

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-40 Agriculture Forestry Use, Docket Docket Z-04-07,) Ordinance 818
Tax Lot 5435-601, Applicant Denny Elmer, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board")
sat for the transaction of county business on October 17, 2007, Commissioners Kathy George, Mary
P. Stern and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Denny Elmer requested approval of a zone change
from EF-40 Exclusive Farm Use to AF-40 Agriculture Forestry Use, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed public
hearing September 6, 2007 before the Planning Commission, which unanimously approved the
application, and no appeal was filed. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as
detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated
herein. 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 upon passage.

DONE this 17th day of October, 2007, at McMinnville, Oregon.

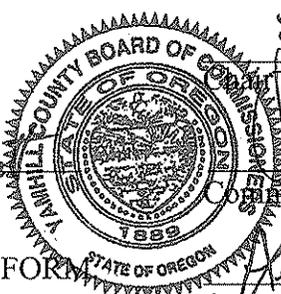
ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk

By: Anne Britt
Deputy Anne Britt

APPROVED AS TO FORM

Rick Sanai
Rick Sanai, Assistant County Counsel



Kathy George
KATHY GEORGE

Mary P. Stern
Commissioner MARY P. STERN

Leslie Lewis
Commissioner LESLIE LEWIS

Exhibit A Findings
Docket Z-04-07 (Denny Elmer)
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DOCKET NO.: Z-04-07

REQUEST: Zone change from EF-40 Exclusive Farm Use to AF-40 Agriculture Forestry Use.

APPLICANT: Denny Elmer

TAX LOT: 5435-601

LOCATION: Approximately 1,300 feet southeast of the intersection of Mayette Drive and Walnut Drive, Amity

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

FINDINGS:

A. Background Facts

1. Lot Size: 5 acres
2. Access: Mayette Drive.
3. On-Site Land Use: Currently, undeveloped with most of the parcel forested.
4. Surrounding Zoning and Land Use: Property to the north, east and west is zoned EF-40 with the majority of these properties in farm use including hay and orchards. The property to the south is zoned AF-40 and these properties are primarily forested.
5. Water: Proposed on-site well.
6. Sewage Disposal: An on-site septic system would be required.
7. Soils: The Yamhill County Soil Survey indicates the entire parcel is composed of Nekia (NcD), Yamhill (YaE) and Jory (JRE) soils, which are rated as Class III and IV, high-value soils.
8. Fire Protection: Amity Rural Fire District.
9. Taxes: Market value.

B. Ordinance Provisions and Analysis

1. This approval of the requested zone change is based on the request complying 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 Agriculture/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.* [Amended by Ord. 618 12/30/96]

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 conservation of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

The majority of the subject parcel is in forest use. The proposed zone, AF-40, would more accurately reflect the existing use on the subject parcel. The applicant is not proposing an urban use and the minimum lot size requirement is to remain 40 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.

According to the Yamhill County Soil Survey, the parcel is composed of Class III and IV soils which are capable of producing 120 to 130 cubic feet of wood fiber per acre per year. The requested zone change will preserve the County's soil resources for their suitability for forest and farm use.

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 proposed zone change would conserve the county's forest resources that currently exist on the property.

3. Regarding criterion (B), as mentioned above, the subject parcel is currently in forest use; the zone change from an exclusive farm zone to an agriculture/forestry zone would more accurately reflect the current use of the property.
4. Regarding criterion (C), the subject parcel is contiguous with several hundred acres of property zoned AF-40, therefore, the request is consistent with criterion (C).
5. Regarding criteria (D), (E) and (F), these criteria are not applicable since the request does not include reducing the minimum lot size on the property. The applicant wishes to keep the minimum lot size at 40 acres.

CONCLUSION:

1. The request is for a zone change from EF-40 Exclusive Farm Use to AF-40 Agriculture Forestry Use. Total area proposed to be rezoned is 5 acres.
2. The zone change is appropriate to reflect the mixed uses on the property.
3. The request complies with the criteria listed in Section 1208.03 of the Yamhill County Zoning Ordinance.
4. The proposed designation is appropriate for the existing and intended use of the property.
5. The proposed change will continue to allow the opportunity for growing and harvesting trees.

DECISION:

Based on the above findings and conclusions, the request by Denny Elmer, for a zone change from EF-40 Exclusive Farm Use to AF-40 Agriculture Forestry Use on Tax Lot 5435-601, is hereby approved.