouver, WA

Mr. Anderson said he has a 12 acre parcel on Sauvie Island on which he has not been able to get approval for a dwelling.

The proposed Lot of Record Ordinance does not affect this situation.

The property is zoned Exclusive Farm Use where land uses are regulated by State Statutes and Rules. In an effort to preserve the best farm lands, the circumstances which allow the approval of dwellings are very few. To qualify for a dwelling, generally, the property must be in farm production and have recently produced \$80,000 dollars worth of gross income from farming. Mr. Anderson told me that there is presently no farming taking place on the property.

Another circumstance that would allow for a new dwelling is called a replacement dwelling. This is where a new house could replace an existing

house. From available records, there is an existing residential structure on the property that was built in the 1930's. However, the structure is without indoor bathroom facilities. The lack of a bathroom is a problem because, by State Rules, in order to allow a replacement dwelling, the existing dwelling is required to have indoor plumbing (including a toilet and bathing facilities connected to a sanitary waste disposal system).

One type of application that the property could pursue is a request for "alteration of a nonconforming use." We cannot make a prediction at this point as to the likelihood of approval of such a request. However, this particular Code provision has different standards today than when Mr. Anderson last contacted Land Use Planning in 1999 about this situation.

(3) Kathleen Worma, 57588 Bay View Ridge, Warren, OR

The concern of the speaker was regarding one of the "Template Test" standards used for approval of a dwelling in forest zoned areas.

The proposed "Lot of Record" Ordinance does not involve the "Template Test" part of the Zoning Code.

The issue raised is that Multnomah County's standards are more restrictive than the State of Oregon minimum standards for approval of dwellings. On the phone I explained the history of the standards and advised the property owner that the usual timetable for reevaluating such Zoning Code sections as they apply to her property would be when the West Hills Rural Area Plan was next updated. Of course, one can also advocate for a sooner timetable for change at the public comment periods that are available at all Planning Commission hearings.

(4) Carole Winner, 23410 NW Rocky Point Road, Scappoose, OR

Ms. Winner's concerns arise from the "aggregation," or grouping, requirements of adjacent small parcels that were in the same ownership on February 20, 1990. This requirement, if the speaker's two parcels were in the same ownership on that particular date, would allow only one house on the two parcels.

The "aggregation" requirement has been part of the forest zone requirements since 1980. The concept was reexamined by the Planning Commission in 1990 and then again last year. The purpose of the requirement is to group together smaller clusters of parcels in the same ownership into larger "Lots of Record" with a minimum lot size of 19 acres. **The proposed Ordinance does not change the concept in place, only adds clarification on how it is applied.**

One of the unusual circumstances on this property which Ms. Winner raises is that she says a septic system was installed in 1982 in anticipation of building a house. Her contention is that putting in the septic system and the construction of the access road should be sufficient to give her the ability to obtain a building permit for a dwelling today.

The right to get a building permit because of past construction or expenditures is outside the scope of the proposed "Lot of Record" Ordinance. The name given to this type of issue is whether the owner has a "vested right" to a dwelling. Application under those standards can be presented to a Hearings Officer under a public hearing process.