

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, ) Ordinance 854  
Applicant John Balwit, Tax Lots 5504-100, 200 and 300, )  
Planning Docket Z-03-09, and Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 31, 2010, Commissioners Kathy George, Leslie Lewis, and Mary P. Stern being present.

IT APPEARING TO THE BOARD that John Balwit applied for a Zone Change from EF-80, Exclusive Farm use to AF-80, Agriculture/Forestry for a 397 acre parcel, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on March 4, 2010 and heard from the applicant (there being no opponents), then voted unanimously to approve the application, NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved 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 31st day of March, 2010, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

REBEKAH STERN DOUGLAS County Clerk  
 Chair Kathy George KATHY GEORGE

By Deanne Britt Deputy Anne Britt Commissioner Mary P. Stern MARY P. STERN

APPROVED AS TO FORM Leslie Lewis Commissioner LESLIE LEWIS

Rick Sanai  
Rick Sanai  
Senior Assistant County Counsel

**DOCKET NO.:** Z-03-09

**REQUEST:** Zone change from EF-80, Exclusive Farm use to AF-80, Agriculture/Forestry.

**APPLICANT:** John Balwit

**OWNERS:** John Balwit and Nicholas Kristof

**TAX LOTS:** 5504-100, 200 and 300

**LOCATION:** The majority of the property is located east of the intersection of Masonville, Muddy Valley and Eagle Point Roads. An area of approximately 6 acres is located west of this intersection. In addition, approximately 120 acres is located south of Masonville Road.

**AREA SIZE:** Approximately 397 acres

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

**FINDINGS:**

A. Background Facts

1. Lot Size: Approximately 397 acres.
2. Access: The properties border Eagle Point and Masonville Road. The existing access to the 30 x 45 foot building on the applicant's property has access to Eagle Point Road.
3. On-Site Land Use: Due to the size and expanse of the properties, the area proposed for rezoning is diverse. The western and southern ends of the land contain hillsides with uneven topography. Near the middle of the area to be rezoned the land is relatively a flat valley floor. The use appears to be open fields in the valley with forested areas on the hillsides.
4. Surrounding Zoning and Land Use: All of the adjacent area is zoned EF-80, Exclusive Farm Use.
5. Water: On-site well.
6. Sewage Disposal: An on-site subsurface system would be required for any residential use.
7. Soils: Soils on the subject site includes Yamhill, Chehalem, Steiwer and Hazelair. Approximately half of the property is high-value farmland.

8. Fire Protection: McMinnville Rural Fire District.
9. Taxes: 172 acres is receiving farm deferral. 205.79 acres is receiving forest deferral.
10. Overlay Zones: Approximately 43 acres near the middle of the valley is within the 100-year floodplain.
11. Previous Zoning: Prior to December 29, 1993, the property was zoned a mixture of AF-20 and EF-40. The EF-40 was located in the valley while the AF-20 was assigned to the forested hillsides. On December 29, 1993, the entire area was rezoned to EF-80 Exclusive Farm Use.

B. Ordinance Provisions and Analysis

1. 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.*

As shown by the deferral status, the property has major portions in both farm and forest use. 172 acres of the property is in farm deferral and 205.79 acres is in forest deferral. The new zone, AF-80, recognizes and allows both types of uses depending on the predominant use on the property. This mixed use zoning will 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 80 acres.

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.*

According to the Yamhill County Soil Survey, approximately half of the subject parcel is composed of soils that are classified as high-value farmland. In addition, approximately 2/3 of the property is capable of growing trees. Most of these soils are on the hillside as the valley floor is too wet to sustain timber. The majority of the area contains soils capable of producing over 100 cubic feet of wood fiber per acre per year. The zone change will recognize the farm and forestry uses that exist 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 will more accurately reflect the current use of the property.
4. Regarding criterion (C), the subject area proposed for rezoning is 397 acres, well 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 80 acres. The 80-acre minimum in the farm and forestry zone was determined by the Oregon State Legislature to be appropriate to maintain the commercial farm and forestry industry in western Oregon (see HB 3661 passed in 1993).

## 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 397 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 1208.03 of the Yamhill County Zoning Ordinance and is consistent with the applicable goals found in Yamhill County's Comprehensive Plan.
4. The proposed designation is appropriate for the existing and intended use of the property.

Exhibit "A" - Findings Ordinance 854

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**DECISION:**

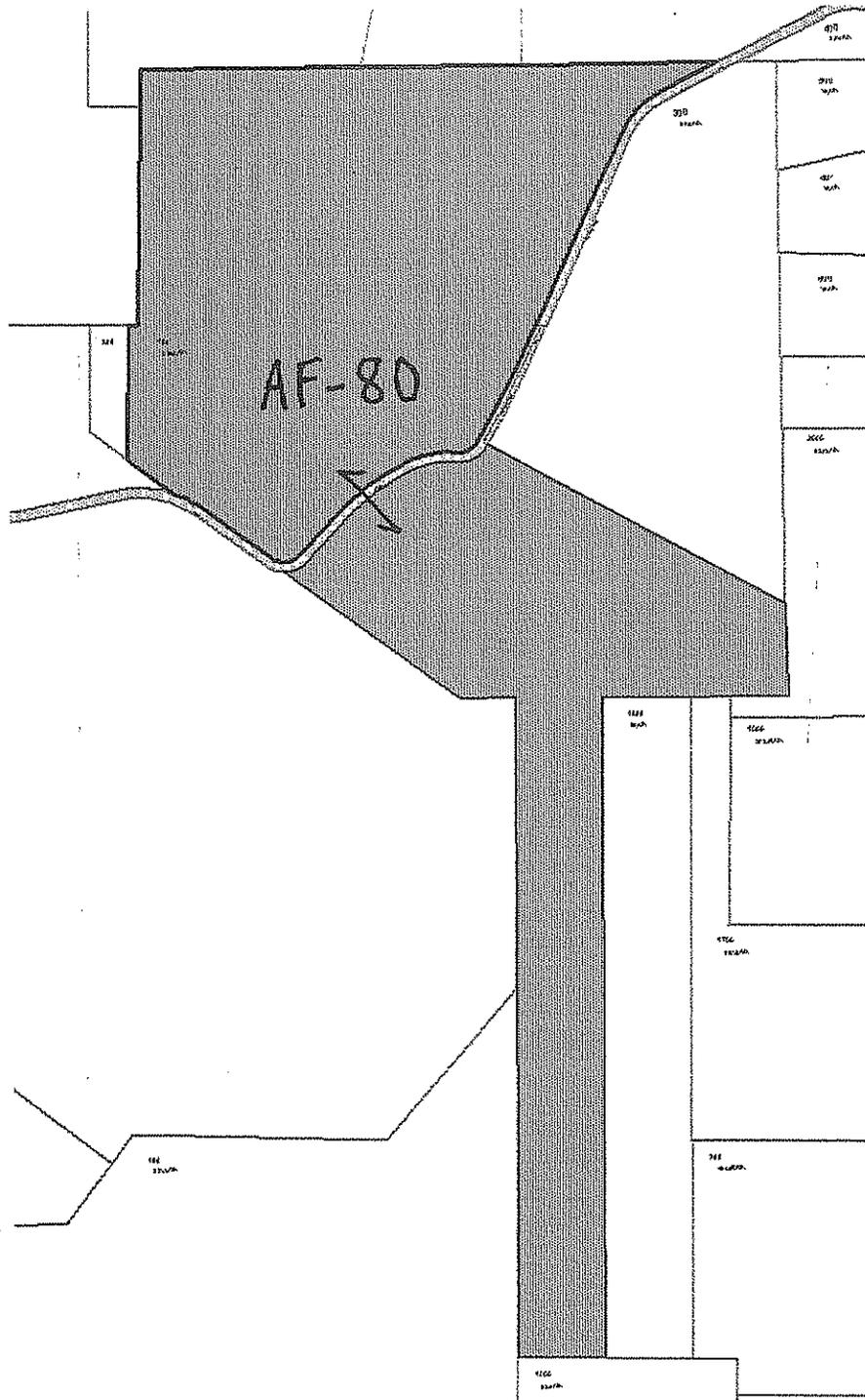
Based on the above findings and conclusions, the request by John Balwit for a zone change from EF-80, Exclusive Farm Use to AF-80, Agriculture/Forestry Use on Tax Lots 5504-100, 200 and 300, approximately 397 acres, is hereby approved.

MB:kf

B.O.10-171

Ordinance 854 - Balwit

EXHIBIT MAP FOR ORDINANCE NO. 854  
ZONE CHANGE  
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS  
March 31, 2010  
FOR A ZONE CHANGE FROM  
*EF-80 EXCLUSIVE FARM USE*  
TO  
*AF-80 AGRICULTURE/FORESTRY*

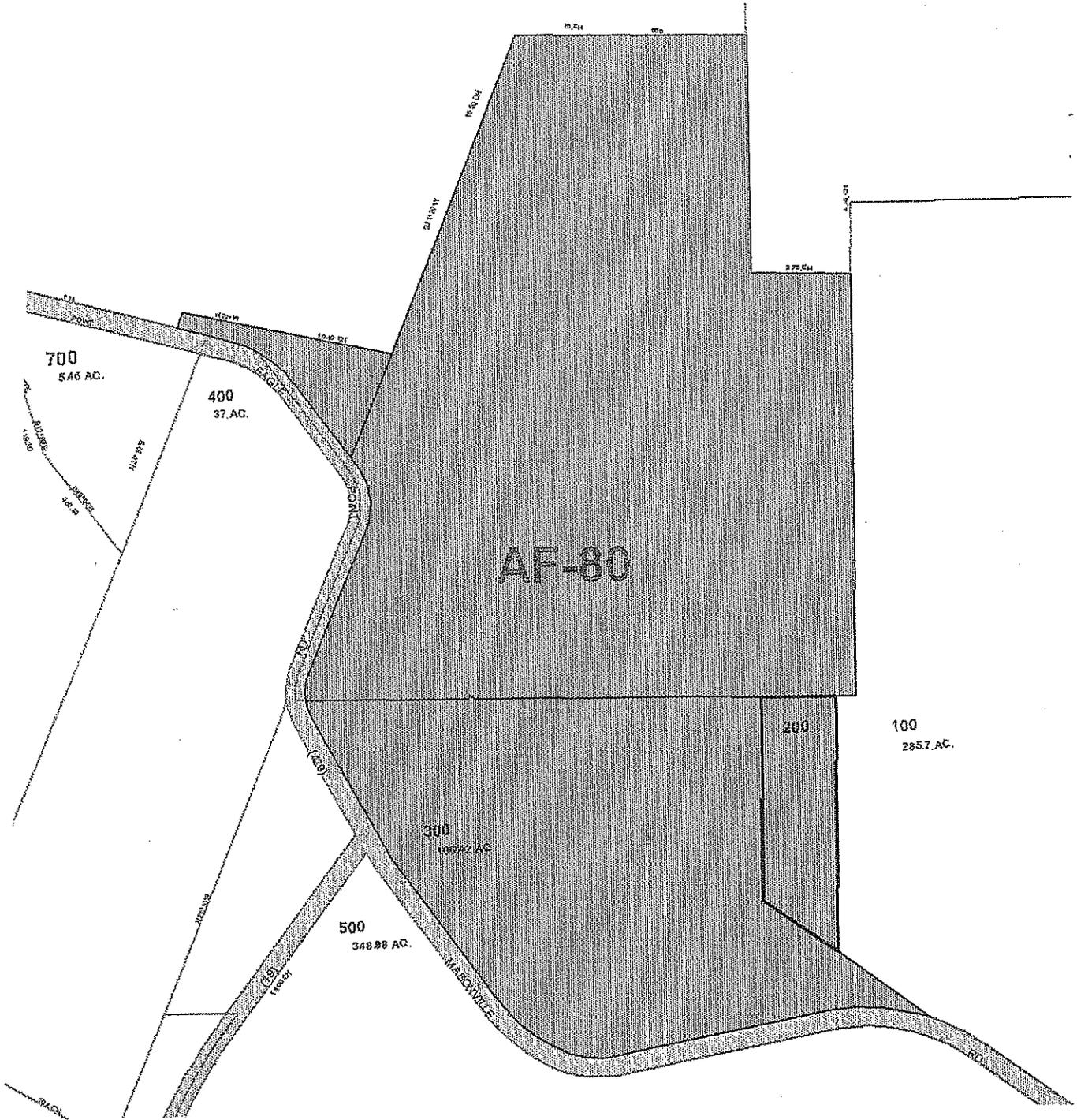


CHANGE APPLIES TO TAX LOT 5504-100 DESCRIBED AND HIGHLIGHTED ABOVE

APPROXIMATE SCALE - 1 INCH = 1450 FEET

*Ordinance 854  
Exhibit "B" 1 of 2*

EXHIBIT MAP FOR ORDINANCE NO. 854  
ZONE CHANGE  
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS  
March 31, 2010  
FOR A ZONE CHANGE FROM  
*EF-80 EXCLUSIVE FARM USE*  
TO  
*AF-80 AGRICULTURE/FORESTRY*



CHANGE APPLIES TO TAX LOTS 5504-200 & 300 DESCRIBED AND HIGHLIGHTED ABOVE

APPROXIMATE SCALE - 1 INCH = 500 FEET

*Ordinance 854  
Exhibit "B" 2 of 2*