

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 an ordinance Amending the Yamhill County Zone Map to Change, on a 19.24 acre tract comprised of Tax Lot 3314-1104, the Zone Map Designation from from AF-10 Agriculture/Forestry Small Holding to EF-40 Exclusive Farm Use; Planning Docket PAZ-05-01; Applicants Allison and Clifford Anderson; Declaring an Emergency

ORDINANCE 706

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in formal session on January 10, 2002, Commissioners Thomas E. E. Bunn Robert Johnstone and Leslie Lewis being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Allison and Clifford Anderson ("the applicants") applied to the Department of Planning and Development for a zone map amendment from AF-10 to EF-40 on a 19.24 acre tract comprised of Tax Lot 3314-1104.
- B. The subject property has a "Agriculture/Forestry Small Holding" comprehensive plan map designation. The existing plan map designation is sufficient to allow a zone map designation of EF-40 without a comprehensive plan map amendment to "Agriculture/Forestry Large Holding."
- C. On November 1, 2001 the Yamhill County Planning Commission held a public hearing on the application and unanimously voted to approve the zone change request.
- D. Section 1300 of the Yamhill County Zoning Ordinance, No. 310 as amended, provides that a decision of the Planning Commission to approve a zone change is final unless appealed to the Board or ordered to be reviewed by the Board within 15 days of notice of the decision. Since no appeal was filed and the Board did not order review, the Planning Commission's November 1, 2001 decision to approve the application is final subject to enactment of an implementing ordinance by the Board.

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The Board Finds the decision of the Planning Commission is appropriate for the reasons contained in the findings for approval attached as Exhibit A; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B", to reflect a zoning designation of EF-40 on the 19.24 acre tract comprised of Tax Lot 3314-1104.

Section 2. The findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this ordinance.

Section 3. 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 10th day of January 2002.

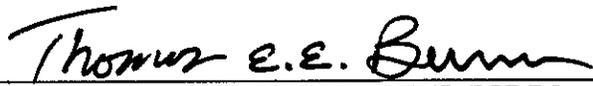
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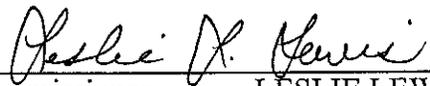
YAMHILL COUNTY BOARD OF COMMISSIONERS

CHAREN
County



By: 
Deputy KELLYE FETTERS


Chairman THOMAS E. E. BUNN


Commissioner LESLIE LEWIS

FORM APPROVED BY:


RICK SANAI
Assistant County Counsel


Commissioner ROBERT JOHNSTONE

EXHIBIT "A"
ORDINANCE 706
(Findings for Approval)

DATE OF PLANNING COMMISSION HEARING: November 1, 2001

DATE OF ORDINANCE ADOPTION: January 10, 2002

DOCKET: PAZ-5-01

REQUEST: A zone change from AF-10 Agriculture/Forestry Small Holding to EF-40 Exclusive Farm Use.

APPLICANT: Allison and Clifford Anderson

TAX LOT: 3314-1104

LOCATION: 20120 Herring Lane, Newberg, Oregon

APPROVAL CRITERIA: Sections 403, 501, 1101.02 and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable.

FINDINGS:

A. Background Facts

1. Lot Size: 19.24 acres. The property is made up of four lots of the Chehalem Richlands Subdivision.
2. Access: Herring Lane, a publicly dedicated and privately maintained road.
3. On-Site Land Use: The majority of the property is planted to vineyard. The applicant states 16 acres is planted and is in its fifth commercial harvest. The property contains an agricultural barn with an unfinished apartment. Earlier this year the applicant completed installation of a septic system that can serve up to a four bedroom house.
4. Surrounding Land Use: Land in the surrounding area contains rural residential and small farm uses which includes vineyards, orchards, and livestock.

5. Surrounding Zoning: Adjacent land to the north, south and west is currently zoned AF-10 Agriculture/Forestry Small Holding. Land to the east is zoned EF-40 Exclusive Farm Use.
6. Soils: Sheet 15 of the Yamhill County Soil Survey indicates approximately 65% of the property is Jory (JrD), 30% is Nekia (NcD) and 5% is Jory (JrE). These soils have an agricultural rating of class III.
7. Taxes: 16.74 acres of the property is currently receiving farm deferral. The remaining 2.5 acres is at market value.
8. Water: Existing well.
9. Sewage Disposal: Existing septic system. The installation of a septic system for a 1-4 bedroom house would be considered "substantial construction" towards the eventual construction of a single family residence.
10. Previous Actions: None.
11. Discussion: The applicant wishes to construct a winery. This activity is not listed as a permitted use in AF-10 zoning district. A winery of less than 50,000 gallons is allowed in EF-40 zoning district subject to having an on-site or adjacent vineyard of 15 acres and an approved Site Design Review.

B. Ordinance Provisions and Analysis

1. The request must comply with the standards and criteria in the *Yamhill County Zoning Ordinance* (YCZO) Section 1208.02. These provisions are:
 - (A) *That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
 - (B) *That 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) *That 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) *That other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*

- (E) *That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*

These criteria are addressed, respectively, in Findings B.2 through B.6 below.

2. The zone change and amendment to the comprehensive plan require that the request complies with the goals and policies of the Yamhill County Comprehensive Plan. The 1976 Comprehensive Plan Map indicated the land is plan designated AFSH Agriculture/Forestry Small Holding. This was reaffirmed by the 1980 Exception Process as part of Code Area 1.6. The applicant initially requested a plan amendment with a zone change but withdrew the plan amendment request at the Planning Commission hearing. The plan amendment portion of this request is not necessary in order to perform the zone change. There are several properties which are plan designated AFSH but are zoned for exclusive farm use. (Additionally, Docket Z-04-94, a previous request for rezoning AF-10 to the exclusive farm use zone did not include a plan amendment.) The smallest minimum lot size this plan designation allows is ten acres. However, the property is already divided into four lots of approximately five acres each. The present zoning on the subject property is AF-10. The AF-10 zone allows placement of a single family dwelling on each of these four lots subject to septic and building permits. The proposed zoning designation of EF-40 allows the smallest minimum lot size of 40 acres and does not automatically allow construction of a single family residence without land use approval.

Regarding Comprehensive Plan goals and policies, the land is currently planned and zoned for small farm use. Policy II.A.1.a states:

Yamhill County will provide for preservation of farm lands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various financial incentives.

In addition, Policy II.A.2.a states:

Yamhill County will continue to preserve areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

The site is predominantly Class III soils and is primarily committed to the production of wine grapes.

The Comprehensive Plan commits the county to protect farm resources, so present use of the parcel should be the determining factor for an approval of this application. The site has a significant quantity of grapes which by the applicant's account have been harvested five times. (Finding A.3).

Yamhill County Revised Goals and Policies - Policy I.H.1.g. states:

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 is within a few miles of the cities of Dundee and Newberg, 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 discharge from wineries, so presumably they will require a system that will not cause a threat to the environment.

Yamhill County Revised Goals and Policies - Policy I.H.1.n. states:

The county will recognize and encourage small scale industries as viable alternatives to larger, conventional enterprises.

The winery, as proposed, is very small scale.

3. Regarding criterion 1208.02 (B), the need relevant to this request is related to the planted vineyard and the applicants desire to establish a winery. The present zoning does not allow wineries as a permitted use in the AF-10 zone. A winery of up to 50,000 gallons is a permitted use in the EF-40 zone subject to approval of a site design review. This is true of other lands zoned EF-40, 20 or 80 and lands zoned AF-20, 40 or 80. Criterion (B) requires the consideration of other land zoned for the requested use and their suitability for the uses allowed by the zone. While much of the county has lands in resource zoning which allows a winery, not all of this land is suitable for growing wine grapes. To be productive, vineyard land must have suitable soils, be at the correct elevation and have the correct topography. Obviously, not all land in the county has the right combination of factors to grow wine grapes. Additionally, the applicant's established vineyard is not something that can be easily picked up and moved. If other appropriately zoned and suitable land is available in the surrounding area, and the applicant wished to relocate to such property, a small winery could only be established by a conditional use approval or by planting an additional 15 acres of vineyard.
4. Regarding criterion 1208.02 (C), as noted in Finding A.4, the surrounding property consists of small scale farm uses. Approval of this zone change would allow establishment of a winery which is similar to farm uses in the surrounding area. Additionally, the request would limit the creation of new parcels and the ability to develop dwellings. As stated above, the property is made up of four lots, each of which could have a single family dwelling established without additional land use approval. If the rezoning is approved, the number of permitted dwellings would be reduced to one. The applicants are aware of this and welcome such a restriction. Lessening the ability for development in the area would help to prevent conflicts with neighboring farmers. Regarding the need for utilities and services, the property already has a well and septic system for a single family residence. A winery would need adequate septic, water, access and on-site parking. The wastewater treatment approval for the crush is through DEQ. Water is provided by an on-site well. Access is by Herring Lane. On-site parking would be placed in the unplanted 2.5 acres of property. Based on the

applicant's preliminary map, there appears to be adequate room for the facilities needed to establish the use.

5. Regarding criterion 1208.02 (D), the farm use is already established on the subject tract, see Finding B.3, above.
6. Regarding criterion 1208.02 (E), no exception is required.

C. Goal 12 (Transportation Rule) Provisions and Analysis

1. The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.

2. As noted above, approval of the request would restrict the use of the property to only allow one single family dwelling (based on substantial construction) instead of four dwellings that could presently be approved without any special land use approval. In spite of the fact that approval of the request would likely result in a winery, the reduction in allowable residential use shows that the request is consistent with the identified function, capacity, and level of service of the local roads, and would not significantly affect the transportation facility.

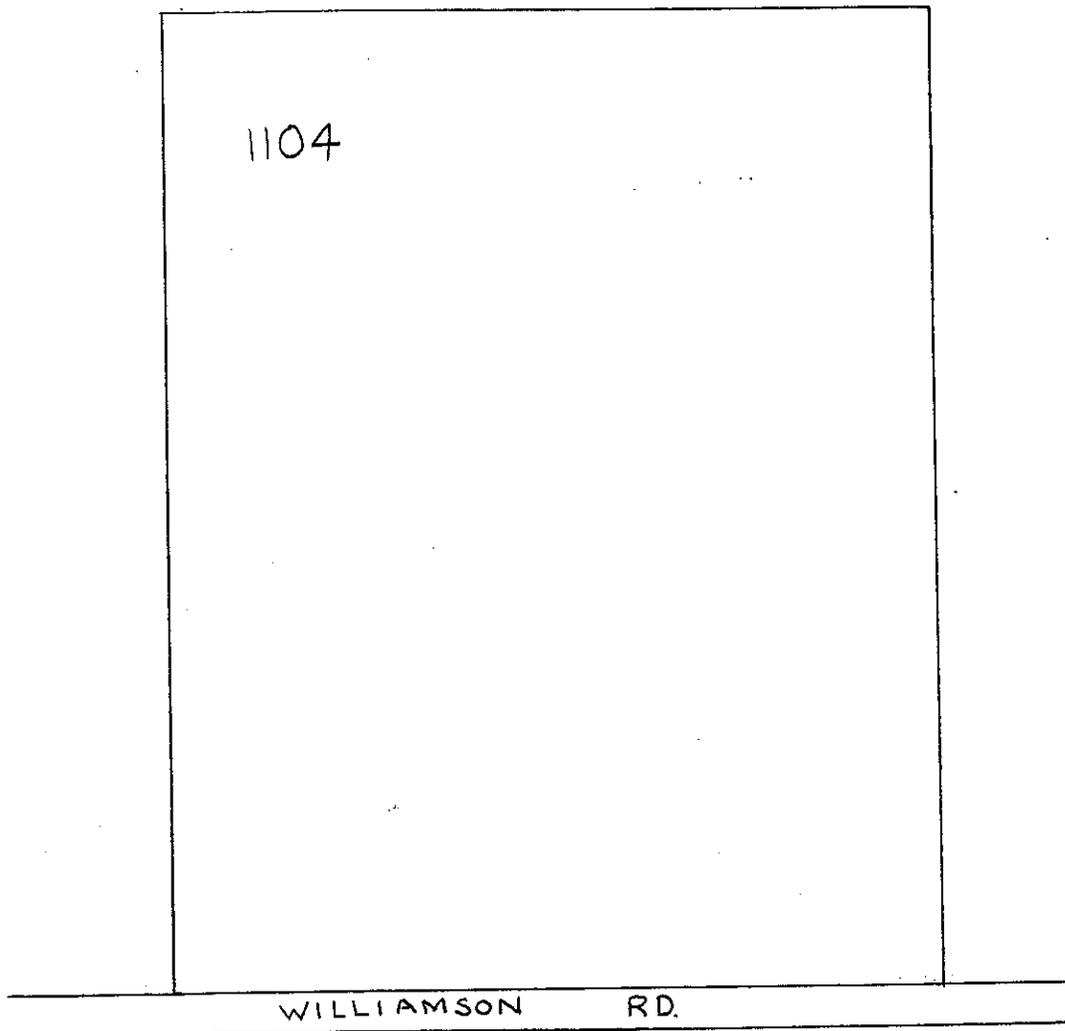
CONCLUSIONS:

1. The request is for a zone change from AF-10 Agriculture/Forestry Small Holding to EF-40 Exclusive Farm Use.
2. The request complies with the Comprehensive Plan Goals and Policies.
3. The requested use is appropriate for the area considering the level of services needed and available, and considering surrounding development.
4. The request complies with the Transportation Planning Rule.

DECISION:

The zone change from AF-10 Agriculture/Forestry Small Holding to EF-40 Exclusive Farm Use on a tract of land identified as Tax Lot 3314-1104 is approved as provided in the implementing ordinance.

EXHIBIT "B" MAP FOR ORDINANCE NO. 706
ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
JANUARY 3, 2002
TO CHANGE OFFICIAL ZONING MAP FROM
AF-10 AGRICULTURE/FORESTRY SMALL HOLDING
TO
EF-40 EXCLUSIVE FARM USE



CHANGE APPLIES TO TAX LOT 3314-1104 DESCRIBED ABOVE

APPROXIMATE SCALE - 1 INCH = 200 FEET