

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 Approval of a Zone Change from EF-40)
Exclusive Farm Use, to AF-40 Agriculture/Forestry,) Ordinance 886
Applicants Jay Alan Shue and Karen Marie Swenson,)
Tax Lots 4520-200 and 4520-300, Planning Docket Z-02-13)
and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on January 23, 2014, Commissioners Mary P. Stern, Allen Springer, and Kathy George being present.

IT APPEARING TO THE BOARD that Jay Alan Shue and Karen Marie Swenson applied for a Zone Change from EF-40, Exclusive Farm Use, to AF-40, Agriculture/Forestry, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on January 2, 2014 and, hearing no objections and being satisfied that the approval standards were met, voted unanimously to approve the application, NOW, THEREFORE,

THE BOARD ORDAINS AS FOLLOWS: that the application is approved for the reasons stated in the findings attached as Exhibit "A" and incorporated into this Ordinance by this reference. The Yamhill County Zoning Map is amended as shown in Exhibit "B," also incorporated into this ordinance by reference. 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 23rd day of January, 2014, at McMinnville, Oregon.

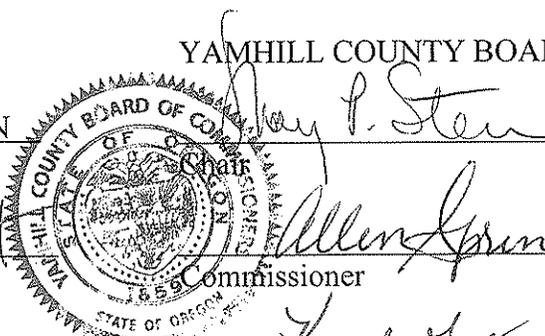
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

By: Anne Britt
Deputy Anne Britt



Mary P. Stern

MARY P. STERN

Allen Springer

ALLEN SPRINGER

Kathy George

KATHY GEORGE

APPROVED AS TO FORM:

Todd Sadlo

Todd Sadlo, Assistant County Counsel

**EXHIBIT A – ORDINANCE 886
FINDINGS FOR APPROVAL**

DOCKET NO.: Z-02-13

REQUEST: Zone change from EF-40, Exclusive Farm use to AF-40, Agriculture/Forestry

APPLICANTS: Jay Alan Shue and Karen Marie Swenson

TAX LOTS: 4520-200 and 300

LOCATION: 20100 SW Peavine Road, McMinnville

CRITERIA: Sections 402, 403 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

COMMENTS: **Public Works** – No conflicts.
SWCD - No response.
McMinnville Rural Fire Department - No response.
DLCD - No response.
Water Master - No response.

FINDINGS:

A. Background Facts:

1. Tract size: Tax Lot 4520-200 is approximately 8.6 acres and Tax Lot 4520-300 is approximately 40 acres.
2. Access: Peavine Road.
3. On-site Land Use: Tax Lot 200 has several outbuildings with various livestock, a pasture, fruit trees and forested areas. Tax Lot 300 has a dwelling, a barn and animal sheds. The parcel is primarily forested with some pasture land and a pond for livestock, and is also used to grow crops including hops.
4. Surrounding Land Use: The area is predominately forested with some rural residences and small farm uses.
5. Surrounding Zoning: Land to the east and west is zoned EF-40. Land to the north is zoned AF-80 and to the south is zoned AF-40, Agriculture/Forestry.
6. Water: On-site well.
7. Sewage Disposal: There is currently a septic system serving the dwelling.
8. Fire Protection: McMinnville Rural Fire District.

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9. Soils: The Yamhill County Soil Survey Maps show the majority of the tract is Willakenzie (WkD and WeE), high-value farmland.
10. Taxes: Tax Lot 200 is receiving farm deferral. Tax Lot 300, 38 acres is receiving forest deferral, one acre is receiving farm deferral and one acre is at market value.
11. Overlay Zones: None.
12. Previous Actions: In 1983, a zone change application (Docket Z-247-83) was approved to change Tax Lot 4520-300 from a mixture of AF-20 and EF-40 to AF-20. Then an application for a partition (Docket #P-1374-84) of Tax Lot 4520-300 was approved which created two 20 acre parcels. The property is one tax lot (4520-300), however, it is comprised of two 20 acre parcels. In response to House Bill 3661 (1993), the property was rezoned back to EF-40 Exclusive Farm at the direction of the staff of the Department of Land Conservation and Development. The EF-40 zoning became effective on December 29, 1993.

B. Zone Change and Plan Amendment Provisions and Analysis

1. The decision on the requested zone change is based on a determination that the request complies with the review criteria found in Section 1208.03 of the Yamhill County Zoning Ordinance, as follows:

Review Criteria for Amendments to or within Exclusive Farm Use and Agricultural/Forestry Zones

A quasi-judicial zone change to (1) amend the designation of land from Exclusive Farm Use, Agriculture/Forestry, or Forest to another of these zones, or (2) change the minimum lot size of land designated Exclusive Farm Use or Agriculture/Forestry, may be authorized, pursuant to Subsection 1208.01, provided that the request satisfies all applicable requirements of this ordinance, and also provided that the applicant demonstrates compliance with the following criteria:

- A. *The proposed amendment shall comply with the goals, policies, and other applicable provisions of the comprehensive plan.*
- B. *The proposed designation shall be appropriate for the existing or intended use of the property.*
- C. *The proposed amendment shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land.*
- D. *For proposed changes within or to an Exclusive Farm Use designation, the new minimum lot size shall be appropriate to maintain the existing commercial agricultural enterprise in the area.*

- E. *For proposed changes within or to an Agriculture/Forestry designation, the new minimum lot size shall be shown to assure:*
1. *The opportunity for economically efficient forest and agriculture practices typically occurring in the area; and*
 2. *The opportunity for the continuous growing and harvesting of forest tree species; and*
 3. *The conservation of other forest values found on forest lands.*
- F. *Any amendment that would change the zone map designation to reduce the minimum lot size on property within an Exclusive Farm Use or Agriculture/Forestry district shall not be granted final approval by Yamhill County until the amendment has been considered and approved by the Land Conservation and Development Commission pursuant to ORS 215.780(2). The following rules shall apply:*
1. *Conditional approval. Following receipt of an application for a zone change as otherwise provided by this ordinance, the county shall determine whether to grant or deny the application in accordance with criteria established in this section 1208.03. If the application is granted, the county shall enter an order of conditional approval, subject to final approval by the Land Conservation and Development Commission.*
 2. *Referral of Order of Conditional Approval. After conditional approval by Yamhill County, the application, county findings, order of conditional approval and a request for Commission action shall be referred to the Department of Land Conservation and Development.*
 3. *Final Approval. An amendment conditionally approved by Yamhill County shall not take effect until the county adopts an order or ordinance authorizing final approval after receipt of written confirmation of the county's conditional approval by the Land Conservation and Development Commission.*

The above criteria are addressed in Findings B.2 through B.5 below.

2. Regarding criterion (A), applicable goals from the Yamhill County Comprehensive Land Use Plan, Section II.A.1, Goal reads:

To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

Section II.A.2, Goal reads:

To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the county plan map.

Section II.B.1, Goal reads:

To conserve and to manage efficiently the county's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock, habitat for fish and wildlife, protection of forest soils and watershed, and preservation of recreational opportunities.

The zone change would be consistent with the current mixture of agriculture and forest uses existing on the property. The proposed zone, AF-40, recognizes and allows both farming and forestry uses. This mixed use zoning would more accurately reflect the existing uses on the subject property. The applicant is not proposing an urban use; the minimum lot size is to remain 40 acres.

According to the Yamhill County Soil Survey, all of the property is capable of producing timber. The timber yields of the soils vary from 145 to 160 cubic feet per acre per year. In addition, the soils are also classified as high-value farmland. The requested zone change will recognize the potential for farm and forestry uses on the land and preserve the County's soil resources for their suitability for farm and forest use.

3. Regarding criterion (B), as mentioned above, the subject parcel is a mixture of farm and forest use; the zone change from an exclusive farm zone to an agriculture and forestry zone would more accurately reflect the existing and potential use of the property.
4. Regarding criterion (C), the subject parcels proposed for rezoning are approximately 48.6 acres. The total contiguous area after the rezoning would be approximately 169.4 acres. This is over the 160-acres required; therefore, the request is consistent with criterion (C).
5. Regarding criteria (D), (E) and (F): the applicant wishes to keep the minimum lot size at 40 acres. The 40-acre minimum in the farm and forestry zone was approved by the Land Conservation and Development Commission through the process passed by the Oregon State Legislature (see HB 3661 passed in 1993). Since the minimum lot size is not changing, criteria (D), (E) and (F) are not applicable.

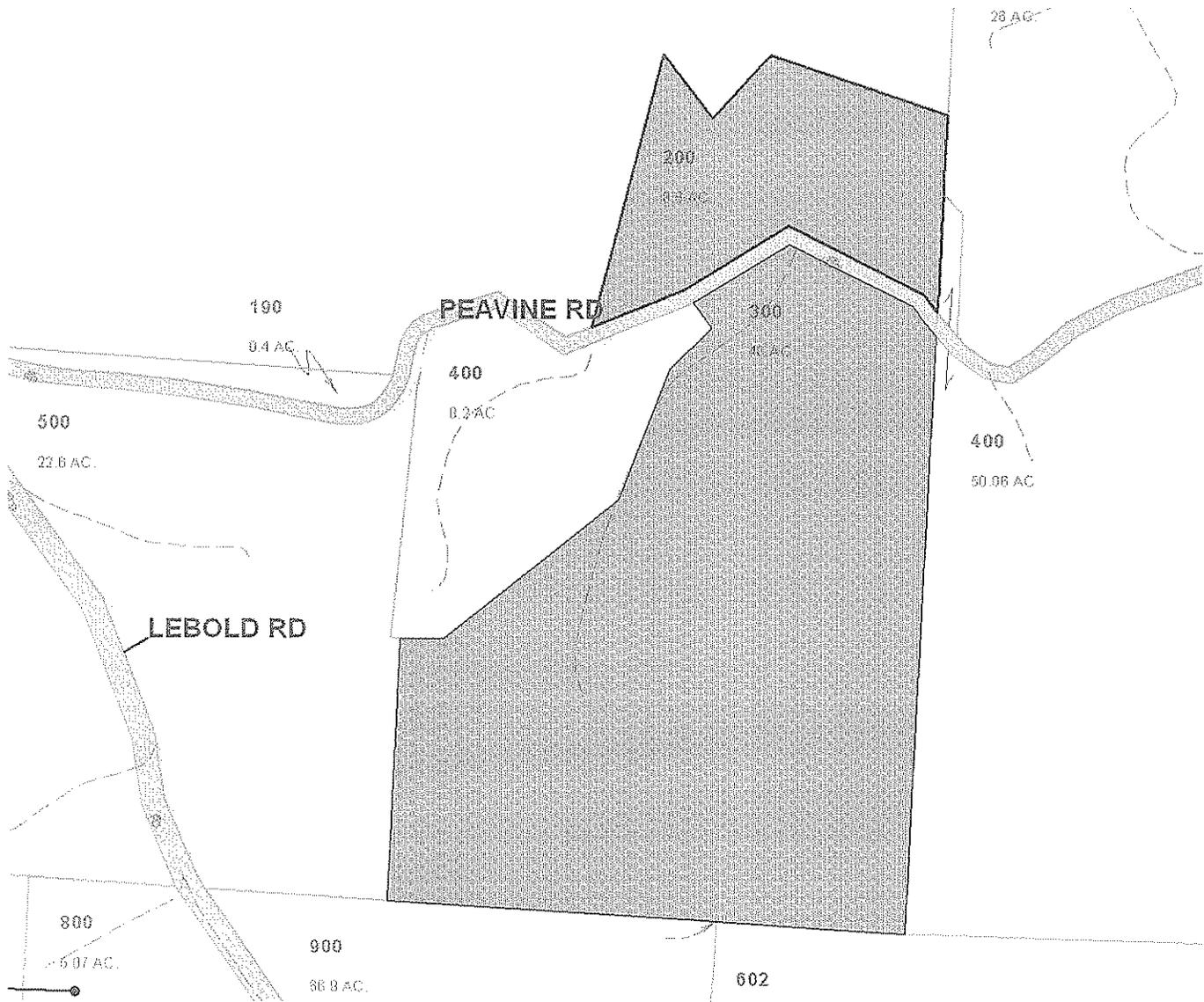
CONCLUSIONS FOR APPROVAL:

1. The request is for a Comprehensive Plan amendment and zone change from Exclusive Farm use EF-40 to AF-40 Agriculture/Forestry.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies.
3. The zone change is appropriate in that the parcel is a mixture of farm and forestry uses. Neither the farm zone, nor the forestry zone alone would be appropriate for this area.

4. The proposed change is consistent with the zone change criteria of Section 1208.03.

Based on the above findings and conclusions, the request by Jay Alan Shue and Karen Marie Swenson, for a zone change from EF-40, Exclusive Farm Use to AF-40, Agriculture/Forestry Use on Tax Lots 4520-200 and 300, is approved.

EXHIBIT B - MAP FOR ORDINANCE NO. 886
ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
JANUARY 23, 2014
FOR A ZONE CHANGE FROM
EF-40, EXCLUSIVE FARM USE
TO
AF-40, AGRICULTURE/FORESTRY



CHANGE APPLIES TO TAX LOTS 4520-200 AND -300 AS HIGHLIGHTED ABOVE. APPROXIMATE SCALE - 1 INCH = 500 FEET

B.O.14-41