

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 a Comprehensive Plan Amendment from )  
Agriculture/Forestry Large Holding to Heavy Industrial, a Zone )  
from EF-80 Exclusive Farm Use to HI Heavy Industrial, and ) ORDINANCE 760  
Taking an Exception to Statewide Planning Goal 3, for Tax Lot )  
5417-200, Applicant Wilco Farmers, Docket PAZ-03-04, and )  
Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 23, 2005, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

IT APPEARING TO THE BOARD that Wilco Farmers applied to the Department of Planning (Planning Docket PAZ-03-04) for a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Heavy Industrial; a zone change from EF-80 Exclusive Farm Use to HI Heavy Industrial and an exception to Statewide Planning Goal 3, and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Commission at a duly noticed public hearing on January 6, 2005, which voted to recommend approval of the application; and the Board held a duly noticed public hearing February 9, 2005, at which the applicant appeared and testified, there being no opponents, and the Board tentatively voted to approve the application, NOW, THEREFORE,

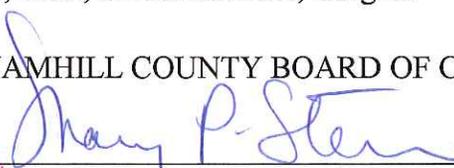
IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been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

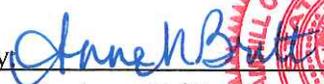
DONE this 23<sup>rd</sup> day of February, 2005, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

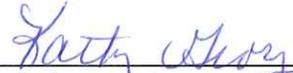
Jan Coleman  
County Clerk

  
Chair MARY P. STERN

By   
Deputy Anne Britt

  
Commissioner LESLIE LEWIS

APPROVED AS TO FORM:

  
Commissioner KATHY GEORGE

  
Rick Sanai, Assistant County Counsel

## FINDINGS AND CONCLUSIONS for Ordinance 760, Exhibit "A"

The following findings of fact and conclusions of law are hereby adopted, and are based on substantial evidence in the record in this case:

1. The Findings and Conclusions set forth in the Staff Report for the January 6, 2004 Public Hearing is hereby adopted in full, just as if it were set forth verbatim herein. A copy of said Staff Report is attached hereto and by this reference incorporated herein.
2. *DLCD v. Yamhill County*, 183 Or. App. 556, 53 P3d 462 (2002), *rev dismissed*, 336 Or 126 (2003) stands for the basic proposition that the Exceptions process of OAR 660-004 may be used to allow a use only when that use is not permitted at all under the applicable goal. *Supra* at page 562. Therefore if a specific use is allowed either outright or conditionally, that use could not be used to justify an exception to the applicable goal. The Court found that the statutory and rule scheme for Exceptions was not designed to allow plan amendments in order to permit uses that were specifically allowed in the underlying zone either by definition as outright permitted or by allowance of a conditional use permit.

In context, this case involved an application to site a non-farm dwelling. The underlying zone was EF-80, in which the applicant could have applied through the non-farm dwelling process, but elected instead to use the Exceptions process. *Supra* at page 558. The Court held that both ORS 215.700 and 215.284 make specific provisions for building non-farm dwellings on EFU lands, and therefore no Exception is necessary in order to site the use. Even more directly, the Court cites to OAR 660-004-0010(1)(a) in which it is specifically stated that an Exception to Goal 3 is not necessary to locate any farm or non-farm use listed in ORS 215. *Supra* at page 560.

The result in this case was relatively straight forward as the requested non-farm dwelling was specifically allowed by statute in the zone. ORS 215.284 and 215.700. The case then addressed the second issue, and that is the circumstance where a property owner may not be able to meet the siting criteria. The Court determined that it did not matter that a property owner might not be able to comply with the criteria, so long as the type of use is allowed in the zone. *Supra* at page 562.

3. The holding of *DLCD v. Yamhill County*, *supra*, does not apply to nor control this application. Unlike in that case where it was clear the requested non-farm dwelling was allowed under Goal 3 and the EF-80 zone, here a seed cleaning plant is not listed as either an outright or conditionally permitted use under either Goal 3 or the EF-80 zone.

In fact, the Yamhill County Zone Ordinance (YCZO) specifically classifies seed cleaning plants as industrial uses. YCZO 703.02(A) specifically identifies "seed cleaning plants" as outright permitted uses in the Heavy Industrial (HI) zone. Nowhere else in the YCZO is a seed cleaning plant listed, therefore the specific reference to a seed cleaning plant would by necessity take precedence over any other general type interpretation.

Further, a seed cleaning plant is not listed anywhere in ORS 215 as a use which is specifically allowed either outright or conditionally on Goal 3 lands. This factor singularly makes this case different from the *DLCD v. Yamhill County* case. Unlike where a non-farm dwelling was specifically allowed by law, here there is no such authorization, and in fact the proposed use is specifically listed in the HI zone.

4. Although there is no definition for "seed cleaning plant" listed in the YCZO, there is no question but the proposed use fits that definition. It is in every sense of the phrase a "seed cleaning plant" and as such is specifically allowed on Industrial lands. This basic concept that the act of cleaning, bagging, storing and selling grass seed is an industrial type use. Processing the grass seed, cleaning it, bagging it and storing it for resale to the wholesale market place certainly is not the production of a crop. The farmer members of the applicant certainly produce the crop when they plant it, fertilize it, nurture it and harvest it and transport it for processing. However, once the crop is produced, the industrial activity takes over, and that is best suited in an industrial zone. Since the grass seed has to be transported from the farmer's field, it makes good planning sense that it be transported to an industrial area so that farm ground can continue to be used for production.
  
5. Because the subject property is basically full built out with industrial buildings, offices and parking and internal load-out areas, as well as a railroad spur, this site qualifies for a built and committed exception to the resource goals. As such it is hereby determined that any use allowed in the HI zone could, upon evaluation and with proper conditions, be allowed. This Board has determined that this case is appropriate for application of YCZO 904.03, our Limited Use Overlay zone. A condition of approval shall be applied to allow a seed cleaning plant and associated uses by the applicant as outright permitted uses in the HI zone. However, because the exception is based on the complete build out and committed nature of the subject property all other uses listed as outright permitted in the HI zone shall become conditional uses, and shall only be allowed and permitted upon an applicant making application for, and receiving approval of a conditional use permit for that use. The provisions of YCZO 904.03 as applied herein take precedence over YCZO 703.03 to allow consideration of the permitted uses as conditional uses for the subject property. The conditional use process will allow the County to properly evaluate any new proposed uses in the existing structures, and to condition those proposed new uses appropriately in line with the provisions of the HI zone.

**STAFF REPORT CONDITION OF APPROVAL #4 IS HEREBY MODIFIED TO READ AS FOLLOWS:**

4. It is appropriate to place a Limited Use Overlay on the property to limit the outright permitted uses to a seed cleaning plant and related facilities. All other outright permitted uses listed in YCZO 703.02 shall hereafter be considered to be permitted conditional uses, subject to complying with all procedures for obtaining a conditional use permit. Nothing in YCZO 703.03 shall be considered contrary to this condition as to the subject property. All other provisions of YCZO Chapter 703 shall continue to apply.

**End**

**STAFF REPORT  
YAMHILL COUNTY PLANNING DEPARTMENT**

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**HEARING DATE:** January 6, 2004

**DOCKET NO.:** PAZ-03-04

**REQUEST:** Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Heavy Industrial; a zone change from EF-80 Exclusive Farm Use to HI Heavy Industrial and an exception to Statewide Planning Goal 3, related to the preservation of agricultural lands. The heavy industrial zone would be applied to the existing seed cleaning plant.

**APPLICANT:** Wilco Farmers

**TAX LOT:** 5417-200

**LOCATION:** Approximately 2000 feet north of the intersection of Highway 99W and 223, on the west side of Highway 99W.

**CRITERIA:** Sections 703, 904, 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 660-04, Exception Process. OAR 660-12-0060 Transportation Planning Rule.

**COMMENTS:** *County Public Works* - No response to date.  
*County Sanitarian* - 1994 tank replacement permit approved. No permit records of the drainfield. This application indicates no new facilities, but indicates the Amity plant will be at "full capacity" when the Sheridan plant is closed. An increase in the number of employees will require an authorization notice.  
*Amity Rural Fire Dept.* - No response to date  
*SWCD* - We have reviewed the file and find no conflicts with our interests.  
*DLCD* - No response to date.  
*ODOT* - No response to date.  
*Water Master* - Thank you for the materials on PAZ-03-04 Wilco Farmers proposed zoning change from EFU to Heavy Industrial. The way I understand the application materials is that the proposed use is a continuation of the existing use. A quick review of the area with our interactive mapping program showed only one water right adjacent for nursery use. We assume that the seed cleaning operation uses less than 5000 gallons of water per day. Therefore it qualifies as an exempt use of ground water under ORS 537.545.

- EXHIBITS:**
1. Application
  2. Public notice
  3. Letters and written testimony

**FINDINGS:**

**A. Background Facts:**

1. *Property size:* Approximately 5 acres. The parcel was created in 1971.
2. *Access:* The property border Southern Pacific Rail Road and State Highway 99W.
3. *On-site Land Use:* The Amity plant is located at 16550 S. Highway 99W near Amity. The tract is slightly an askew rectangle approximately five acres in size. It is identified as Tax Lot 5417-200 on Assessor's map. The property is entirely developed with grain elevators, storage and seed cleaning facilities. There are six large buildings on the property including an office. The majority of the property not under buildings is graveled for parking and truck movements and/or has the dust cleaning facilities located on it. The property has a railroad spur and a crossing to gain access to Highway 99.
4. *Surrounding Zoning and Land Use:* The surrounding area is predominantly agricultural with zoning designation of EF-80 Exclusive Farm use. The only exception to this is an adjacent parcel that contains an industrial pallet making plant which makes wooden pallets, containers for shipment, and other associated wood products. That parcel is owned by Mid-Valley Workshop, Inc., which is a source of employment for Yamhill County's handicapped people. This parcel is zoned PAI Public Assembly Institutional use. There is an area to the north and east of the subject parcel that is an open field that is basically idle due to its location in the Salt Creek 100-year flood plain. To the east of the site are S.P. railroad tracks and Highway 99, across from which are more agricultural properties. Further to the east are several agricultural residences on the Amity-Dayton Highway. To the south are smaller farm home sites containing pastures, small woodlots and miscellaneous agricultural crops.
5. *Water:* Water is provided from an existing well.
6. *Sewage Disposal:* Existing on-site septic system. See Sanitarian's comments.
7. *Fire Protection:* Amity Rural Fire District
8. *Soils:* The Yamhill County Soil Survey shows that approximately 70% of the parcel is Woodburn soils (WuB). The remainder of the property is composed of Willamette soils (W1A), with an agricultural capability of Class II and I respectively. Class I and II soils are

classified as high-value farmland. However, as indicated in Finding A.3, most of the parcel has been developed with buildings and graveled parking areas.

9. *Taxes:* The parcel is taxed as industrial property.
10. *Previous Actions:* The parcel was created in 1971 by a partition Docket P-67-71. In 1983, the plant requested an expansion which was approved as a nonconforming use by Docket NCU-06-83. In 1991, West Valley Farmers obtained a conditional use permit for commercial activity in conjunction with farm use for expansion of the seed cleaning operation by Docket C-22-91. In 1992, the applicant received conditional use/variance for extension of the allowed commercial activity in conjunction with farm use by Docket CV-02-92. In 1993, the applicant received approval for a site design review to make a minor adjustment to the previous application Docket CV-02-92, by Docket SDR-11-93.
11. *Description of Proposal:* This is an application for a change in the Yamhill County Comprehensive Plan designation from Agriculture to Industrial, and to change the corresponding zone from EF-80 to HI Heavy Industrial on the Amity Plant of Wilco Farmers Cooperative, which is located at 16550 S. Highway 99W, near Amity, Oregon. This application is further based on *physically developed and committed exception* to the Statewide Goals and Guidelines.

The applicant states that this application is necessitated in order to accommodate the refinancing and restructuring of the Amity plant. While the economic health of the applicant in general is good and not at issue, there is a direct need to deal with the financing of the Amity plant. In the last several years the seed business has experienced a considerable downturn in revenue, exacerbated by the bankruptcy of ART and the general poor condition of the local agricultural community. Among other business reorganization tactics, the applicant has recently closed its Sheridan plant and is in the process of consolidating those operations to Amity. A part of this plan is to restructure debt on the Amity Plant to take advantage of the low current interest rates, which essentially requires a basic refinancing package. In having the applicant's real estate portfolio appraised for refinancing purposes, it was discovered that no commercial lender is willing to refinance the Amity plant until and unless the non-conforming use status is finally removed and zoning is legalized.

Lenders will not loan money, where there is a possibility that upon a casualty (flood, fire, earthquake, etc.) the structure or structures which provide the basis in value for the loan in the first place would not be allowed to be rebuilt. This is not an uncommon situation, especially among commercial lenders who deal with specialty properties such as is the case here. The need for outside lender financing is new to this applicant who has previously used member owners capital accounts (which are no longer available) for its business resources, and is only now going into the commercial market for its new financing package.

Faced with lender mandates, the applicant has elected to move forward with this application. It must be remembered that this application is not to allow any new construction, expansion, or change in any way. The Amity plant is basically built out and, with the consolidation of the Sheridan operations, will be at full capacity.

Because the lender requires that the existing use be outright permitted in the zone before it will accept the Amity real property as collateral, the applicant has scoured the entire Yamhill County Zone Code, and the only place that specifically lists "grain elevators" and "seed cleaning plants" as outright permitted uses is the Heavy Industrial (HI) zone. The lender has agreed to complete the loan package upon receiving evidence of land use changes necessary to designate the Amity plant as HI.

This application must be judged with this motivation in mind, and the fact that the change from agriculture to industrial will have no practical effect on the land, the neighborhood or the land use planning program in Yamhill County. It will, however, have the dramatic effect on the viability and future of the Amity plant.

**B. Zone Change and Plan Amendment Provisions and Analysis**

1. The Plan Amendment portion of the request is not subject to local review criteria, but is subject to ORS and OAR criteria.
2. The zone change portion of the request must comply 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.*

2. Regarding criterion (A) above, an exception to Statewide Planning Goal 3 is needed so, Comprehensive Plan goals and policies related to agricultural lands are applicable. Plan goals and policies, which staff feels, may be pertinent are:

*Oregon Statewide Planning Goals and Guideline - Goal 9 - Economics, which states "To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens . . . Comprehensive plans and policies will contribute to a stable and healthy economy in all regions of the State."*

This application, if approved, will allow for an existing economic activity to financially thrive by obtaining the needed capital for its operation.

The Yamhill County Comprehensive Plan, Section II, Goal 2, Policy a. states:

*Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.*

In the Soil Survey of Yamhill Area, Oregon, the map shows that the soils present on the tract are agricultural Class I and II farmland. However, as noted above, the parcel has been built on and is for the most part covered with gravel. Denial of the request would not further the preservation of farm soils as the property is already developed.

The Yamhill County Comprehensive Plan policy related to industrial development, Section I, Goal 1, Policy g. states:

*Agricultural, forestry and mineral resource-oriented industry will be accommodated in areas close to the resources utilized, provided that such industrial uses are compatible with any nearby urban development, city water supply and sewerage are not required, and waste discharges constitute no threat to the environment.*

The request satisfies this policy as the facility is located close to the resources it processes.

*Yamhill County Revised Goals and Policies, G.IV.A.1. To develop a timely, orderly and efficient arrangement of public services and facilities to serve as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services.*  
(166)

The proposed plan and a zone change will have no adverse effect upon public services as existing facilities are on the site and are adequate. The plant has been in existence for a long time without having an adverse effect on the surrounding uses.

The Comprehensive Plan goals and policies, and the statewide planning goals, were established for the protection of resources uses and to encourage the appropriate location of commercial and industrial uses. The application is to place an existing use in an appropriate zone. The underlying purpose is so that the applicant can receive financing in order to exist at this location. Approval of the use would further the Comprehensive Plan goals and policies and the statewide planning goals by appropriately zoning the property and allowing the applicant to obtain the financial resources for the use to continue at this location.

3. Regarding criteria 1208.02 (B) and (D), as a long term agricultural cooperative, the applicant serves the needs of area farmers, and as such facilitates the production of grass seed and grain in Yamhill County. Having a successful cooperative provides a trickle down effect to the economy and well being of the county in the circulation of dollars among other businesses such as farm related supply stores, clothing stores, gas and diesel dealers, grocery stores and the like. The bankruptcy of ART reaffirms the value of local cooperatives to the local farm communities. Local control is essential to avoid the dramatic losses some local farmers incurred when they consigned and sold their crops and seed to ART. There are few cooperatives in the mid-Willamette Valley, and the economy and the ART situation has hurt them all. The closing of the Sheridan plan is just one example. In order to survive, cooperatives have to be efficient and innovative in their financing and business practices. This application assists this applicant to survive the current business climate.

Since the current facility is already in existence and fully functional for the use, there is no need to look elsewhere. That is to say, this application is not converting land from one use to another, where it is important to look county-wide for the best place to make the conversion. The best place for this use is right where it is. This land is historically committed to this use, and because of that history of compatible existence, it is the best place in the county for this use to remain.

There is a public need for agricultural cooperatives to exist and survive. This application assists in that endeavor. There is a public need for grain elevators and seed cleaning and storage facilities in order to keep the grain and seed industry alive in the county and state. There is a

Staff Report

Docket PAZ-03-04 (Wilco Farmers)

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public need to facilitate these agricultural uses with support systems necessary to make them successful. As such the resource goals (Goals 3 and 4) are met. There are no identified natural resources, historic site or required open spaces on the site or in the area, and since there is no physical change proposed for the site, none can happen in the future either. Goals 5, 6 and 7 are therefore complied with and have no impact on the determination of public need for this site to have its land use planning designation's match what is actually happening on the site itself. Similarly there is no impact on recreation needs (Goal 8).

The Planning Department did a survey of lots within a 3- mile radius, covering approximately 27 sq. miles, from the subject property. Our office determined that there are no other existing "HI" zoned properties within the surveyed area.

The application involves over five (5) acres of land. As noted above, there are no properties zoned HI Heavy Industrial in the local area. Based on this evidence, there are no other available "HI" zoned properties that would be suitable for a seed cleaning operation in a HI zone. However, certain farm processing operations are allowed as a conditional use in the EF-80 Exclusive Farm Use zone. The applicant's attorney maintains that this facility is different from those that can be approved in the Exclusive Farm use zone. He maintains that the only zone that lists the use of "seed cleaning plants" by name is the HI Heavy Industrial zone. Therefore, other zones should not be considered to be "available" for the use.

4. Regarding criterion 1208.02(C), the applicant indicated that the proposed use would not affect the neighboring properties in the area. The applicant has pointed out that this operation has been in business for long time without any apparent detrimental effects. The public services, necessary for the seed cleaning operation, are already available and are in use. The proposed zone change should have no adverse effect upon public services.
5. Exception requirements, criterion 1208.02 (E), are addressed in section C of this report.

**C. Goal Exception Provisions and Analysis**

1. Oregon Administrative Rule (OAR) 660-04 contains the requirements for taking goal exceptions. This area is zoned EF-80 Exclusive Farm Use. As such it is subject to protection under Goal 3. An exception to Goal 3 must be taken for the five (5) acre site. Since the property is built up and committed to the existing uses a "Physically Developed" exception is required.
2. OAR 660-04-025 contains two factors that must be addressed when taking an exception to a goal. They are:

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*
  - (2) *Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*
3. Regarding factor (1), OAR 660-04-025, Yamhill County is authorized to adopt an Exception where the land at issue is "physically developed to the extent that it is no longer available for uses allowed by the applicable goal." Goal 2, Part 11(a). The entire subject property is physically developed with buildings, parking lots, internal circulation roads, rail spur, well, septic system and driveway access to Highway 99. See aerial photography (Exhibit "B"); ground photographs (Exhibit "I") and the site plan (Exhibit "F"). Well in excess of 90% of the entire land mass of the subject property is currently physically developed with a seed cleaning plant and related facilities.
  4. Regarding factor (2), OAR 660-04-025, the developed nature of the site includes buildings that are all permanent structures affixed to the real estate. The driveways and rail spur are constructed of significant base rock, followed by 3/4 minus top rock for the driveways and parking areas, and in the case of the rail spur with heavy rock and railroad ties and of course the iron, rails themselves. The costs to remove all these permanent features dwarfs the value of the property itself. It is impractical and not economically feasible to remove these physical improvements to the subject property in order to return it to resource use. Based on the physical developments on the site, the entire property is no longer available for uses allowed by Goal 3 or in the EF zones.

It is not intended that this exception apply to all uses allowed outright and conditionally in the HI zone, but specifically to the existing seed cleaning and storage facility that is currently constructed on the site. In addition, this Exception is intended to apply to all resource goals, but not to Goal 14 as the existing facilities on the subject property are ideally suited on rural lands, and urbanization is not an issue here.

The facts of this case, including the photographs, site plan and information contained herein, demonstrate compliance with the Exception requirements for a physically developed Exception under the mandates of OAR 660-004-0025.

**D. DLCD V. YAMHILL COUNTY**

On July 28, 2004, our office wrote a letter the applicant's representative stating that the application was incomplete. The specific concern was the decision of the case *DLCD v. Yamhill County*, 183 Or. App. 556, 53 P3d 462(2002), *rev dismissed*, 336 Or 126 (2003). The Court of Appeals found, in part, that the Exceptions process of OAR 660-004 may be used to allow a use only when that use is not permitted at all under the applicable goal. Since certain commercial activities in conjunction with farm use are allowed as a conditional use within the zone the question was whether an exception was needed. The applicant's attorney has submitted arguments to explain why he believes this Court of Appeals decision does not apply.

**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 proposal is for existing seed cleaning plant so the traffic impacts already exist. There are no known transportation issues with the existing use. A referral has been sent to the Public Works Department and ODOT to assure that the proposed facilities would not exceed the capacity of the road. No concerns have been submitted from these agencies.

**F. Limited Use Overlay Provisions**

1. Section 904.03 of the YCZO states that the Limited Use Overlay District may be applied by the Board of Commissioners or Planning Commission to Plan Amendments and/or zone changes. Section 904.03 of the YCZO contains provisions for limited use overlays. It states:
  - (A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.*
  - (B) *The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*
  - (C) *Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*
  - (D) *Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*
2. Since the HI zone allows other uses which have not been evaluated to determine whether they are appropriate to the area, it is appropriate to apply a Limited Use Overlay to limit uses on the rezoned area to a seed cleaning plant and related facilities.

**CONCLUSIONS FOR APPROVAL:**

1. The request is for approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Industrial; a zone change from EF-80 Exclusive Farm Use to HI Heavy Industrial in order to accommodate the refinancing and restructuring of the Amity seed cleaning plant. The request requires an exception to Goal 3. The Comprehensive Plan goals and

policies, and the statewide planning goals, were established for the protection of resources uses and to encourage the appropriate location of commercial and industrial uses. The application is to place an existing use in an appropriate zone. The underlying purpose is so that the applicant can receive financing in order to exist at this location. Approval of the use would further the Comprehensive Plan goals and policies and the statewide planning goals by appropriately zoning the property and allowing the applicant to obtain the financial resources for the use to continue at this location.

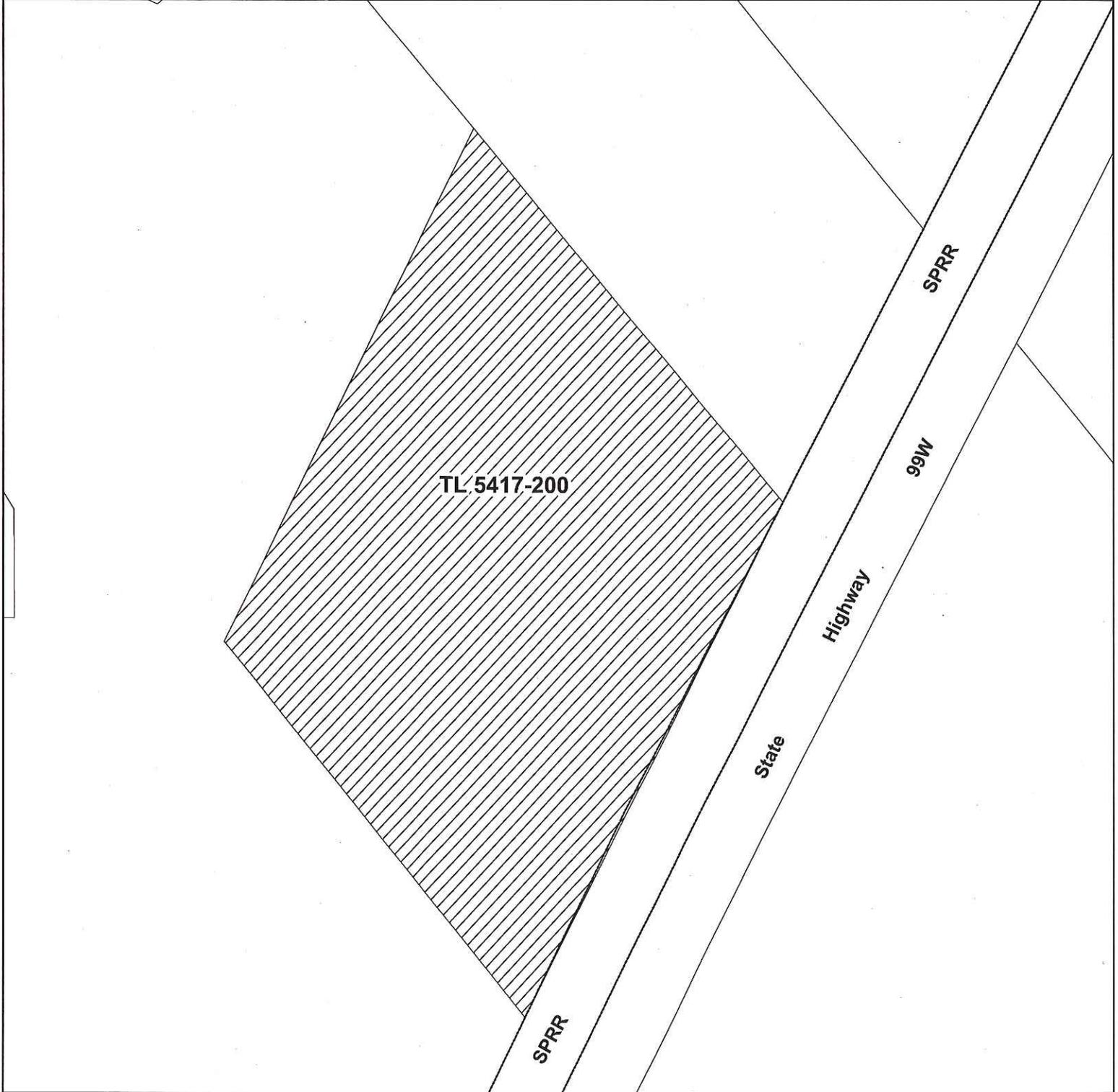
2. The request complies with the "physically developed" exception rule requirements of OAR 660-04-025, and the Transportation Planning Rule in OAR 660-12-060.
3. The proposed zone change is consistent with Comprehensive Plan goals and policies, and the request satisfies Section 1208.02 of the *Yamhill County Zoning Ordinance*.
4. It is appropriate to place a Limited Use Overlay zone on the property to limit the use to a seed cleaning plant and related facilities.

**RECOMMENDATION:**

The staff recommends that the *Yamhill County Planning Commission* forward this application to the *Yamhill County Board of Commissioners* with an approval of the Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Industrial; a zone change from EF-80 Exclusive Farm Use to HI Heavy Industrial; and an exception to Goal 3 in order to allow Wilco Farmers apply for a commercial loan. The staff also recommends that the approval be subject to a limited use overlay zone to limit the use to a seed cleaning plant and related facilities.

COMPREHENSIVE PLAN AMENDMENT FROM  
AGRICULTURE/FORESTRY LARGE HOLDING TO INDUSTRIAL

ZONE CHANGE FROM "EF-80" EXCLUSIVE FARM USE  
TO "HI" HEAVY INDUSTRIAL USE



Legend

-  cnty taxlots
-  Area Subject to Amendment



ORDINANCE No.: 760

B.O. 05-111

EXHIBIT "B"

DOCKET PAZ-03-04