

FILED WITH
THE

IN THE COUNTY COURT OF THE STATE OF OREGON APR 14 2 04 PM '89

IN AND FOR THE COUNTY OF WASCO WASCOCOUNTY CLERK

IN THE MATTER OF THE APPLICATION)
OF C. DARREL ASHLEY FOR A ZONE CHANGE) ORDINANCE AMENDMENT
FROM "A-1(80)" EXCLUSIVE FARM USE TO)
"C-1" COMMERCIAL)

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for transaction of public business and a majority of the Court being present; and

IT APPEARING TO THE COURT: That the Wasco County Planning Commission met and conducted a public hearing on March 6, 1989, to consider an application by C. Darrel Ashley for a zone change from "A-1(80)" Exclusive Farm Use to "C-1" Commercial for property described as a 5.1 acre portion of: Township 4 South, Range 12 E.W.M., (Section 14), Tax Lot 4502.

IT FURTHER APPEARING TO THE COURT: That the Planning Commission recommended approval of the subject request based upon Planning Staff findings and testimony and evidence presented at the hearing.

IT FURTHER APPEARING TO THE COURT: That on April 5, 1989, in the County Courtroom of the County Courthouse in The Dalles, Oregon, this Court conducted a public hearing on the subject application at which time the Court received testimony of parties.

Based upon the entire record and all testimony and evidence received, the Wasco County Court hereby makes the following findings:

789-0090 (13)

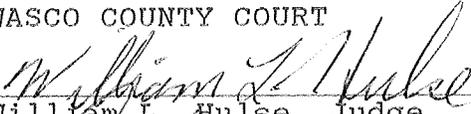
- 1) Proper notice was given and the hearing was held in accordance with procedural rules for quasi-judicial zone change applications and in conformity with said requirements as set forth in the Wasco County Land Use and Development Ordinance;
- 2) All members of the County Court were present and were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by Court;
- 3) In making its decision, the Court recognizes the procedural and legal requirements of Wasco County Comprehensive Plan and Land Use and Development Ordinance and weighed fully each requirement in arriving at its decision;
- 4) Recognizes that the proposed zone change to "C-1" Commercial does not conflict with the Rural Service Center Comprehensive plan map designation of the subject site;
- 5) Adopts the findings of the Wasco County Planning Commission;
- 6) Adopts the Planning and Development Staff report (Attachment "A").
- 7) The permitted use of the property shall be limited to a restaurant, by means of the "LU" Limited Use Overlay Zone.

NOW, THEREFORE, based upon the above findings of fact, the County Court for Wasco County hereby ordains as follows: The Wasco County Zoning Map is amended to adopt the "C-1-LU" Commercial/Limited Use designation for property described as a 5.1 acre portion of: Township 4 South, Range 12 E.W.M., (Section 14), Tax Lot 4502 (See Map attached and labeled "Attachment A").

Regularly passed and adopted by unanimous vote of all members of the County Court of the County of Wasco, State of Oregon.

DATED this _____ day of April, 1989.

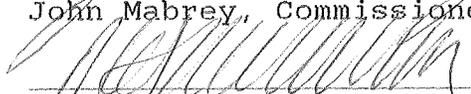
WASCO COUNTY COURT



William L. Hulse, Judge



John Mabrey, Commissioner



Scott McKay, Commissioner

Approved as to form:



Bernard L. Smith
Wasco Co. District Attorney

BARNINGS FROM SOLAR OBS.

Reduced

DATE: JANUARY 1989

A PARCEL OF LAND LOCATED IN THE
NW 1/4 OF SECTION 14 T. 4 S., R. 12 E.
WASCO COUNTY
OREGON

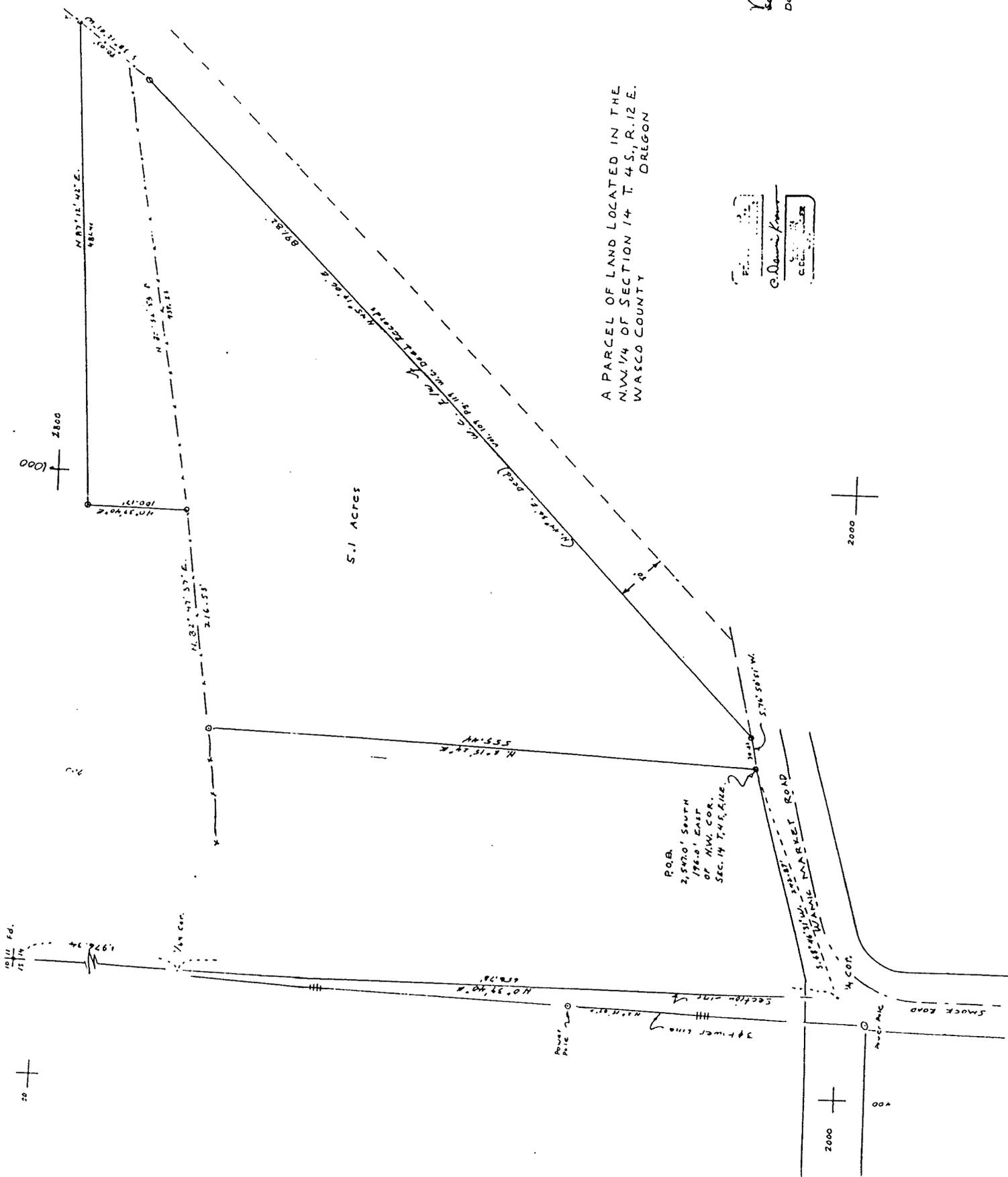
Surveyor
C. Davis
C.C. 1000

5.1 ACRES

ROB.
2,547.0' SOUTH
196.0' EAST
OF NW COR.
SEC. 14 T. 4 S., R. 12 E.

ATTACHMENT A

P89-0090 (13)



TO: Wasco County Planning Commission

FROM: Wasco County Planning and Development Office

RE: Zone Change 89-101-WAA18-H

APPLICANT: C. Darrel Ashley

REQUEST: Zone change from "A-1(80)" Exclusive Farm Use to "C-2" Commercial for 5.1 acres to allow construction of a restaurant.

LOCATION: The subject property is north of and adjacent to Wamic Market Road and is described as Township 4 South, Range 12 East, Tax Lot 4502 (portion).

COMPREHENSIVE PLAN DESIGNATION:

The subject property is designated Rural Service Center on The Comprehensive Plan map.

REGULATIONS: Wasco County Comprehensive Plan, Wasco County Land Use and Development Ordinance.

AUTHORITY: Section 2.060 C.2 of the Land Use and Development Ordinance.

EXHIBITS:

- A. Notice sent to adjacent property owners and interested parties.
- B. Application submitted
- C. Survey of subject property (to be presented at hearing).

NOTIFICATION: In addition to property owners within three hundred feet of the subject parcel, the following individuals/agencies were notified of the request: Wasco County Court, Assessor, District Attorney, Land Use Counsel, Roadmaster, Sanitarian, Watermaster, and Central Citizen Advisory Group; Pine Hollow Fire Dept.; Wasco Soil and Water Conservation Dist.; Wamic School Dist.; Wasco Union School Dist.; Gloria Briggs; and Sharon Rowan.

ATTACHMENT B

289-6090 (13)

COMMENT: No comment was received at the time of this report.

FINDINGS: A. Background Information

1. Lot size: The subject tax lot is 109.42 acres, but the zone change request is for 5.1 acres.
2. Zoning: The area surrounding the subject 5.1 acres is zoned as follows:

North: A-1(80) Exclusive Farm Use
South: A-1(80) Exclusive Farm Use
East: M-2 Industrial
West: A-1(80) Exclusive Farm Use
3. Access: Wamic Market Road.
4. Land Use: The subject 5.1 acres is currently in agricultural use, consisting of dryland alfalfa interspersed with rock hollows.
5. Surrounding land Use: Agricultural use exists on three sides. To the east is a County Road Dept. compound.
6. Soils: Class II and VII.
7. Water: Wamic Water District.
8. Sewage Disposal: Proposed on-site subsurface system.
9. Fire Protection: Pine Hollow Fire Dept.
10. Taxes: Rural Tract.

considered the criteria in (b), and found that the site, the use, and the potential zone to allow that use complied with standards 2 and 3. The precise line around the amended area could not be determined at the time of the Plan amendment because "a conscious consideration of the public health," i.e. septic approval for the property, was not yet complete.

It has now been accomplished and the area subject to this zone change has been surveyed. The C-2 zone is in conformance with The Rural Service Center designation.

3. The quasi-judicial plan amendment required an exception to statewide Goal 3. The exception was justified based on "reasons," i.e. the need for the proposed use. Permitted uses on land redesignated through a reasons exception must be limited to those justified. In this case, a restaurant was the use justified, so that is the only use, other than those consistent with Goal 3, that may be permitted.

The vehicle the Land Use and Development Ordinance has for limiting uses is the "LU" Limited Use Overlay zone. This overlay is applied to property to restrict uses more severely than the underlying zone. It can be used to prohibit otherwise permitted uses or to require a conditional use permit for uses otherwise permitted outright. For the subject request, the LU zone should be applied to limit the use of the property to that allowed in section 3.420 B.28, which is "restaurant, tea room, cafeteria, including drive-in restaurant."

C. Conclusions

1. The request is for a zone change from "A-1(80)" Exclusive Farm Use to "C-2" Commercial for 5.1 acres to allow construction of a restaurant.

2. The Comprehensive Plan designation for the property is Rural Service Center.
3. Commercial uses are consistent with the Rural Service Center designation.
4. The rezone is consistent with the provisions of section 9.020 of the Land Use and Development Ordinance.
5. In order to comply with the conditions of the Comprehensive Plan amendment, the "LU" Limited Use Overlay zone is required to be applied to the property to limit uses permitted outright to those allowed in section 3.420 B.28 of the Land Use and Development Ordinance and prohibits all uses permitted conditionally.

D. Staff Recommendation

Based upon the above findings and conclusions, staff recommends that The Planning Commission forward to the County Court a recommendation that the request by C. Darrel Ashley be approved for a zone change from "A-1(80)" to "C-2-LU" with the use limited to a restaurant only, pursuant to the conclusions in this report.

PLANNING AND DEVELOPMENT OFFICE

WASCO COUNTY

1721 W. 10th STREET

THE DALLES, OREGON 97058

DANIEL C. DUROW, Director

PHONE: (503) 298-5169

NOTICE OF PUBLIC HEARING

Place: Wasco County Courthouse, Circuit Courtroom

Date: March 6, 1989 Meeting Time: 7:00 p.m.

The Wasco County Planning Commission will hold a public hearing on the following item on the date and at the time indicated above. The Planning Commission invites views and comments at the meeting, or by letter or petition, on this proposal.

- (a) Location: North of and adjacent to Wamic Market Road
- (b) Legal Description: Township 4 South, Range 12 East, Tax Lot 4502 (portion)
- (c) Property Owner: C. Darrel Ashley
- (d) Applicant: C. Darrel Ashley
- (e) Present Zoning: "A-1 (80)" Exclusive Farm Use
- (f) Ordinance Section: 9.020 of the Wasco County Land Use and Development Ord.
- (g) Request and Purpose: Zone change from "A-1 (80)" exclusive Farm Use to "C-2" commercial.



By: Dan Durow
Director of Planning & Development

"Notice of mortgagee, lien holder, vendor or seller: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser."

EXHIBIT A

P89-0090 (13)

WASCO COUNTY PLANNING & DEVELOPMENT OFFICE

APPLICATION FOR ZONE CHANGE

RECEIVED
FEB 14 1989

Wasco Co. Plan. & Dev. Office

APPLICANT:

ASHLEY C. DARRELL 544-2631
(Last Name) (First Name) (Middle Name) (Telephone)

Rt. 1. Bx. 33A. Wamic OR. 97063
(Address)

Legal Owner: C. DARRELL ASHLEY

If applicant is not legal owner, state interest in property:

LOCATION OF SUBJECT PROPERTY:

Township: 45 Range: 12 Section: 14 Tax Lot: 4502

Size of Parcel: 5.1

Existing Zoning: Rural ^{A-1(50)} TRACT Plan Designation: Rural Service Co

Proposed Zone Change: Commercial C-2

Existing Land Use: DRY LAND ALFAIFA FOR SOIL CONSERVATION & FIRE PROTECTION

Surrounding Land Use: FARMING AND INDUSTRIAL - WASCO CO. ROAD DEPT. WAMIC DIVISION

State the purpose for the proposed zone change: TO BUILD A 25 SEAT CAFE - SERVING 3 MEALS PER DAY. NO ALCOHOLIC BEVERAGES WILL BE SOLD AT THIS TIME.

How does the proposed zone change comply with the Comprehensive Plan?

THE COMPREHENSIVE PLAN AMENDMENT HAS BEEN CHANGED FROM EXCLUSIVE FARM USE TO RURAL SERVICE CENTER FOR THIS 5.1 ACRES

AS APPROVED BY THE COUNTY COURT ON JAN. 12, 1989

If the request is not in conformance with the Comprehensive Plan, why should the request be considered? _____

What effect would the proposed zone change have on surrounding properties?

NONE, due primarily to the long distance between the proposed commercial use and any other inhabitants.

Is there a public need or demand to support the requested zone change? If so, what? Yes. The only restaurant that serves the area of

Sportsman Park, Wamic and surrounding areas, and Pine Hollow is open only for dinners and on a seasonal basis.

A site plan shall be drawn on a separate sheet, approximately to scale. The following must be shown:

1. Parcel boundaries (shape) and dimensions.
2. The size and location of all existing structures.
3. Existing access.
4. Predominant natural features.
5. Direction to north.
6. Any other information which you feel may help in evaluating your request.

Wasco Co. Planning & Development Office
Zone Change Application
Page 3 of 3

Attach a copy of deed and/or contract and any other information regarding property restrictions or covenants.

C. Daniel Ashley
(Petitioner)

2-14-89
(Date)

YOU OR YOUR REPRESENTATIVE MUST APPEAR AND PRESENT YOUR CASE TO THE PLANNING COMMISSION.

WASCO COUNTY PLANNING COMMISSION

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IN THE MATTER of the Application of)
C. Darrel Ashley for a zone change)
from "A-1(80)" Exclusive Farm Use)
to "C-2" Commercial.)

KAREN R. LEBRETON
RECOMMENDATION

On Monday, March 6, 1989, the Wasco County Planning Commission duly met and conducted a public hearing upon the application of C. Darrel Ashley for a Zone Change to change the designation from "A-1(80)" Exclusive Farm Use to "C-2" Commercial for property described as a 5.1 acre portion of Township 4 South, Range 12 East W.M. (Section 14), Tax Lot 4502.

The following voting members of the Commission were present: John Kerege, Bill Reeves, Maureen Musser, Maureen Mack and Joe Sullivan.

The hearing was opened and testimony was received from all interested parties, including a Staff Report from the Planning and Development Office.

Upon closure of the hearing, the Commission, based upon testimony received and the Staff Report, voted four-to-one to recommend to the County Court that the request be granted, as specified in the staff recommendation.

Submitted for the Commission,



By: Dan Durow, Director
Wasco Co. Planning and Development Office