

IN 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 Approving a Zoning Change)
from EF-80 Exclusive Farm Use to AF-20 Agriculture)
Forestry Use on an 80 Acre Parcel, Tax Lot 2425-1000,) Ordinance 773
Docket Z-01-05, Applicant Gordon Dromgoole, and)
Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business at 9:00 a.m. on August 17, 2005, in Room 32 of the courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. The applicant requested approval of a zone change from EF-80 Exclusive Farm Use to AF-20 Agriculture Forestry Use for an 80 acre parcel, tax lot 2425-1000. The application was heard at a duly noticed public hearing of the Yamhill County Planning Commission on June 2, 2005, which voted 7 to 1 to approve the application. The approval of this application was not appealed to the Board of Commissioners.

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. This is a preliminary approval; LCDC has to grant final approval for zone changes that reduce the minimum lot size in a farm or forest zone.

DONE this 17th day of August, 2005, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY
BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk

By: [Signature]
Deputy ANNE BRITT



[Signature]
Chair MARY P. STERN

[Signature]
Commissioner LESLIE LEWIS

[Signature]
Commissioner KATHY GEORGE

APPROVED AS TO FORM:

[Signature]
RICK SANAI
Assistant County Counsel

DOCKET NO: Z-01-05

REQUEST: Zone change from EF-80 Exclusive Farm Use to AF-20 Agriculture Forestry Use.

APPLICANT: Gordon C. Dromgoole

TAX LOTS: 2425-1000

LOCATION: The northern half of the northwest 1/4 of Section 25 in Township 2 South, Range 4 West

CRITERIA: Sections 402, 403 and 1208.04 and 1208.03(F) of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

A. Background Facts

1. Lot Size: The parcel is 80 acres.
2. Access: A private easement to Cove Orchard Road.
3. On-Site Land Use: A year 2000 air photo shows that the land is predominantly in forestry use. The property has a ridge-line that runs approximately from the middle of the northern property line to within close proximity of the southwest corner of the parcel. The more mature trees appear to be on the eastern half of the property.
4. Surrounding Zoning: Property to the north, south and east is zoned EF-80 Exclusive Farm use. Property to the west is zoned AF-20 Agriculture/Forestry. Property to the southwest is zoned AF-80.
5. Surrounding Land Use: The land to the north, east and west is predominantly forested. Only land to the south appears to exhibit a mixture of farm and forestry uses.
6. Water: The parcel presently has no water supply. An on-site system is the only option.
7. Sewage Disposal: An on-site subsurface system would be required for any residential use.
8. Soils: The Yamhill County Soil Survey indicates the predominant soil types on the subject parcels are Willakenzie silty clay loam (WkD, WeE and WeF), Peavine silty clay loam (PcC) and shale (SH). These soils are rated as agriculture class III, IV, and VI. The Willakenzie agricultural class III and IV soils make up approximately 51 acres of the parcel and are classified as high value farmland. The Willakenzie soil types can produce 145 cubic feet per acre per year of commercial tree species. Peavine soils produce 160 cubic feet per acre per year of commercial tree species.

9. Fire Protection: Yamhill Rural Fire District.
10. Taxes: The entire parcel is receiving forest deferral.
11. Other Factors: Until late 1993 the entire property was zoned AF-20. On November 4, 1993, HB 3661 took effect and changed the minimum lot size in western Oregon to 80 acres. Therefore, on that date even if a property was zoned AF-20 the county was required to enforce an 80 acre minimum lot size.

For several years prior to HB 3661's passage, Yamhill County had been working on justifying its farm and forest zone designations to the Department of Land Conservation and Development. Much of the effort was an attempt to maintain the AF-20 and EF-40 designations in the county. After the passage of HB 3661, Yamhill County, at the direction of the Department of Land Conservation and Development, adopted new zoning for the county on December 29, 1993. The new zoning for these parcels was designated as EF-80 Exclusive Farm Use. This EF-80 zoning was assigned despite the fact that the property was in forest deferral and had not historically been used as farmland. The new zoning for the county was appealed by 1000 Friends of Oregon. Their main argument was that the mixed use Agriculture/Forestry zone should have had an 80 acre minimum lot size. The court case dealing with this issue was settled, and on February 14, 1997 the county completed periodic review. At that time the county enforced the new zoning. The applicant proposes to change to AF-20 zoning designation. The reason for requesting the 20 acre minimum lot size rather than a 40 or 80-acre minimum is that the applicant desires to divide the property into lot sizes of 35 and 45 acres. One of the lots would remain in forestry use and the other would be sold and planted as vineyard.

B. Ordinance Provisions and Analysis

1. This request complies with the review criteria found in Section 1208.04 of the Yamhill County Zoning Ordinance, as follows:

Review Criteria for Amendments from Exclusive Farm Use to 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 Agricultural/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 the location of the tract as specified in criterion (A) above, the average elevation of the lots in question ranges from approximately 500' to 840' above sea level. The topography is uneven and includes some ridge tops (see "Hillshade Map" as attached Exhibit "C"). The request satisfies this criterion.
3. Regarding criterion (B) above, the 1992 aerial photograph of the area shows that more than 50% of each parcel within the subject tract is forested (see attached copy of 1992 air photo, attached as Exhibit "D"). The parcels also contain some cleared areas. The purpose section of the Agriculture/Forestry District states in part:

The purpose of the Agriculture/Forestry District is to identify and protect lands designated as Agriculture/Forestry Large Holding on the Comprehensive Plan, that are a mixture of agricultural and forest management operations, and other uses which are compatible with such operations.

Due to the mixed nature of the use of the properties, and the fact that the applicants are intending to use the property for a mixture of farm and forestry uses, it appears that the requested change would be appropriate. The request meets this criterion.

4. Regarding criterion (C), the Official 1980 County Zoning Map, which was valid until December 29, 1993, shows the subject tract to have more than 50% of land zoned AF-20 Agriculture/Forestry use (see 1980-1993 zoning map attached as Exhibit "E"). As mentioned in Finding (A.11), this 80-acre tract was zoned as AF-20 Agriculture/Forestry until December 29, 1993. The request meets this criterion.
5. Regarding criterion (D) the lot contains Class III and IV soils and are, therefore, considered agricultural land pursuant to Goal 3, however, they also contain more than 50% of forested area. The majority of the soils are capable of producing 145 to 160 cubic feet of wood fiber

per acre per year. Therefore, this parcel is not exclusively suitable for Goal 3 use or Goal 4 use.

6. Regarding criterion (E), the request involves approximately 80 acres to be rezoned to AF-20. Adjacent land to the west is zoned AF-20. The applicant estimates that this area contains 173 acres of land zoned AF-20. This acreage would result in an area of over 250 acres zoned AF-20. The amendment would therefore result in an area of more than 160 acres with the requested Agriculture/Forestry designation.
7. Criterion (F) requires that when the minimum lot size is reduced the applicant is required to demonstrate that it satisfies the requirements of Section 1208.03(F). The request would reduce the minimum lot size on the property from 80 to 20 acres. Section 1208.03(F) states:

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.*

This approval will be forwarded to the Land Conservation and Development Commission (LCDC) for final approval.

LCDC and their staff, DLCD, required the above language to be adopted to make sure that Yamhill County did not, over time, reduce the minimum lot size in those areas that were mandated to be 80 acres. ORS 215.780 contains the provisions for minimum lot or parcel sizes. It states in part that:

215.780 Minimum lot or parcel sizes; land division to establish a dwelling; recordation. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

(a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

(b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

(c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

ORS 215.243 relates to the preservation of agricultural lands. ORS 215.243 states:

215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

ORS 527.630 relates to the preservation of forest land. ORS 527.630 states, in part:

527.630 Policy; rules. (1) *Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.*

The applicant has demonstrated that the proposed parcel size of 20 acres satisfies the above statutes and the applicable statewide planning goals. One of the main intents of these statutes is to assure that the resulting lot size is appropriate for the continuation of the commercial farm and forest operations in the area. The applicant presented arguments to support a 20-acre minimum lot size.

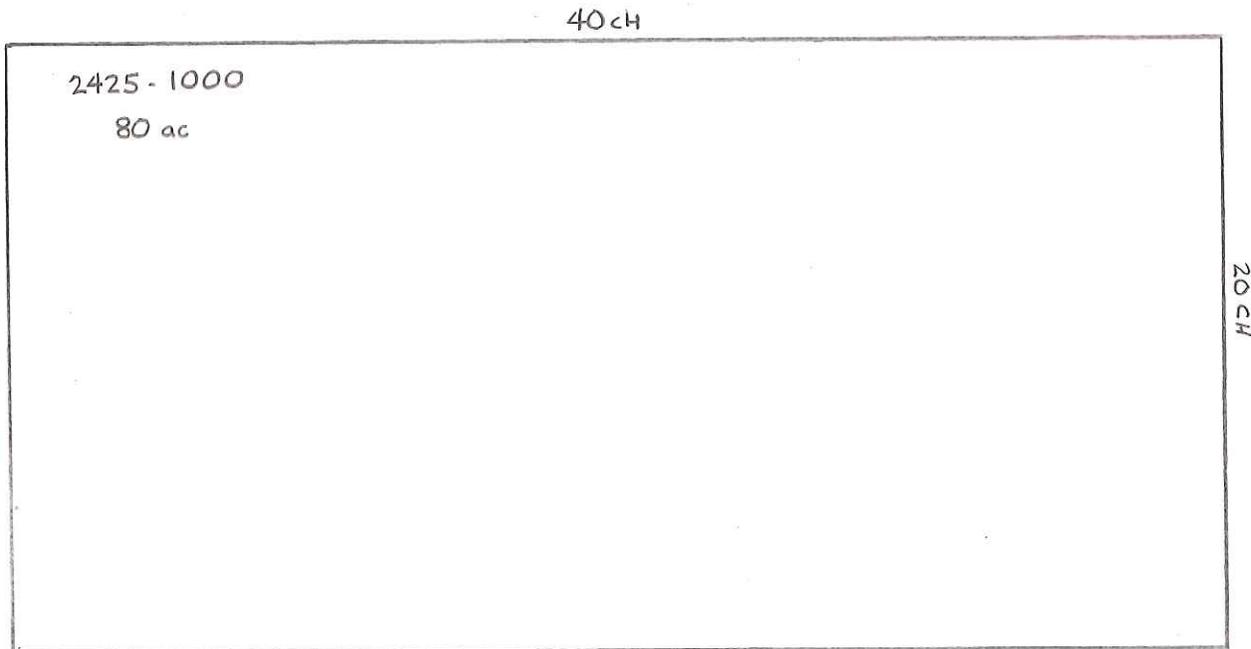
All of the materials and testimony submitted by the applicant are incorporated into these Findings by this reference.

CONCLUSIONS:

1. The request is for a zone change from EF-80 Exclusive Farm Use to AF-20 Agriculture Forestry Use. Total area proposed to be rezoned is 80 acres.
2. The zone change to Agriculture/Forestry is appropriate to reflect the mixed uses on the property.
3. The request complies with the criteria listed in Section 1208.4 of the Yamhill County Zoning Ordinance.
4. The proposed AF-20 zoning designation is appropriate for the intended use of the property.
5. The proposed change will continue to allow the opportunity for growing and harvesting trees while allowing a portion of property to be divided for farm use.

- End -

EXHIBIT "B" MAP FOR ORDINANCE NO. 773
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
AUGUST 17, 2005
TO CHANGE OFFICIAL ZONING MAP FROM
EF-80 EXCLUSIVE FARM USE
TO
AF-20 AGRICULTURE/FORESTRY USE



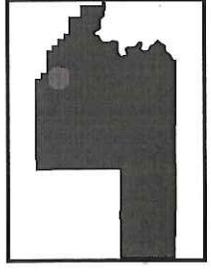
CHANGE APPLIES TO TAX LOT 2425-1000 DESCRIBED ABOVE

APPROXIMATE SCALE - 1 INCH = 400 FEET

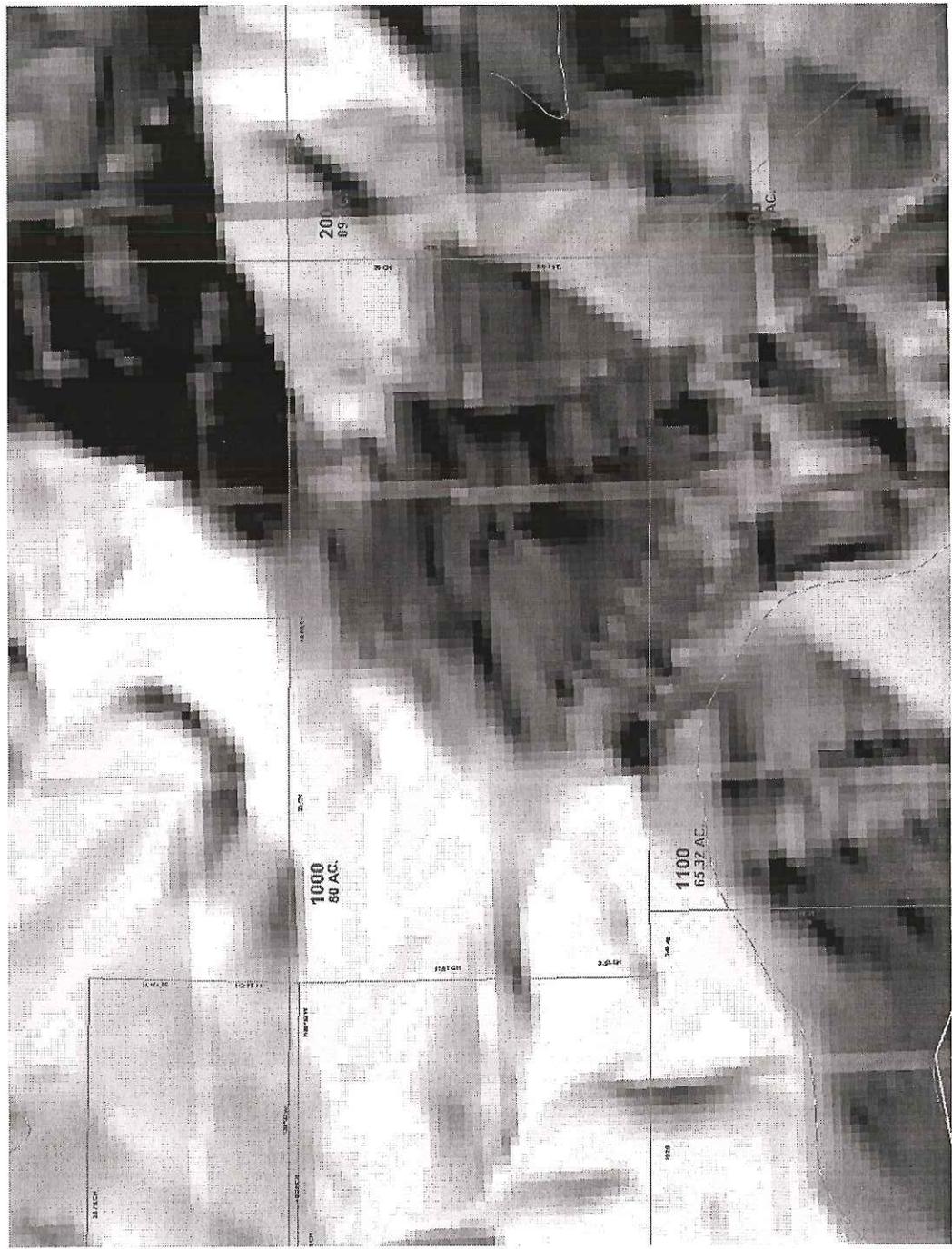
BD-05-694
Exhibit "B"
Ordinance 773

Exhibit C

- Clities
- County Parks
- County Roads
- County Roads
- State Highways
- BLM Roads
- Private Roads
- Public Roads
- Highways
- Taxlots
- right of ways
- taxlot lines
- taxlot polygons
- Townships



8/17/2005



1 in. = 600 ft.

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.

B.O. 05-694

Exhibit "C"
Ord 773

FILE NO. 44-089

EXHIBIT "D"
September 1992 Aerial Photo
1 Inch = 400 Feet

60-05
Exhibit "D" ORD 773

1" = 400'

SEE MAP 2 4 24

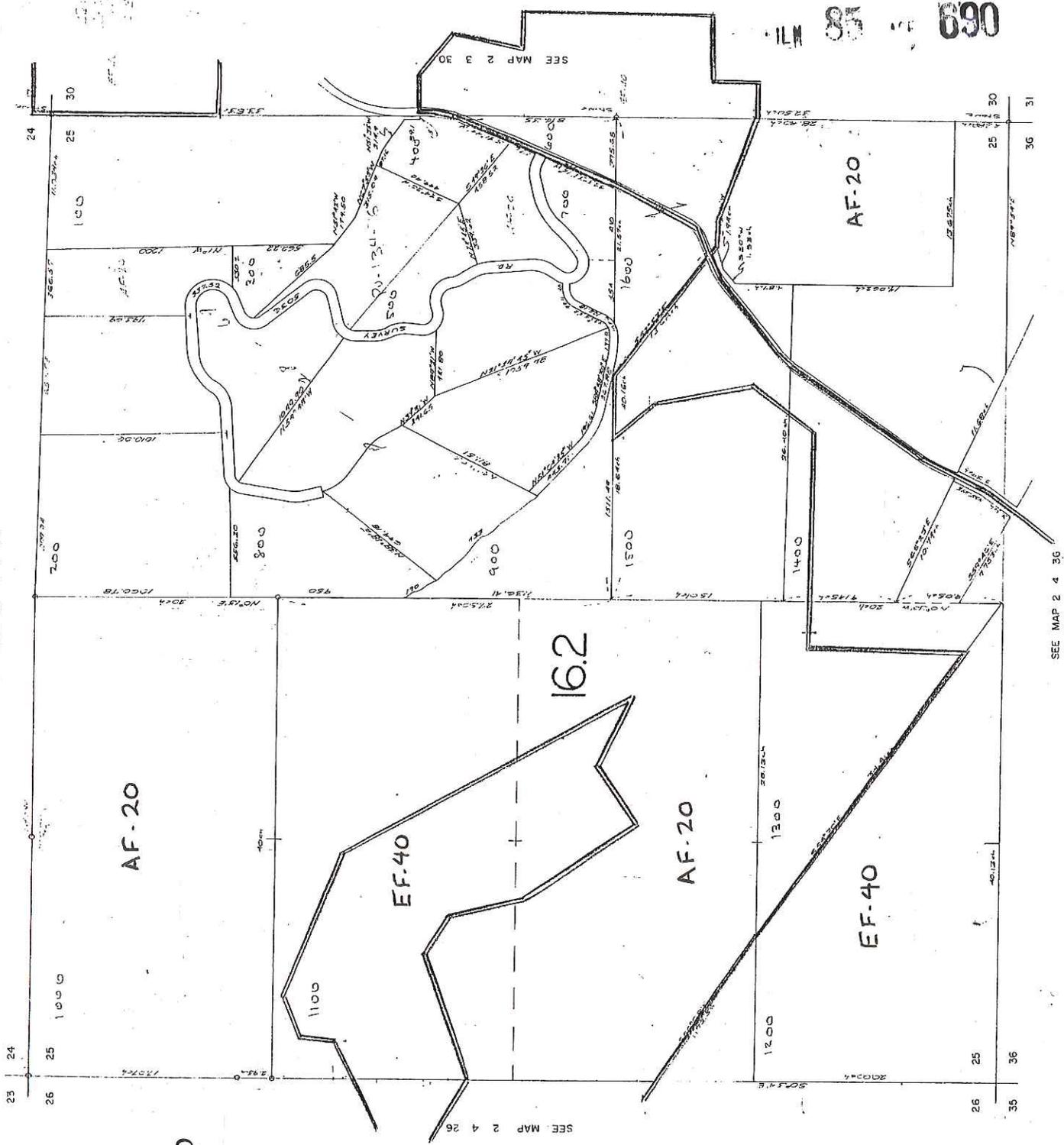


EXHIBIT "E"
1980-1993 Zoning Map

Bo.05-694
 Exhibit "E"
 Ordinance 773