

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 Comprehensive Plan Amendment from Agriculture/Forestry Small Holding to Industrial; a Zone Change from AF-10, Agriculture/Forestry to LI, Light Industrial for Tax Lot 3335-203, Applicant Mike Daniel, and Declaring an Emergency) Ordinance 857

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on August 4, 2010, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Mike Daniel applied for a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Industrial; a zone change from AF-10, Agriculture/Forestry to LI, Light Industrial. for Tax Lot 3335-203, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on July 1, 2010 and heard from the applicant (there being no opponents), then voted unanimously to approve the application, and the Board of Commissioners heard this matter at a duly noticed public hearing July 21, 2010, and voted 2-0 to approve the application (Commissioner Stern being excused), 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 4th day of August, 2010, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

REBEKAH STERN DOLL

County Clerk

Chair Kathy George KATHY GEORGE

By:

Deputy

Mike Daniel, Deputy

Mary P. Stern COMMISSIONER MARY P. STERN

APPROVED AS TO FORM:

Mike Daniel

Rick Sanai
Senior Assistant County Counsel

Not Available for Signature
Commissioner LESLIE LEWIS

DOCKET NO.: PAZ-03-10

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Industrial; a zone change from AF-10, Agriculture/Forestry to LI, Light Industrial.

APPLICANT: Mike Daniel

TAX LOT: 3335-203

LOCATION: 20801 NE Neiderberger Road, Dundee

CRITERIA: Sections 501, 702 and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule. The Unincorporated Communities Rule in OAR 660-022-0030 and Statewide Planning Goals 11 and 14.

FINDINGS:

A. Background Facts

1. *Lot size:* Approximately 1.75 acres.
2. *Access:* An easement off of Neiderberger Road.
3. *On-site Land Use and Request:* The parcel contains a hazelnut orchard, a manufactured home and a pole building. The property is located less than ½ mile west of the Dundee city limits and Highway 99W. The applicant is requesting the zone change in order to expand the existing fiberglass manufacturing business that is currently located to the south on Tax Lot 3335-204.
4. *Surrounding Zoning and Land Use:* The parcels to the north and east are zoned AF-10 and consist of rural residences and small farm uses. Land to the south is zoned LI and is owned by the applicant and contains the existing manufacturing business that the applicant wishes to expand. South, across Neiderberger Road, is zoned AF-10 and is primarily rural residences with some small hazelnut orchards. Property to the west is zoned LI and HI, Heavy Industrial and is a rock crushing and stockpiling operation.
5. *Water:* The application indicates the parcel is served by city water.
6. *Sewage Disposal:* The parcel currently has a septic system.
7. *Previous Actions:* The subject parcel was created pursuant to partition Docket P-06-94.
8. *Soils:* The Yamhill County Soil Survey shows the entire parcel is composed of Woodburn (WuB), Class II, prime farmland. (Note: While the property does contain soils that are rated as "high-value" agricultural soils, in 1980 the property had an exception to the farm and forest preservation goals.)

9. *Exception:* The property was found to be a committed exception in Code Area 1.8, adopted by Exception's Statement II, April 23, 1980 and was plan designated AFSH Agriculture/Forestry Small Holding.
10. *Fish and Wildlife:* The property is not identified as being on any county adopted fish and wildlife habitat plan.
11. *Overlay Districts:* None.

B. Zone Change and Plan Amendment Provisions and Analysis

1. The Board finds the Plan Amendment portion of the request complies with the Yamhill County Comprehensive Plan, the Oregon Revised Statutes and the Oregon Administrative Rules.
2. The Board finds the zone change portion of the request complies 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.*
3. Regarding criterion (A) above, since an exception to Statewide Planning Goals 3 and 4 has already been taken for the subject parcel, Comprehensive Plan goals and policies related to agricultural and forest lands are not applicable. Other Plan goals and policies which may be pertinent are:

Yamhill County Revised Goals and Policies - Policy I.B.1.c. All proposed rural area development and facilities:

- 1) *Shall be appropriately, if not uniquely, suited to the area or site proposed for development;*
- 2) *Shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or sub-surface sewage disposal, if relevant;*
- 3) *Shall be furnished with adequate access and an adequate individual or community water supply, if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that federal or state aid is available in the form of subsidized water supply or sewerage extensions from nearby urban centers.*

Regarding 1) above, the proposal is to expand the existing business that is currently located on the adjacent parcel and there are other industrial uses on the neighboring properties.

Regarding 2) above, the site is not located in any identified natural hazard area.

Regarding 3) above, the access will be required to meet the fire department and the road department standards. The applicant indicates the parcel is currently served by city water.

Yamhill County Revised Goals and Policies - Policy I.B.1.d. No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas and telephone services, nor shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing or refuse collection.

City water and sewerage are not required by the proposed facility, although the applicant indicates that city water is available.

Yamhill County Revised Goals and Policies - 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.

The parcel is less than ½ mile from the city limits of Dundee and the surrounding area is already characterized by other industrial uses. Notice of this request was sent to the city of Dundee and no response was received. The city staff has the opportunity to voice objection if rezoning this area will conflict with their goal and the County's goal of keeping industrial areas within the UGB.

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 assure that industrial users which 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, sewer and water services. This industrial use does not require the extension of utility lines in order to serve the use.

Yamhill County Revised Goals and Policies - Policy I.H.1.c. Industrial uses which are incompatible with surrounding residential or commercial development and cannot bear the cost of abating their incompatible characteristics, whether related to performance or appearance, will be encouraged to locate or relocate only within urban centers, where contact with residential development is, or will be at a minimum, and where all required services are immediately available.

This type of industrial use is low impact. It does not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district.

Policy I.H.1.h. Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation and full urban services are extended into the area, if appropriate, and the extension or designation of land use and services is consistent with all other goals and policies of the comprehensive plan.

Most of the industrial land to the west has been established for many years, and was expanded in the late 1990's. An extension of the industrial zone is warranted because of the development trends in the area. The request does not require the extension of urban services.

4. Regarding the need for the proposed use, criterion (B), the Board finds the applicant demonstrated the need for the uses allowed by the requested zone. The application states the proposed zone change will permit an existing local manufacturing business to have the potential for possible future expansion and will contribute to job creation. As for the availability and suitability of other LI zoned lands, this will be discussed in Finding B.6.
5. A portion of criterion (C) requires the proposed change to be shown to be appropriate considering the surrounding land uses and the density and pattern of development in the area. The proposed change is appropriate considering the existing heavy and light industrial uses on the adjacent parcels. The rock crushing business has been operating since 1956 and the parcel the applicants existing business is located on has been zoned industrial since 1993. The surrounding area has otherwise been developed primarily with rural residences and farm uses on four to ten acre lots without any apparent conflicts. The proposed manufacturing facility expansion will have a lesser impact to surrounding farm and residential uses than the crushing and stockpiling operation, and will not affect the pattern of development in the area. No additional services or utilities would be needed.
6. Criterion (D) requires the applicant to show that, "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." The Board finds that there are several parcels on Highway 99W within two miles of the subject parcel that are zoned LI (Tax

Lots 3335-4400-4406, approximately 3/4 miles south of Dundee and Tax Lots 3219CB-500, 801 and 802, between Newberg and Dundee). However, these other sites would require the applicant to move the existing business that is currently established to the south of the subject parcel. Because this is an expansion of an existing business, the Board finds it impracticable to require the applicant move the entire business to a different location.

7. Exception requirements, criterion (E), are addressed in section C of these findings.

C. Goal Exception Provisions and Analysis

DLCD staff has written a letter stating that to avoid having to take an exception to Goal 14, the building area needs to be less than 35,000 square feet of floor area. The application indicates that two structures totaling approximately 19,200 square feet are planned. Therefore, a limited use overlay to prohibit the construction of any buildings exceeding 35,000 id hreby placed on the overlay zone. Similarly, the purpose of the Limited Use Overlay District is to limit permitted use(s) and activities in a specific location to only those uses and activities which are justified and approved through a Comprehensive Plan Amendment or a zone change. Limiting the uses to fiberglass manufacturing is appropriate because this is the use that has been requested in the LI zone.

E. 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. This shall be accomplished by either:*
 - (a) *Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;*
 - (b) *Amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or,*
 - (c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - (2) *A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) *Changes the functional classification of an existing or planned transportation facility;*
 - (b) *Changes standards implementing a functional classification system;*
 - (c) *Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) *Would reduce the level of service of the facility below the minimum acceptable*

level identified in the TSP.

2. Regarding (1) and (2), the request is to allow a plan/amendment zone change so the above administrative rules apply. The additional trips generated by the proposed use will be similar to the trips generated from the existing uses in the area. Steve Rodewald with the County Public Works Department noted that any alterations to the access will require a permit from their office. It doesn't appear that there would be a significant impact to the transportation facilities in the area if the use of the property is restricted to the facility as proposed. Therefore the Board finds that - with application of an appropriate limited use overlay zone - the request complies with the Transportation Planning Rule.

CONCLUSIONS:

1. The request is for a Plan amendment from AFSH, Agriculture/Forestry Small Holding to I, Industrial and a zone change from AF-10, Agriculture/Forestry to LI Light Industrial.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies. With conditions, the proposed use would be compatible with surrounding uses.
3. With the application of a limited use overlay zone, no Goal 14 exception is needed. If the applicant requests to expand the use, then a Goal 14 exception would be appropriate at that time.
4. The applicant has demonstrated that the use complies with the Transportation Planning Rule in that it will not have a significant affect on transportation facilities in the area.

DECISION:

Based on the above findings, analysis, and conclusions, the request by Mike Daniel for a Comprehensive Plan map amendment from Agriculture Forestry Small Holding to Industrial and a zone change from AF-10, Agriculture/Forestry to LI, Light Industrial on Tax Lot 3335-203 with a limited use overlay is hereby APPROVED with the following two conditions of approval:

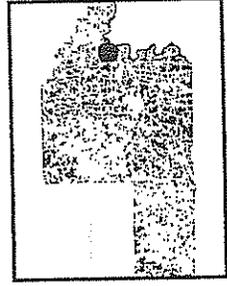
1. The maximum allowable building floor space for industrial uses shall not exceed 35,000 square feet.
2. An application for site design review shall be submitted and approved by the County prior to any new development, site work or storage of equipment on the parcel.

ORDINANCE 857 (DANIEL) EXHIBIT B

Current zoning

taxlot polygons
 Tax lot Number R3335 00203
 Account Number 001499248
 Owner MICHAEL G & POLLY A DANIEL
 Situs Address 20801 NE NIEDERBERGER RD
 Square Feet 0
 Legal Acres 1.75
 FCA 5493
 Tax lot Number R3335 00203
 FCA Code

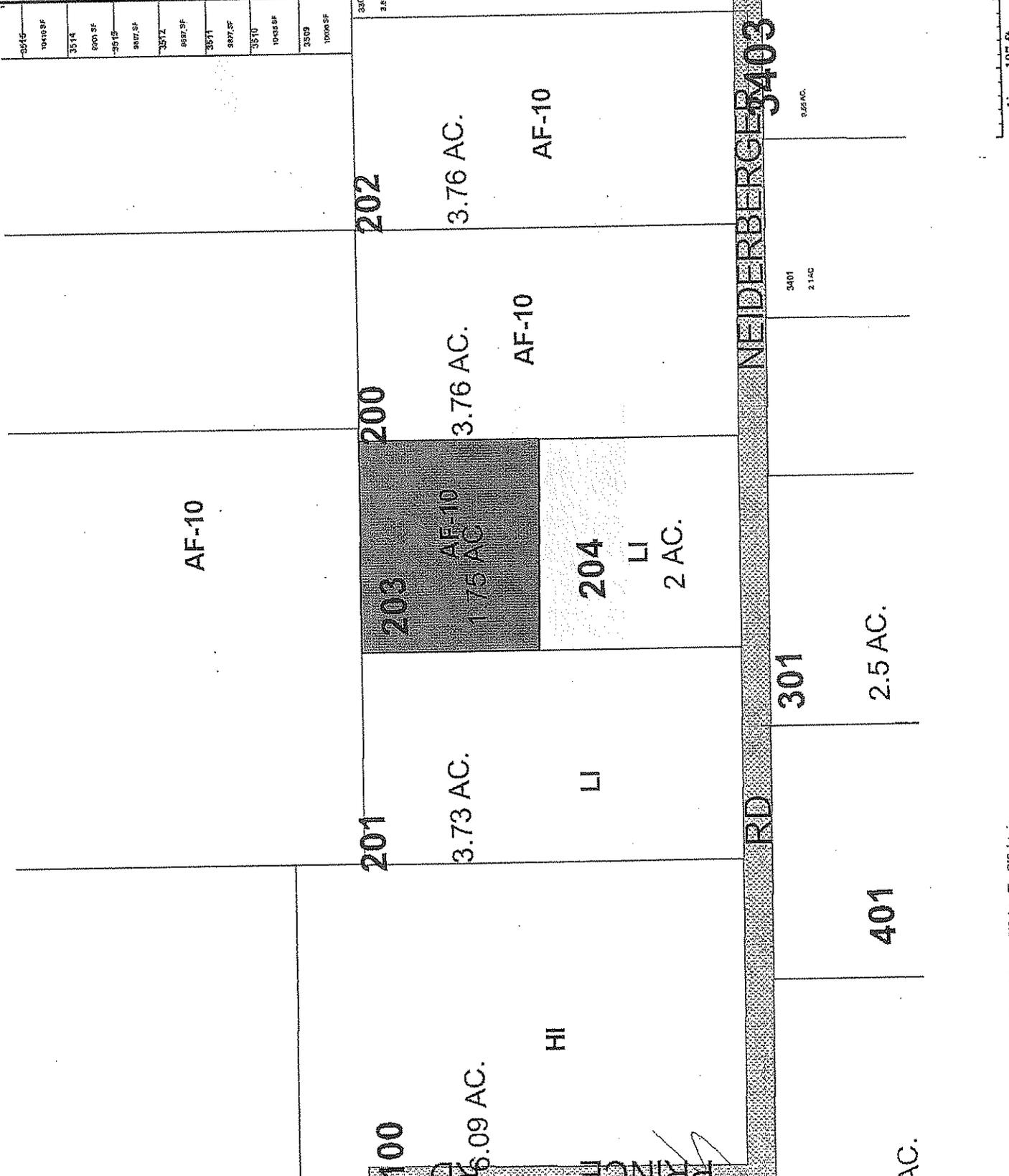
Property Status Class



5/14/2010



3515
10410SF
3514
600 SF
3515
997 SF
3512
697 SF
3511
987 SF
3510
1048 SF
3509
1006 SF



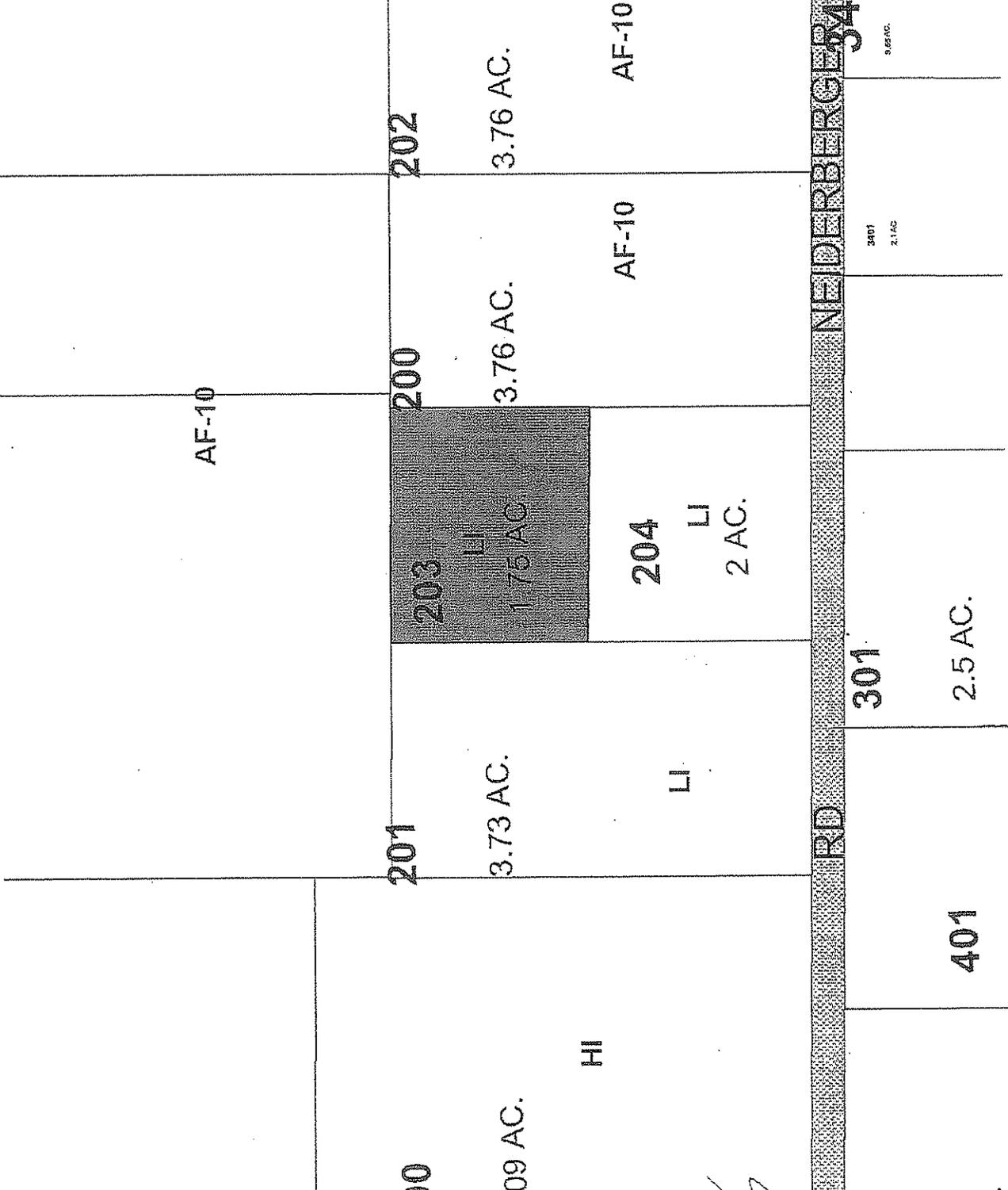
This map was produced using the Yamhill County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

After zone change

taxlot polygons
 Tax lot Number R3335 00203
 Account Number 001499348
 Owner MICHAEL G & FOLLY A DANIEL
 Situs Address 20801 NE NIEDERBERGER RD
 Square Feet 0
 Legal Acres 1.75
 FCA 5493
 Tax lot Number R3335 00203
 FCA Code

Property Status Class

3516
10410 SF
3514
4901 SF
3515
2907 SF
3512
6997 SF
3511
6997 SF
3510
10918 SF
3509
10998 SF



5/14/2010

1 in. = 197 ft.

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