

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-80, Exclusive Farm Use )  
to AF-80, Agriculture/Forestry, Applicant Frank Walker Representing the ) Ordinance 861  
James J. Evans Revocable Trust, Tax Lot 3515-1000, Planning Docket Z-05-10, )  
and Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 10, 2011, Commissioners Leslie Lewis and Kathy George being present, and Commissioner Mary P. Stern being excused.

IT APPEARING TO THE BOARD that Frank Walker representing the James J. Evans Revocable Trust applied for a zone change from EF-80, Exclusive Farm Use to to AF-80, Agriculture/Forestry for Tax Lot 3515-1000, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on January 6, 2011, then voted unanimously to approve the application. That decision has not been appealed. NOW, THEREFORE,

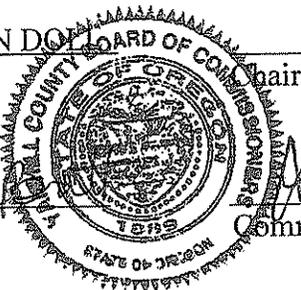
IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in Exhibit "A," the Findings for Approval, hereby incorporated into this Ordinance by this reference. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective immediately. A map is appended as Exhibit "B".

DONE this 10th day of February, 2011, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

(Excused)

REBEKAH STERN DOUGLAS  
County Clerk



MARY P. STERN

By *Anne Britt*  
Deputy Anne Britt

*Leslie A. Lewis*  
Commissioner

LESLIE LEWIS

APPROVED AS TO FORM:

*Rick Sanai*  
Rick Sanai  
County Counsel

*Kathy George*  
Commissioner

KATHY GEORGE

**DOCKET NO.:** Z-05-10

**REQUEST:** Zone change from EF-80, Exclusive Farm use to AF-80, Agriculture/Forestry.  
**APPLICANTS:** Frank Walker and Associates

**OWNERS:** James J. Evans Revocable Trust

**TAX LOT:** 3515-1000

**LOCATION:** Located east of the intersection of Old Moores Valley and Puddy Gulch Road,  
Yamhill

**AREA SIZE:** 160.3 acres

**CRITERIA:** Sections 402, 403 and 1208.04 of the Yamhill County Zoning Ordinance; the  
Yamhill County Comprehensive Plan Goals and Policies.

**FINDINGS FOR APPROVAL (Exhibit "A"):**

A. Background Facts

1. Lot Size: Approximately 160.3 acres.
2. Access: Puddy Gulch Road borders the property along the northern property line and Meadow Lake Road borders the western property line. The existing access road is along Meadow Lake Road.
3. On-Site Land Use: Due to the size of the property, the area proposed for rezoning is diverse. The land contains hillsides with uneven topography. The southern end of the property is at 300 feet in elevation and gently slopes up to the north. About half way up the parcel it starts to slope steeply up to 600 feet in elevation, near the center of the land, then it drops down and then back up to 700 feet at the northern end of the parcel. The use appears to be forested areas with a few open areas.
4. Surrounding Zoning and Land Use: Land along the northern and eastern property lines are zoned AF-80 Agriculture/Forestry. Land to the west is zoned EF-80 Exclusive Farm use. Property along the southern boundary line is zoned AF-40 Agriculture/Forestry.
5. Water: An on-site well would be required for any residential use.
6. Sewage Disposal: An on-site subsurface system would be required for any residential use.
7. Soils: Soils on the subject site includes Peavine, Panther, Chehalem, Shale and Willakenzie. Approximately ten percent of the property is high-value farmland.

8. Fire Protection: Yamhill Rural Fire District.
9. Taxes: 125.3 acres is receiving farm deferral and 35 acres is receiving forest deferral.
10. Overlay Zones: None of the property is within the 100-year floodplain.
11. Previous land use actions: There were no previous land use actions. The only permit in the file is a site evaluation approval for a single family dwelling.
12. Previous Zoning: Prior to December 29, 1993, the property was zoned AF-20. Prior to 1993 the EF-40 zone was assigned to property in the valley while the AF-20 was assigned to the forested hillsides. All of the square mile identified as Section 15 of Township 3 South, Range 5 West was zoned AF-20. On December 29, 1993, the entire parcel was rezoned to EF-80 Exclusive Farm Use.

B. Ordinance Provisions and Analysis

1. The decision to approve the requested zone change is based on the Board finding that the request complies with the review criteria found in Section 1208.04 of the Yamhill County Zoning Ordinance, as follows:

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

*Certain properties that were zoned Agriculture/Forestry prior to December 29, 1993 were rezoned to Exclusive Farm Use as part of Periodic Review. (The rezoning became effective on February 14, 1997.) When the Exclusive Farm Use designation does not adequately reflect the mixed agricultural and forest use of the property, a quasi-judicial zone map change back to Agriculture/Forestry may be authorized, pursuant to Subsection 1208.01, and provided that the applicant demonstrates compliance with the following:*

- A. *The area to be rezoned consists primarily of foothill and ridgetop holdings above the flat terrace and valley floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range.*
- B. *At least 50% of each parcel that is proposed to be rezoned is forested.*
- C. *At least 50% of each parcel that is proposed to be rezoned was designated Agriculture/Forestry prior to December 29, 1993.*
- D. *The area being rezoned contains such a mixture of agricultural and forest uses that neither Goal 3 nor Goal 4 can be applied alone.*
- E. *The proposed amendment shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land.*
- F. *Any amendment that would reduce the minimum lot size complies with the requirements of*

*Section 1208.03(F).*

The above criteria are addressed in Findings B.2 through B.7 below.

2. Regarding criterion (A), as shown on the attached contour map, the southern part of the property is at 300 feet in elevation and gently slopes up to the north. About half way up the parcel it starts to slope steeply up to 600 feet in elevation, near the center of the land, then it drops down and then back up to 700 feet at the northern end of the parcel. The property fits within the description of “. . . *foothill and ridgetop holdings above flat terrace and valley floor commercial agricultural areas, and below the contiguous timberlands of the Coast Range.*” The use appears to be forested areas with a few open areas.
3. Regarding criterion (B), as mentioned above, the subject parcel is a mixture of farm and forest use. While it was not as apparent on the 2005 aerial photo, the 2009 air photo shows that the majority of the property is planted to trees. While the site visit was limited to the roads bordering the property, the site visit did confirm that much of the southern area appears to be replanted. Based on the air photo and site visit it appears that well over 50% of the property is forested. The zone change from an exclusive farm zone to an agriculture and forestry zone would more accurately reflect the current use of the property.
4. Regarding criterion (C), as indicated in Finding A.12, prior to December 29, 1993, the entire parcel was zoned AF-20, therefore the request is consistent with criterion 1208.04(C).
5. Regarding criterion (D), as indicated in Finding A.9 and A.12, the property is in a mixed use related to deferral. Since the parcel has both farm and forest deferral; the zoning existing prior to December 29, 1993, was the mixed use zoning of AF-20; and the property has soils capable for both farm and forest use; it is appropriate to find that Goals 3 and 4 related to the protection of farm and forest use, respectively, can not be applied on their own and the property should be moved back to a mixed use zone. Therefore, the request is consistent with criterion 1208.02(D).
6. The AF-80 zone that exists to the east is approximately 900 acres in size. The additional 160 acres will result in an AF-80 area of approximately 1,060 acres, well above the 160-acres required by 1208.04(E).
7. The request would not change the minimum lot size as it would still be 80-acres. The request satisfies criterion 1208.04(F).
8. The consultant, in an abundance of caution, has addressed all of the criteria from Section 1208 of the Yamhill County Zoning Ordinance. Since the property had been zoned AF-20 prior to December 29, 1993, the applicable criteria is found in 1208.04. Therefore, only the criteria of 1208.04 has been considered with this staff report. Recently, in the decision *Bardolf v. Yamhill County* (LUBA No 2010-069), LUBA found that the Board of County Commissioners appropriately rejected a petitioners' interpretation that 1208.03 and 1208.04 both apply to a zone change request. This decision to affirm the Yamhill County interpretation was issued on December 14, 2010. Since this decision was made a month after the application was submitted

it is understandable that the consultant provided the additional findings.

## **CONCLUSIONS**

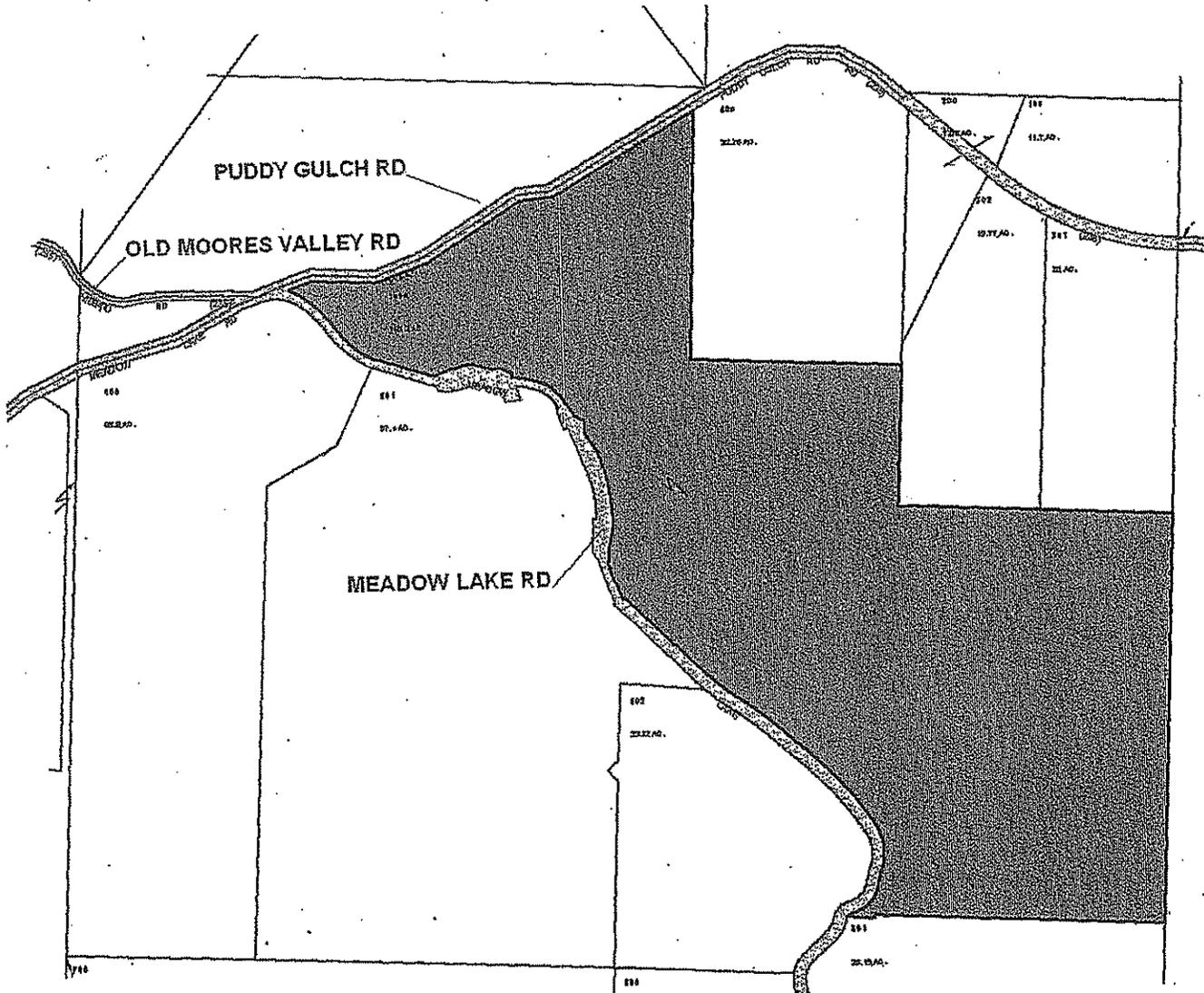
1. The request is for a zone change from EF-80 Exclusive Farm Use to AF-80 Agriculture/Forestry Use. The total area proposed to be rezoned is approximately 160.3 acres.
2. The zone change is appropriate in that the parcel is a mixture of farm and forestry uses. Neither the farm zone, nor the forestry zone alone would be appropriate for this area.
3. The request complies with the criteria listed in Section 1208.04 of the Yamhill County Zoning Ordinance.
4. The proposed designation is appropriate for the existing and intended use of the property.

## **DECISION:**

The request by Frank Walker, representing the James J. Evans Revocable Trust, for a zone change from EF-80, Exclusive Farm Use to AF-80, Agriculture/Forestry Use on the 160.3 acres identified as Tax Lot 3515-1000, is hereby approved.

"Exhibit B"

EXHIBIT MAP FOR ORDINANCE NO. 861  
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS  
FEBRUARY 10, 2011  
DOCKET Z-05-10, REQUEST FOR A ZONE CHANGE FROM  
EF-80 EXCLUSIVE FARM TO AF-80 AGRICULTURE/FORESTRY



CHANGE APPLIES TO THE ABOVE PORTION OF TAX LOT 3515-1000 AS IDENTIFIED ABOVE.  
APPROXIMATE SCALE - 1 INCH = 800 FEET