

'01 MAY 11 P3:07

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON  
FOR THE COUNTY OF YAMHILL  
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Affirming the Planning )  
Commission's Approval of a Zone Change and )  
Comprehensive Plan Amendment from AF-10 )  
to RI Resource Industrial for a One Acre Lot ) ORDINANCE 699  
and Site Design Review for a Winery, )  
Applicants Mark E. and Tina L. Hammond, )  
Tax Lots 3204-1000/1100; and Declaring an )  
Emergency. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on April 26, 2001, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Leslie Lewis being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. The applicants, Mark and Tina Hammond, applied for a Comprehensive Plan Amendment and Zone Change from AF-10 Agriculture Forestry to RI Resource Industrial for a One Acre Lot and Site Design Review for a Winery on Tax Lots 3204-1000/1100. The Planning Commission approved this request after a hearing on March 1, 2001.
- B. A public hearing was held by the Board of Commissioners on April 26, 2001. After hearing from the applicants, the Board duly deliberated and voted 3-0 to affirm the Planning Commission's approval for the reasons set forth in Exhibit "A", attached and hereby incorporated by reference. NOW, THEREFORE:

IT IS HEREBY ORDERED BY THE BOARD that the Planning Commission's approval of application PAZ-01-01/SDR-07-01 is affirmed for the reasons stated in the Finding for Approval and attached and incorporated into this Board Order as Exhibit "A"; and this ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 10<sup>th</sup> day of May, 2001.

ATTEST  
  
CHARLES STERN  
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS  
*Robert Johnstone*  
Chairman ROBERT JOHNSTONE



By: [Signature]  
Deputy [Signature]

FORM APPROVED BY:

[Signature]  
RICK SANAI  
Assistant County Counsel

[Signature]  
Commissioner THOMAS E. E. BUNN

[Signature]  
Commissioner LESLIE LEWIS

**FINDINGS FOR APPROVAL**  
**PAZ-01-01/SDR-07-01**  
**Applicants Mark and Tina Hammond**

---

**HEARING DATE:** March 1, 2001 (Planning Commission); April 26, 2001 (Board).

**DOCKET NO.:** PAZ-01-01, SDR-07-01

**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture Forestry Small Holding to Industrial; a zone change from AF-10 to RI Resource Industrial for 1 acre parcel in order to allow a winery. The request also includes site design review for the winery.

**APPLICANT:** Tina L. and Mark E. Hammond

**TAX LOT:** 3204-1000/1100

**LOCATION:** 28155 NE Bell Road, Newberg, Oregon

**CRITERIA:** Sections 701, 1101 and 1208 of the Yamhill County Zoning Ordinance.

**FINDINGS:**

**A. Background Facts:**

1. *Property size:* 1 acre
2. *Access:* Bell Road, Newberg
3. *On-site Land Use:* The property is a south-facing hillside containing a dwelling and an agricultural barn. There is developed direct access onto Bell Road. The applicants also own adjacent 2.74 acre parcel, Tax Lot 3204-1000, of which 2 acres are planted in 18 year old Pinot Noir grapes. Tax Lot 3204-1100 was created by a mortgage partitioning and is not considered to be a separate parcel. However, for the purpose of this application the staff will refer to this parcel as a one acre lot, 1100.
4. *Surrounding Land Use:* The surrounding area is predominantly devoted to agricultural and residential uses. There is a vineyard and a winery on the adjacent parcel to the north. The parcel was re-zoned from AF-10 to AF-20 Agriculture/Forestry use to allow establishment of a winery on that parcel. The rest of the surrounding area is zoned AF-10 Agriculture/Forestry Small Holding and was excepted from the agricultural and forestry goals as a Code Area 1.2 of the 1980 Exception Statement No. 2. The parcels are for the most part in rural residential use. Some of the parcels contain small scale agricultural uses. A few parcels to the south of Bell Road are zoned VLDR-2.5. The Newberg Urban

Reserved Area (NURA) boundary is located on Bell Road. All parcels south of Bell Road are within the NURA boundary.

5. *Water:* The parcel is supplied by an on-site well. The applicants indicate that they do not irrigate the established grapes. A permit for the winery use must be obtained from the Oregon Water Resources Department.
6. *Sewage Disposal:* There is an on-site septic system serving the dwelling. Disposal of waste water from the winery operation is handled by DEQ. The applicants will have to contact the department.
7. *Fire Protection:* Newberg Rural Fire District
8. *Soils:* Sheet 16 of the Yamhill County Soil Survey shows that the entire tract is composed of Jory (JrC and JrD) soils, which are agricultural capability Class II and III and are considered high-value farmland.
9. *Taxes:* Tax Lot Farm deferral
10. *Previous Actions:* A mortgage partition created Tax Lot 3204-1100. This parcel is a part of Tax Lot 3204-1000.
11. *Description of Proposal:* The applicant requests approval to convert an existing barn into a winery on 1 acre lot, 1100. They indicated that they are hoping to create a higher quality Pinot Noir and will produce approximately 3,000 bottles (250 cases) of wine per year produced exclusively from grapes growing on Tax Lot 3204-1000 (approximately four tons). The applicants also indicate that they do not plan on having a wine tasting room or plan on conducting on-site marketing events. The wine will be stored in their leased area in City of Lafayette and distributed from there.

**B. Zone Change and Plan Amendment Provisions and Analysis**

1. The Plan Amendment portion of the request is not subject to local review criteria, but is subject to ORS and OAR criteria.
2. The zone change portion of the request must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:
  - (A) *The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
  - (B) *There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the*

*economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*

- (C) *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*
  - (D) *Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*
  - (E) *The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*
3. Regarding criterion (A) above, since an exception to Statewide Planning Goals 3 and 4 has already been taken for the subject parcel, Comprehensive Plan goals and policies related to agricultural and forest lands are not applicable. (Regardless of whether or not a "reasons" exception is approved, as explained further in section C of this report, the parcel still has an acknowledged "committed" exception to Goals 3 and 4 so is not subject to requirements for protection of farm and forest land.) Other Plan goals and policies which may be pertinent are:

*Oregon Statewide Planning Goals and Guideline - Goal 9 - Economics, which states "To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens . . . Comprehensive plans and policies will contribute to a stable and healthy economy in all regions of the State."*

The applicants states that this application, if approved, will allow for an additional economic activity associated with an introduction of specialty item (higher quality wine) into a market. Additionally, the establishment of a new winery will enhance the economic base of the community.

*Oregon Statewide Planning Goals and Guideline - Goal 10 - Housing, which states "To provide for the housing needs of citizens."*

This plan and zone change will have no effect upon surrounding residential area. The AF-10 zone would allow the subject parcel one dwelling. The zone change would also allow one home as a dwelling with a permitted use for a caretaker or watchman of the winery.

*Yamhill County Revised Goals and Policies - Goal I.B.1. To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.*

Wineries with associated vineyards are customarily found in rural agricultural areas. Although some wineries and wine tasting rooms are located in urban centers, with grapes transported to the winery from vineyards outside the urban area, they are not specifically an urban use and do not compromise the goal of urban containment.

*Yamhill County Revised Goals and Policies - Policy I.H.1.g. Agricultural, forestry and mineral resource-oriented industry will be accommodated in areas close to the resources utilized, provided that such industrial uses are compatible with any nearby urban development, city water supply and sewerage are not required, and waste discharges constitute no threat to the environment.*

Even though the winery will be across the road from NURA boundary, there is no urban scale of development in the vicinity of the subject parcel at this time, and no city water or sewer is available to, or required by the winery. DEQ handles permits for waste water discharges from wineries, so presumably will require a system that will not cause a threat to the environment.

*Yamhill County Revised Goals and Policies - Policy I.H.1.m. The county will encourage industrial development which bases its products on renewable and indigenous raw materials.*

Grapes are a renewable raw material.

*Yamhill County Revised Goals and Policies - Policy I.H.1.n. The county will recognize and encourage small scale industries as viable alternatives to larger, conventional enterprises.*

The winery, as proposed, is very small scale.

4. Regarding the need for the proposed use, criterion (B), the wine industry is important to both tourism and economic development in the county. However, the Planning Commission and Board of Commissioners will need to determine whether there is a need for an additional winery to process the grapes from 2 acres of vineyard, or whether the grapes could feasibly be transported to one of the other wineries in the county. The applicants indicated that the wine industry in Yamhill County is growing so rapidly, it is increasingly difficult to locate existing facilities that are available for their use. They have found few wineries who will custom bottle for a small vineyard. Most are in

surrounding Counties and too far away to transport the grapes without damage. The higher quality vines, that the applicants are proposing to produce, need grapes that have not been bruised during transportation. The applicants stated further that they have approached the winery owner, of the neighboring property to the north, in hopes of bottling in his facility, but as they have encountered with many others, this facility is fully utilized. The availability and suitability of other RI zoned lands will be discussed in Finding B.6.

5. Regarding criterion (C), the surrounding land uses are a combination of farm uses and rural residences. The subject parcel is surrounded by other vineyards and one winery on the adjacent property. With regard to utility needs, the proposed winery will be very small scale and would not have any significant needs. The production aspect of the winery is compatible with and similar to other farm uses in the vicinity, which may involve noise and dust from harvesting and storing crops. A wine-tasting room or other on-site retail marketing would not be appropriate because of incompatibilities with surrounding residential uses. Wine tasting and marketing is not proposed in this application.

The primary change that has occurred in the vicinity that would support the proposed amendment is an increased number of acres in the county that has been planted in grapes, and it is increasingly difficult to locate existing facilities that are available for small producers to make specialty and higher quality wines.

The winery, as proposed, would not require any additional utilities and services than already exist in the area or that could be provided by a private well and septic system.

6. Regarding criteria (D), other facilities that are reasonably close do not have the capacity to accommodate the applicants needs. Those few that would be available are more than 20 miles away. The transportation of grapes long distances from the vineyard would be damaging to their quality. There is little, if any, vacant Resource Industrial land in the county where the applicants could locate their winery. There are three RI zoned sites within a 3 mile radius of the subject parcel, however, all three sites already have established wineries. The Light Industrial (LI) district allows wineries as a permitted use. There are a number of parcels that are zoned LI along Highway 99W just west of Newberg, however these sites already contain businesses. Wineries are also allowed in agricultural zones, either permitted outright if there is a minimum of 15 acres of planted vineyard, or as a conditional use for a commercial activity in conjunction with farm use. However, not all of the agricultural land in the county is suitable for grape production. The applicants' grapes have been established 18 years ago and produce a good crop for the applicants' needs.
7. Exception requirements, criterion (E), are addressed in section C of this report.

**C. Goal Exception Provisions and Analysis**

Oregon Administrative Rule (OAR) 660-04 contains requirements for taking goal exceptions. This area was approved for a "committed" exception in 1980, based on the number of small contiguous parcels and the existing rural residential development pattern. The area was zoned VLDR-2.5 and AF-10 allowing for rural residential development. The Board of Commissioners has previously found that a new exception is not required because a "committed exception" to Goals 3 and 4, adopted prior to 1986, did not limit the future use of the exception area. This is because the "committed exception" was taken before the effective date of the rule (3/20/86). Therefore, no additional goal exception is required.

**D. Limited Use Overlay Provisions**

OAR 660-04-18(3)(a) states that when a "reasons" exception is taken, plan and zone designations must limit uses to only those that are justified in the exception.

Since there is no requirement for an exception to be taken, the county does not have the legal authority to impose a limited use overlay on an approval of this application.

**E. Site Design Review Criteria and Analysis**

1. Site design review is required for any development in an RI district. Section 1102.02 of the YCZO governs site design review. Review of a site development plan shall be based upon consideration of the following:

- (1) *Characteristics of adjoining and surrounding uses;*
- (2) *Economic factors relating to the proposed use;*
- (3) *Traffic safety, internal circulation and parking;*
- (4) *Provisions for adequate noise and/or visual buffering from noncompatible uses;*
- (5) *Retention of existing natural features on site;*
- (6) *Problems that may arise due to development within potential hazard areas.*
- (7) *Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.*

2. Regarding criterion (1), the surrounding area has existing agricultural uses such as vineyards, blueberries, filberts and equestrian facilities. The proposed winery will be

established in an existing building. All neighbors are being notified of this action. If anyone will protest, it is assumed that it would be done during the public hearing. At this time the staff has no particular concern about providing landscape screening or buffering.

3. The applicants indicated that a small scale, onsite facility allows the processing of their wine grapes to be the most efficient and economically sound. The proposed winery in an existing facility with an established roadway and infrastructure would minimize applicants' capital outlay while it would maximize their return on their investment.
4. Regarding criterion (3), drawings and documentation submitted by the applicants show a 16' x 36' barn building with a gravel hard-surfaced area on the east side of the building, which presumably will be available for parking and maneuvering. Parking requirements will be minimal provided that there will be no on-site retail sales. Section 1007 of the YCZO contains parking standards, and indicates that a manufacturing use (the closest category to wine production) should have one parking space per 1,000 square feet of floor area. The winery, thus, would require only one space. Since a wine tasting room is not being proposed, no additional parking will be required.
5. Regarding criterion (4), almost all surrounding parcels contain a dwelling, however, the scale of operation will have minimal or no effect on the surrounding area. There will not be traffic or movement of large equipment onto and from the parcel. The applicants are planning to use only grapes grown on their property. Since the barn building has been in existence for a number of years, there will not be any visual changes to the site.
6. Regarding considerations (5) and (6), there are no significant natural features on the site, and there are no known hazards. The Soil Survey indicates that slopes range up to 20%, however, since the building is already established there is no potential any hazards (i.e. soil erosion, drainage problems, construction on steep slopes, etc.).
7. Regarding criterion (7) above, the applicants indicated that they have contacted most of their neighbors and have received support from all and objections from none. If there are any objections, those will most likely be mentioned during the public hearing.

#### **CONCLUSION AND CONDITIONS OF APPROVAL:**

1. The request is for a Plan amendment from AFSH Agriculture Forestry Small Holding to I Industrial and a zone change from AF-10 to RI Resource Industrial. The request also includes site design review to allow a winery.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies. There are no other lands in the immediate vicinity that would be available or that would allow a winery. With conditions, listed below, the winery would be compatible with surrounding agricultural and residential uses.

3. The applicants have shown that no adverse environmental, economic, social or energy consequences will result from the winery.
4. There is no proposal for a wine tasting facility or onsite marketing. The approved site design review should be limited to a winery, and conditional use approval should be required prior to establishment of a wine tasting room or any other on-site sales or marketing events.
5. The site plan and building drawings as submitted comply with standards for site design review.

**CONDITIONS FOR APPROVAL:**

1. Uses shall be limited to a winery for processing grapes grown on the applicants' property. That includes Tax Lots 3204-1000 and 3204-1100 as well as any other real property the applicant owns or subsequently acquires. Conditional use approval shall be obtained prior to establishment of a wine tasting room, on-site sales, marketing events or other use of the facility by the public.
2. A change of occupancy permit and all necessary building, septic, electrical and plumbing permits shall be obtained prior to beginning construction.
3. All necessary permits shall be obtained from Oregon Water Resources Department, Oregon Department of Environmental Quality (DEQ) and Oregon Liquor License Commission (OLCC).

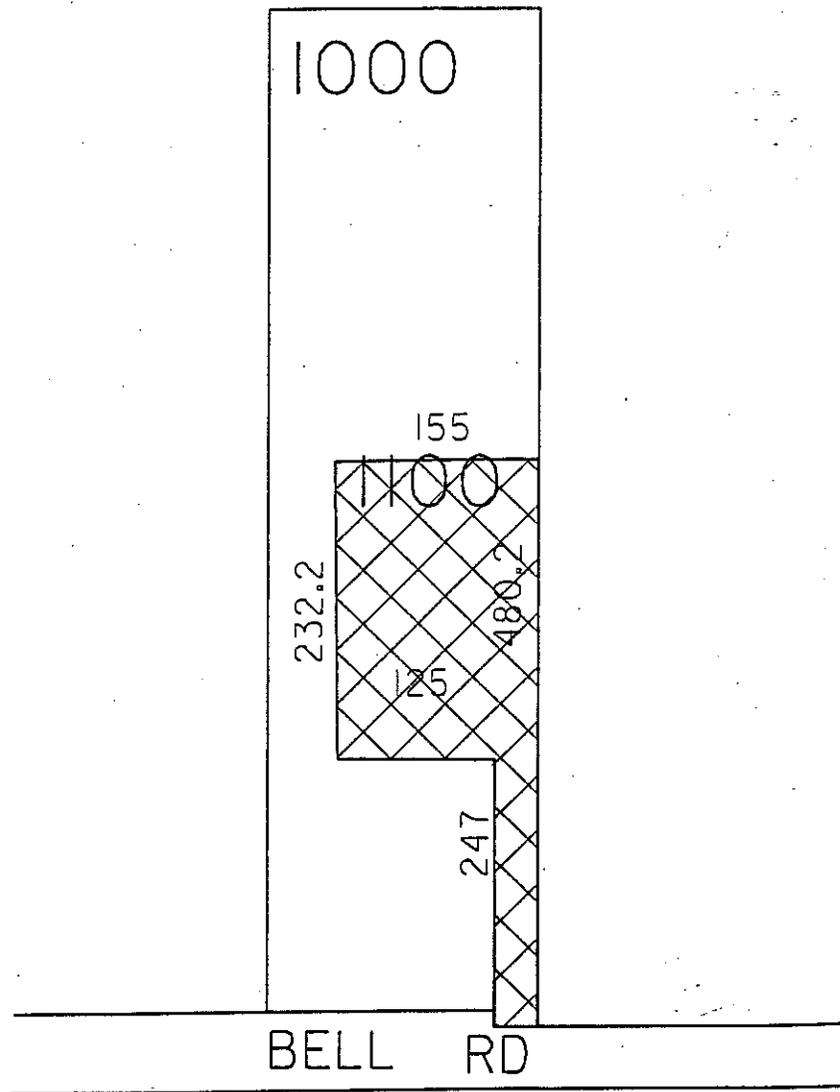
End

EXHIBIT "B" FOR ORDINANCE No. 699

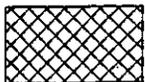
COMPREHENSIVE PLAN AMENDMENT FROM  
AGRICULTURE/FORESTRY SMALL HOLDING (AFSH)  
TO INDUSTRIAL

ZONING MAP AMENDMENT FROM  
AF-10 TO RI (RESOURCE INDUSTRIAL)

TAX LOT 3204-1100/1000



Prepared by Yamhill County Department of Planning and Development



AREA SUBJECT TO AMENDMENT

ORDINANCE 699  
EXHIBIT "B"