

Exhibit D: City of McMinnville Ord. 4868

ORDINANCE NO. 4868

An Ordinance rezoning certain property from an R-1 (Single-Family Residential) zone to an R-2 PD (Single-Family Residential Planned Development) zone on a parcel of land approximately 164.1 acres in size.

RECITALS

The Planning Commission received an application (ZC 19-06) from KHA Properties, LLC, dated December 14, 2007, for a zone change from an R-1 (Single-Family Residential) zone to an R-2 PD (Single-Family Residential Planned Development) zone on a parcel of land approximately 164.1 acres in size. The property is more specifically described as a Tax Lot 800, Section 24, T. 4 S., R. 5 W., W.M.

A public hearing was held on February 15, 2007 at 6:30 p.m. before the McMinnville Planning Commission after due notice had been given in the local newspaper on February 8, 2007, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, testimony was received, the application materials and a staff report were presented; and

The Planning Commission, being fully informed about said request, found that said change conformed to the zone change review criteria listed in Chapter 17.72.035 of Ordinance No. 3380 based on the material submitted by the applicant and findings of fact and the conclusionary findings for approval contained in the staff report, all of which are on file in the Planning Department, and that the zone change is consistent with the Comprehensive Plan; and

The Planning Commission approved said zone change and has recommended said change to the Council; and

On March 8, 2007, an appeal of the Planning Commission's recommendation was filed with the City Planning Department. Consistent with the requirements of the McMinnville Zoning Ordinance, a public hearing was scheduled before the City Council on April 10, 2007 after due notice had been given in the local newspaper, and written notice had been mailed to property owners within 300 feet of the affected property; and

At said public hearing, testimony was received, the application and materials and staff report were presented. Prior to public agency input being received, the hearing was continued by the City Council to its April 24, 2007 hearing where it was concluded and a decision reached; and now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the Council adopts the findings and conclusions of the Planning Commission, staff report on file in the Planning Department, and the application filed by KHA Properties, LLC.

Section 2. That the property described in Exhibit "A," is hereby rezoned from an R-1 (Single-Family Residential) zone to an R-2 PD (Single-Family Residential Planned Development) zone, subject to the following conditions:

1. That the planned development overlay shall require the following setbacks:
 - A. Development of the multi-family lot and lots within the Northridge subdivision shall be to standard R-4 zone setbacks.
 - B. Lots within the Valley's Edge Phase 2 subdivision shall be to a standard R-3 zone setback.
 - C. All other lots shall meet applicable R-2 zoning setbacks.

The Planning Director is authorized to permit reductions or increases to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the side yard setback be reduced to less than five feet, or the exterior side yard setback to less than 12 feet, or the distance from the property line to the front opening of a garage be reduced to less than 18 feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.69 (Variance). A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction.

That existing trees greater than nine inches DBH (diameter at breast height) shall not be removed without prior review and written approval of the Planning Director. In addition, all trees shall be protected during home construction. A plan for such protection must be submitted with the building permit application and must meet with the approval of the Planning Director prior to release of construction or building permits within the subject site. Requests for removal of such trees based upon claims of disease, or hazard should be accompanied by a report from a licensed arborist.

2. That the "Hillcrest" tentative subdivision plan (revised as necessary to comply with the adopted conditions of approval) be placed on file with the Planning Department and that it become a part of the zone and binding on the property owner and developer, and shall in no way be binding on the City.

The developer shall be responsible for requesting approval of the Planning Commission for any major change of the details of the adopted plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.

3. That site plans and building elevations for the proposed multi-family units must be submitted to the Planning Director for review and approval prior to the issuance of any building permits for said units. The following criteria shall apply:
 - A. The building layout must be nonlinear in design, even if to meet this goal the number of units has to be reduced.
 - B. The building roof lines and facades must be broken so as to avoid a flat, uniform appearance.

- C. The site shall be heavily landscaped with emphasis on those sides facing a public street. Street-side landscaping shall include berming, and street trees a minimum of two-inch caliper at time of planting. In addition, parking lots shall be broken up by landscaping, and usable open space shall be provided within the development.
 - D. Signage shall be limited to a maximum of two free-standing monument-type signs, each not more than four feet in height and not exceeding 36 square feet in area. The signs, if illuminated, must be indirectly illuminated and non flashing.
 - E. Horizontal lap siding or similar type siding must be used (no T-111 or similar), and architectural composition roofing or a similar or higher grade type of roofing must be applied.
4. Prior to the issuance of the 290th building permit for the master planned development, the developer shall complete the installation of left-turn-lane improvements, meeting the City's and Yamhill County's standards, at the intersections of Hill Road / Horizon Drive and Hill Road / West Second Street.
 5. That the minimum lot sizes within the Hillcrest development may be reduced below 7,000 square feet, provided the overall residential density within the subject site (less the parkland and storm detention areas) does not exceed the net density allowed by the R-2 zone (gross density reduced by 25 percent to account for public infrastructure).

Passed by the Council this 24th day of April 2007, by the following votes:

Ayes: Hansen, Hill, Menke, Olson, May, Yoder

Nays: _____

Approved this 24th day of April 2007.



MAYOR

COUNCIL PRESIDENT

Attest:


CITY RECORDER

Approved as to form:


CITY ATTORNEY

EXHIBIT "A"

A tract of land in Section 24, Township 4 South, Range 5 West, Yamhill County, Oregon, being part of the John B. Davis Donation Land Claim No. 44 and the William C. Davis Donation Land Claim No. 69, and also being part of the tract of land described in deed from BARRY HOUSE and ROBERTA HOUSE, HOWARD N. ASTER and MARGARAT E.B. ASTER, and RAYMOND C. KAUER and BARBARA M. KAUER to KHA PROEPRTIES, LLC and recorded in Instrument 200322470, Yamhill County Deed and Mortgage Records, and being more particularly described as follows:

Being at a point that is North 36.415 chains from the Southwest corner of said John B. Davis Donation Land Claim; thence South 89°10'43" East 3408.02 feet along the South line of that tract of land described in deed from BARRY HOUSE and ROBERTA HOUSE, HOWARD N. ASTER and MARGARAT E.B. ASTER, and RAYMOND C. KAUER and BARBARA M. KAUER to KHA PROEPRTIES, LLC and recorded in Instrument 200322470, Yamhill County Deed and Mortgage Records; thence North 00°20'28" West 629.86 feet; thence North 01°43'13" East 48.02 feet; thence North 00°39'53" West 52.35 feet; thence North 03°40'44" West 47.94 feet; thence North 06°24'27" West 75.06 feet; thence North 10°54'26" West 75.05 feet; thence North 14°29'26" West 76.51 feet; thence North 17°46'24" West 60.35 feet to the beginning of a non-tangent curve concave to the South having a radius of 1030.21 feet; thence Easterly 255.43 feet along said curve (chord=North 83°08'50" East 254.78 feet); thence South 89°45'00" East 50.70 feet; thence North 00°15'00" East 267.78 feet to the Southwest corner of HILLCREST PHASE 4; thence North 00°15'00" East 532.22 feet along the West line of HILLCREST PHASE 4; thence North 06°52'55" East 291.959 feet along said West line; thence North 20°40'09" East 224.52 feet along said West line; thence North 04°06'34" East 60.55 feet along said West line; thence North 04°35'27" East 108.63 feet along said West line to the Northwest corner of HILLCREST PHASE 4; thence North 89°55'14" East 87.28 feet along the north line of HILLCREST PHASE 4; thence South 04°31'24" West 64.21 feet along said North line; thence North 89°55'14" East 126.21 feet along said North line; thence South 61°40'46" East 52.10 feet along said line; thence North 89°32'11" East 117.10 feet along said line to the West line of HILLCREST PHASE 3; thence North 00°27'49" West 240.00 feet along said West line to the North line of said KHA PROPERTIES, LLC tract; thence North 89°06'31" West 50.3 feet along said North line; thence North 1.50 chains along said north line; thence North 89°30" West 8.71 chains along said line; thence North 00°45' East 6.25 chains along said line; thence South 89°45" West 24.89 chains along said line; thence South 690.73 feet along said line; thence West 28.25 chains along said line to the Northwest corner of said KHA PROPERTIES, LLC tract; thence South 37.985 chains along the West line of said tract to the point of beginning.

EXCEPTING THEREFROM that tract of land described in deed to Yamhill County and recorded August 5, 1926 in Book 94, Page 461, Yamhill County Deed Records.

ALSO EXCEPTING that tract of land described in deed from BARRY HOUSE and ROBERTA HOUSE, and RAYMOND C. KAUER and BARBARA M. KAUER to DONALD and JEAN OLIVER and recorded Film Volume 3096, Page 354, Yamhill County Deed Records.

ALSO EXCEPTING that tract of land described in deed from BARRY HOUSE and ROBERTA HOUSE, and RAYMOND C KAUER and BARBARA M. KAUER to RICHARD and CHARLOTTE BORGEN and recorded in Film Volume 309, Page 433, Yamhill County Deed and Mortgage Records.

ALSO EXCEPTING that tract of land described in deed to UNION LODGE NO. 43 A.F. and A.M. and recorded November 24, 1906 in Book 46 Page 571, Yamhill County Deed Records.

ALSO EXCEPTING that tract of land described in deed to LINFIELD COLLEGE, trustee of the RAYMOND C KAUER and BARBARA M. KAUER Charitable Remainder Unitrust and BARRY W. HOUSE and ROBERTA M. HOUSE Charitable Remainder Unitrust and recorded December 27, 1995 in Instrument No. 199517375 and Instrument No. 199517376, Yamhill County Deed and Mortgage Records.

ALSO EXCEPTING the following described tract: Beginning at a point that is North 36.415 chains from the Southwest corner of said John B. Davis Donation Land Claim; thence North 20.00 feet to the North line of the county road which is the TRUE POINT OF BEGINNING; thence East along the fence line bordering the county road 1471 feet to an aluminum pipe; thence North 37°19' West 450 feet to an aluminum pipe; thence North 44°27' West 316 feet to an aluminum pipe; thence West parallel with the county road 977.6 feet to a fence line now there, which is the West line of the John B. Davis donation Land Claim; thence South along said fence to the point of beginning.

