

BEFORE 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 a Zone Change from)
Resource Industrial to Light Industrial)
and Imposition of a Limited Use Overlay) Ordinance 910
for Tax Lot 5309-700 Located at 14870)
Wallace Road; Planning Docket Z-01-20)
Applicant: Wilco Farmers; and Declaring)
an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on October 29, 2020, Commissioners Casey Kulla, Mary Starrett and Richard L. "Rick" Olson being present.

IT APPEARING TO THE BOARD as follows:

A. Point Resources LLC, representing Wilco Farmers, requested a zone change for an approximately 2.52-acre parcel, Tax Lot 5309-700 (14870 SE Wallace Road, Dayton);

B. This matter came before the Planning Commission for public hearing on August 6, 2020, and the Planning Commission voted 7-0 to recommend approval of the application by the Board of Commissioners; and

C. Under Yamhill County Zoning Ordinance (YCZO) section 1208.01(C), no additional hearing before the Board is required in order to consider and to approve this Ordinance; NOW, THEREFORE

THE BOARD ORDAINS AS FOLLOWS:

Section 1. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 2. The Zoning Map of Yamhill County is hereby amended to reflect a zoning designation of "LI-Light Industrial" for the approximately 2.25-acre Tax Lot 5309-700 identified on the attached Exhibit "B" map, incorporated herein by reference.

Section 3. A Limited Use Overlay District (YCZO section 904) is hereby applied to the subject property, limiting allowed uses to those specified in the attached Exhibit "A."

Section 4. 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 immediately.

DONE this 29th day of October, 2020, at McMinnville, Oregon.

ATTEST:



BRIAN VAN BERGEN YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN
County Clerk

Chair

By: Carolina Rook
Deputy Carolina Rook

Commissioner

MARY STARRETT

FORM APPROVED BY:

T. Sadlo

Timothy S. Sadlo
Office of County Counsel

Commissioner

RICHARD L. "RICK" OLSON

ORDINANCE 910
(Board Order 20-380)
EXHIBIT A
FINDINGS IN SUPPORT OF APPROVAL

DOCKET NO.: Z-01-20

REQUEST: Zone change from Resource Industrial (RI) to Light Industrial (LI).

APPLICANT: Point Resources LLC representing Wilco Farmers

TAX LOT: 5309-700

LOCATION: 14870 SE Wallace Rd., Dayton

CRITERIA: Sections 701, 702, 904, and 1208.02 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies; OAR 660-12-0060 Transportation Planning Rule; the Unincorporated Communities Rule in OAR 660-022-0030 and Statewide Planning Goal 14.

COMMENTS: *City of Dayton:* No comments received.
ODOT: No comments received.
Watermaster: No comments received.
Public Works: No conflicts.
SWCD: No comments received.
Sanitarian: "All septic requirements must be met at time of development."

FINDINGS:

A. Background Facts:

1. Property size: Approximately 2.52 acres.
2. Access: SE Wallace Rd., a State Highway.
3. On-site Land Use: The property contains a metal commercial building. The applicant indicates that the land and building are not currently in use as the property has been listed for sale for a number of years.
4. Surrounding Land Use and Zoning: The properties immediately surrounding the subject parcel are zoned Exclusive Farm Use (EF-80). There is a section of Resource Industrial District zoned properties located 227 feet due east of the subject property. Property to the north, south, and west, are a mix of agricultural and rural residential uses. The properties to the east are a mix of agricultural and industrial uses.
5. Soils: The Yamhill County Soil Survey shows that the parcel is predominantly composed of high value soils with 63.4% of the parcel being Woodburn silt loam, 25.6% is Amity silt loam, and 11.1% is Dayton silt loam.

6. Water: On-site well.
7. Sewage Disposal: On-site septic system
8. Fire Protection: Dayton Rural Fire District.
9. Previous Actions: None
10. Request: The applicant is applying for the zone change in order to allow for the storage, repair, and service of equipment used to support agricultural related activity. Specifically, equipment used for the transport of hazelnuts from grower to processor.

B. Zone Change and Plan Amendment Provisions and Analysis

1. 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.*
2. Regarding criterion (A) above, Comprehensive Plan goals and policies which may be pertinent are:

Industrial Development Goal Statement I.H.1: To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from

undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.

Policy I.H.1.b: To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

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.

The above goals and policies encourage the location of industrial uses within existing urban areas and Urban Growth Boundaries (UGB). Traditionally, Yamhill County has encouraged applicants to look to industrial property inside the boundary prior to making application for rezoning property outside of the UGB. The closest Urban Growth Boundary surrounds McMinnville and is approximately 4.2 miles from the subject property. The closest properties zoned Light Industrial (LI) are approximately a mile and half to the south and 6 miles to the north. Both properties appear to be in use and neither property is currently for sale. The LI zoned property to the south is being used by Oregon Truss to manufacture building materials. There is no evidence that the other LI zoned properties are currently available for this proposed use.

The Comprehensive Plan designation for the subject property is Industrial (I). The requested zone change from Resource Industrial (RI) to LI will maintain the Comprehensive Plan designation. Goal I.H.1 includes the objective of concentrating industries of similar use, needs, and characteristics. There are common permitted uses that are allowed in both zoning districts. The requested zone change to LI would allow for the intended use while furthering the Comprehensive plan goals of maintaining a *"high standard of environmental quality and protect the stability and functional aspect of Industrial areas by protecting them from incompatible uses."*

The subject property is currently developed with a metal commercial warehouse structure which the future property owner plans to use to store, repair, and service equipment that supports the agricultural related activity in the area. The proposed use supports the transportation of hazelnuts from local growers to the local processing facility owned by a business unit of the current owner, Wilco Farmers. The proposed use of this property will utilize the existing on-site well, septic system, and metal commercial structure that are already developed on the property. Approving the zone change would take advantage of the existing on-site development.

Part of the above goal is to attract new industries to achieve a broader, more stable tax base while maintaining a high standard of environmental quality. Changing the zone would still allow the property to be used for industrial uses. The proposed use will not increase the environmental impact from uses that have historically taken place at the site. The applicant states that the property's location on SE Wallace Road: "provides efficient use of existing transportation routes between the area growers and processing facility and thereby creates an environmentally friendly strategic position."

Policy I.H.1.b states in part that industrial uses: * * * *will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.* The purpose of this policy is to ensure that industrial users that are expected to utilize large amounts of water or electricity will be located within close proximity to places where those utilities are located. In this case the proposed use is not anticipated to require major utility lines, or major sewer or water lines. The need is only anticipated to be basic power and water services. At this point, no additional public services are needed.

4. Criterion (B) requires a finding that there is an existing, demonstrable need for the uses allowed in a light industrial zone. The applicant has submitted a narrative stating that in August of 2018, the current property owner's business opened a 120,000 square foot hazelnut processing and storage facility in Donald, Oregon. That business has historically contracted with a transportation provider to move hazelnuts from local growers to the processing and storage facility. The transportation provider desires to purchase the subject property for the purpose of storing, repairing, and servicing transport equipment necessary to support this agricultural activity. The applicant cites an article published in the Statesman Journal on December 16, 2018 written by Emily Teel which states that the 2018 hazelnut harvest yielded approximately 47,000 tons. The 2025 harvest is expected to roughly double. Oregon's total hazelnut crop represents about 99% of the domestic production. The applicant also cites statistics from oregonhazelnuts.org stating that, "*the total value Oregon growers received for their hazelnut crop has averaged \$70 million during the last 5 years.*"

5. Regarding criterion (C), as noted above in Finding A.4, the surrounding area has a mixture of uses. The subject tax lot is located at the intersection of SE Alderman and SE Wallace roads. The access to SE Wallace road provides proximity to the main north/south corridor in the area. Surrounding properties are zoned Exclusive Farm Use (EF-80) and a Comprehensive Plan designation of Agriculture/Forestry Large Holding. A 44.6-acre property zoned Resource Industrial that has a Comprehensive Plan designation of Industrial is located .1 mile to the northeast of the subject property and contains Carlton Plants and a composting facility. Along the Wallace road corridor to the south, there are properties zoned Public Airports Landing Fields (PALF), Very Low Density Residential (VLDR 2.5), Neighborhood Commercial (NC), and Light Industrial (LI). The proposed zone change from Resource Industrial (RI) to Light Industrial (LI) is consistent with the other properties located within this 1.7-mile section of SE Wallace Road. The proposed use of the property is to provide storage, maintenance and repair of equipment necessary to move the hazelnut harvest of local growers and farmers to the processing facility. The level of use is not

expected to need any extension of additional services. Water is provided by an onsite well and electrical power is already provided to the site.

6. Criterion (D) requires the consideration of whether there are other available lands in the county that are zoned for light industrial uses. Location, size, and suitability are factors that may be considered. The applicant has submitted a search of commercial and industrial land for sale in Yamhill County. The information submitted in the application indicates that the closest parcel that is zoned Light Industrial is approximately 6 miles north. It should be noted that there is a parcel zoned LI that is approximately 1.5 miles to the north. Neither of these parcels are currently available.

The subject parcels proximity to the hazelnut processing facility and the access to state highways and Interstate 5 make this location suitable and desirable for the intended use. The property is currently zoned Resource Industrial, and the zone change to Light Industrial will maintain the Industrial zone. The Land Use Board of Appeals has previously ruled that properties on the market for sale at any time is at best an indirect measure of the need or market demand for such properties and cannot be exclusively used to show these other light industrial lots are not "available" to satisfy the need. Having said that, there is a limited amount of industrial land in Yamhill County that is not already in use.

7. Regarding criterion (E), an exception was already taken when the property was originally zoned RI Resource Industrial and was excepted from State Planning Goals 3 and 4 at that time.

C. Goal 12 (Transportation Rule) Provisions and Analysis

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.

1. The property is already zoned for Resource Industrial use. The property is served by Wallace Road. Going from a Resource Industrial to a Light Industrial zone would not change or amend the functional plan because the Comprehensive Plan designation of the property remains Industrial. Therefore, it appears that the proposed use is consistent with the identified function, capacity, and level of service of the local roads. The amendment will not significantly affect a transportation facility.

D. Goal 14 (Urbanization Rule) Provisions and Analysis

Oregon Administrative Rule 660-014-0040 (4) states, in part:

"Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in

*buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004 * * *."*

In conformance with the language above, the applicant does not request an exception to Goal 14. This report finds that the OAR excludes this request from requiring an exception to Goal 14 as the property was zoned for industrial use prior to January 1, 2004.

E. Limited Use Overlay Provisions

1. The Section 904.02 of the Yamhill County Zoning Ordinance states that: *The limited use overlay may be applied by the Board of Commissioners or the Planning Commission to Plan Amendments and/or zone changes.*

2. Section 904.03 of the YCZO contains provisions for limited use overlays. It states:

(A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.*

(B) *The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*

(C) *Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*

(D) *Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*

3. Since the Light Industrial zone allows other industrial uses that have not been evaluated to determine whether they are suitable to the area, it is appropriate to apply a Limited Use Overlay to limit uses that are permitted on this parcel to equivalent uses allowed in the Resource Industrial District and the use that has been applied for through this application for zone change. Namely, Section 702.02(B), "Farm, industrial or contractor's equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage". The following uses are allowed in the LI zone but not in the RI zone and these uses are not justified in the application. The LU Overlay will exclude the following uses that are permitted in the Light Industrial zone and not in the Resource Industrial zone. Specifically, those listed in Section 702.02(A), (C), and (F):

702.02(A): Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors

702.02(C): Warehousing, wholesale storage and distribution, and motor freight terminals contained only within a building

702.02(F): Veterinary hospital

Additionally, RV storage and mini storage have previously been approved in the LI zone as similar uses and are now as a result considered permitted uses. Again, since these two uses (or any comparable use) are not currently allowed in the RI zone and have not been justified as part of this zone change application, those uses may not be conducted under this approval.

CONCLUSIONS FOR APPROVAL:

1. The request is for approval of a zone change from RI, Resource Industrial to LI Light Industrial in order to allow for the storage, repair, and service of equipment used to support agricultural related activity. Specifically, equipment used for the transport of hazelnuts from grower to processor.
2. The request complies with the Comprehensive Plan Goals and Policies.
3. Approval of the request would allow use of land that is already built and committed to an industrial use.
4. The requested zone change is appropriate for the area considering the level of services needed and available and considering surrounding development.
5. The request will comply with the Transportation Planning Rule since the proposed use does not change the functional plan as the property remains industrial. The proposal will be subject to ODOT permitting process.

APPROVAL:

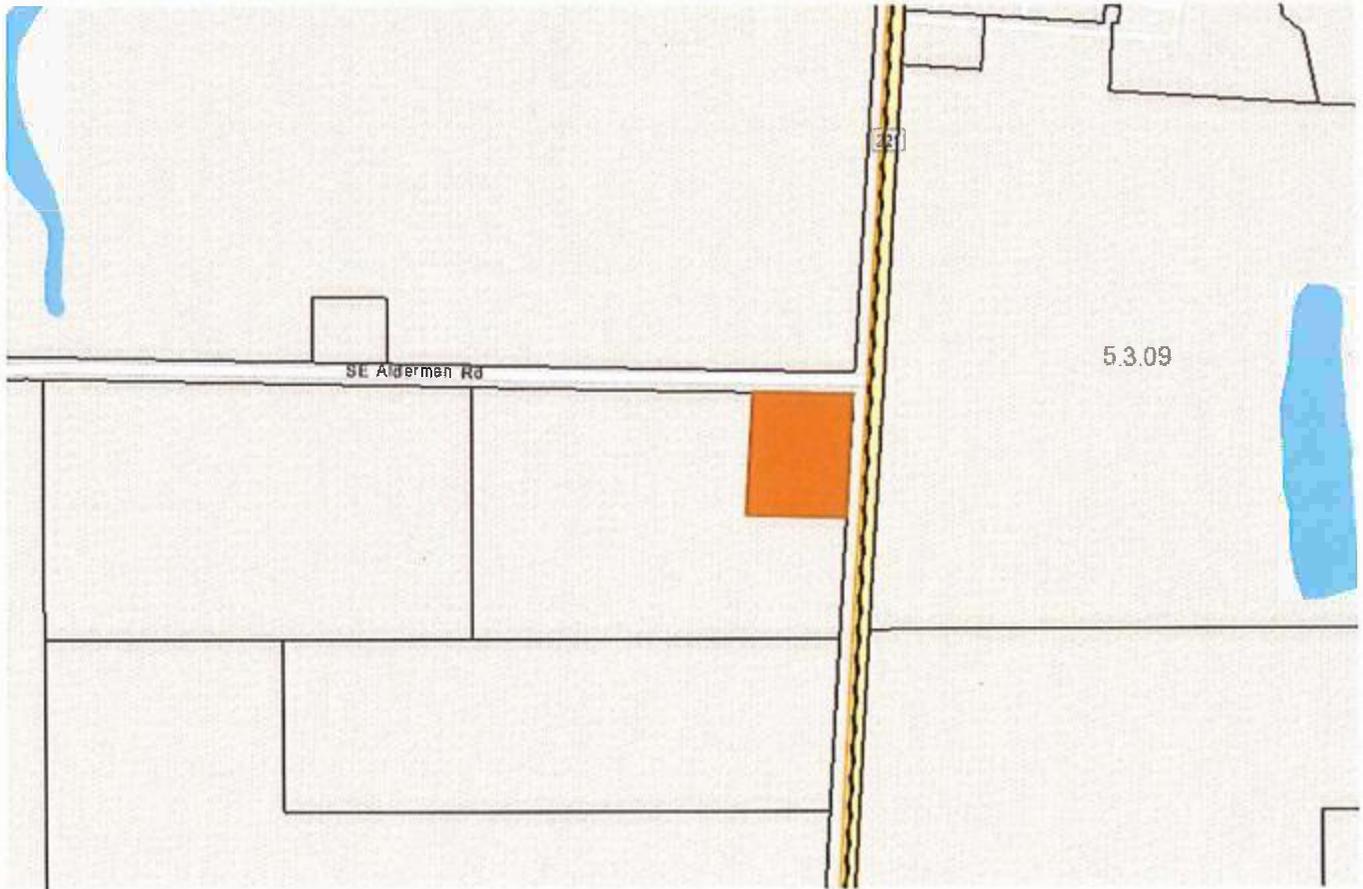
Approval is granted of the request by Point Resources LLC for a zone change from RI, Resource Industrial to LI, Light Industrial on Tax Lot 5309-700 with a limited use overlay which limits uses to the following:

1. *Farm, industrial or contractor's equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage;*
2. *Fruit, nut or vegetable packing, processing warehousing or cold storage operations;*
3. *Winery;*
4. *Accessory uses;*
5. *Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;*
6. *Community or municipal water supply system;*

7. *Community or municipal sewer system;*
8. *Signs, pursuant to the sign provisions set forth in section 1006;*
9. *Dwelling for a caretaker or watchman in conjunction with permitted use. Site design review is not required for the dwelling.*
10. *Accessory dwelling unit within an urban growth boundary, subject to the standards in Section 1014. Site design review is not required for the accessory dwelling unit.*

END

ORDINANCE 910
(Board Order 20-380)
EXHIBIT B - MAP
ZONE CHANGE FROM
RI, RESOURCE INDUSTRIAL
TO
LI, LIGHT INDUSTRIAL
(WITH LIMITED USE OVERLAY)



CHANGE APPLIES TO TAX LOT 5309-700 AS HIGHLIGHTED ABOVE.