

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

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SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of a Comprehensive Plan Amendment)
 from Agriculture Forestry Small Holding to Industrial,)
 and a Zone Change from AF-10 to RI Resource)
 Industrial and Site Design Review for a Winery,) Ordinance 719
 Tax Lot 2412C-1700, applicants Dean H. and Ann W.)
 Fisher, Planning Docket PAZ-01-02/SDR-01-02)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on September 5, 2002, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Leslie Lewis being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

Dean H. and Ann W. Fisher d.b.a. ADEA Winery applied for a Comprehensive Plan amendment from Agriculture Forestry Small Holding to Industrial, a zone change from AF-10 to RI Resource Industrial, and a site design review for a winery for tax lot 2412C-1700, Planning Docket PAZ-01-02/SDR-01-02. The Board held a duly noticed public hearing on August 22, 2002. The applicant appeared, and no opponents appeared. The Board duly deliberated and voted unanimously to approve the application for the reasons set forth in Exhibit "A", the findings, attached and hereby incorporated by reference. NOW, THEREFORE:

IT IS HEREBY ORDAINED BY THE BOARD that the request by Dean H. and Ann W. Fisher d.b.a. ADEA Winery applied for a Comprehensive Plan amendment from Agriculture Forestry Small Holding to Industrial, a zone change from AF-10 to RI Resource Industrial, and a site design review for a winery for tax lot 2412C-1700, Planning Docket PAZ-01-02/SDR-01-02 is approved with conditions as given in the Findings for Approval, attached to this ordinance as Exhibit "A" and hereby incorporated by this reference. A map is attached as Exhibit "B."

DONE at McMinnville, Oregon this 5th day of September, 2002.

ATTEST

CHARLES STEIN
County Clerk

By: *[Signature]*
Deputy KELLY E. PETERS

YAMHILL COUNTY BOARD OF COMMISSIONERS

[Signature: Robert Johnstone]
Chairman ROBERT JOHNSTONE

[Signature: Thomas E.E. Bunn]
Commissioner THOMAS E.E. BUNN

FORM APPROVED BY:

[Signature: Rick Sanai]
RICK SANAI
Assistant County Counsel

[Signature: Leslie Lewis]
Commissioner LESLIE LEWIS
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B.O. #02-631

Exhibit "A" Findings for Approval for Ordinance 719

HEARING DATE: August 22, 2002

DOCKET NO.: PAZ-01-02, SDR-01-02

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture Forestry Small Holding to Industrial; a zone change from AF-10 to RI Resource Industrial in order to allow a winery. The request also includes site design review for the winery.

APPLICANT: Dean H. and Ann W. Fisher, dba ADEA Winery

TAX LOT: 2412C-1700

LOCATION: 26421 Highway 47, Gaston, Oregon

CRITERIA: Sections 701, 1101 and 1208 of the Yamhill County Zoning Ordinance.

FINDINGS:

A. Background Facts:

1. Property size: 5.8 acres
2. Access: Private road off of Hwy. 47.
3. On-site Land Use: The property is a southeast -facing hillside containing four industrial buildings. There is developed direct access onto Highway 47. The applicants own the adjacent 7-acre parcel, Tax Lot 2412C-2800; that contains a residence and adjacent vineyards.
4. Surrounding Land Use: The surrounding area has existing agricultural uses such as corn, onions, hay, oats, dairy and rural residential dwellings. Almost all surrounding parcels contain a dwelling. There will be no new buildings erected, and since the present buildings have been on site a number of years, there will be very little visual change. The applicants state that they currently own property adjacent to the area of proposed change. The adjacent property is Tax Lot 2412C-2800 and includes the applicants residence and approximately 1 acre planted in Pinot noir grapes. The rest of the surrounding area to the north, west and southwest is zoned AF-10 Agriculture/Forestry Small Holding and was excepted from the agricultural and forestry goals as a Code Area 2.2 of the 1980 Exception Statement No. 2. The parcels are for the most part in rural residential use. Some of the parcels contain small scale agricultural uses. The neighbor located directly to the south (Tax lot 2412-2800) has been contacted. (See PA – 10.0 - a letter in support of the application from Katherine V. Railton).

5. Water: The parcel is supplied by L.A Water Co-op. The applicants indicate that they do not irrigate the established grapes. A permit for the winery use must be obtained from the Oregon Water Resources Department.
6. Sewage Disposal: There is an on-site septic system serving the dwellings and the on going industrial uses on the site. Disposal of wastewater from the winery operation is handled by DEQ. The applicants will have to contact the department.
7. Fire Protection: City of Gaston Fire Department is two miles to the north and Yamhill Rural Fire District is to the south.
8. Soils: (See Exhibit PA-17.0) Sheet 4 of Yamhill County Soil Survey shows that the tract is composed of two soils types; WeC Wilakenzie silty clay loam, on the majority of the site which incorporates the flatter areas now in vineyards, residences, and industrial buildings. The wooded sloped area is classified as WeD silty clay loam 12 to 20 percent slopes. Erosion hazard is severe.
9. Taxes: Tax account No: 451987 MFD Structure & Real Property Tax 8761
10. Previous Actions: A 16-year-old existing conditional use permit for the aerial equipment business on the property
11. Description of Proposal: The applicants state that they have been conducting a truck equipment business for the last 16 years under a conditional use permit on the subject property. The truck equipment business has been idled by a combination of the economic downturn and significant business with now bankrupt Enron through its Portland General Electric subsidiary.

The winery facility, where ADEA is currently producing, will no longer have space available. The location of the proposed zone change currently does not allow a winery. ADEA needs to move its winery operation from a leased space in Carlton because of space limitations. Increased production of the lessor's own wine has necessitated relocation of applicant's production. With other appropriate sites unavailable and no allowance for a winery in an AF-10 zone, they are requesting a zoning change for our own property located on Highway 47.

The intent of the application is to amend the Comprehensive Plan designation from Agriculture Forestry Small Holding to Industrial and change the zoning designation from AF-10 to RI Resource Industrial which will support the facility as an allowed use. It will allow for the applicant to continue to earn a living from a business located on the property. The applicants state that the proposed use would require minimal expense and would work perfectly for their

small production winery (approximately 2,500 cases annually). The proposed parcel has a paved driveway, plenty of parking, good water, three-phase power and a 5,300 square foot building.

The applicants state that they currently purchase fruit from a number of vineyards in the area. Moving the winery to their property on Highway 47 will provide fewer complications for transporting fruit during harvest. While many wineries admittedly transport grapes frequently, for a small family winery working with small vineyard owners in the area, the logistics during the short weather window open during harvest can be quite difficult. Less transportation reduces VMTs ("vehicle miles traveled") of the commercial and industrial trucks, which reduces traffic impacts on the road during the peak season and is consistent with the Transportation Planning Rule goal of reducing VMTs. This trip reduction also makes it less expensive, but more importantly, allows the grapes to arrive at the winery in better condition and in a timelier manner. By converting the use of the property from a truck equipment shop to a winery, there would be little, if any, impact on the neighboring parcels. In fact, the winery traffic impact would be less, further reducing the trip counts along HWY 47.

The latest published Oregon Vineyard Report supports the argument that there is a need for additional winery capacity. In reviewing the 2000-growing season, total wine grape tonnage was up 27% between 1998-2000. The producing acreage in Yamhill County is expected to increase by almost 30% over the next several years as plants mature. The increase in grape production has outpaced the wine producers needed to buy the agricultural product. The applicants state that ADEA winery needs a permanent home to stabilize the production methods and to continue to be an essential element as a purchaser of these grapes and to contribute to the wine production economy of Yamhill County.

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.*

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. (Regardless of whether or not a "reasons" exception is approved, as explained further in section C, the parcel still has an acknowledged "committed" exception to Goals 3 and 4 so is not subject to requirements for protection of farm and forest land.) Other Plan goals and policies which 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."

The applicants state that this application, if approved, will allow for an additional economic activity associated with an introduction of specialty item (higher quality wine) into a market. Additionally, the establishment of a new winery will enhance the economic base of the community.

Oregon Statewide Planning Goals and Guideline - Goal 10 - Housing, which states "To provide for the housing needs of citizens."

This plan and zone change will have no effect upon surrounding residential area. The AF-10 zone would allow the subject parcel one dwelling. The zone change would also allow one home as a dwelling with a permitted use for a caretaker or watchman of the winery.

Yamhill County Revised Goals and Policies - Goal I.B.1. To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily

found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.

Wineries with associated vineyards are customarily found in rural agricultural areas. Although some wineries and wine tasting rooms are located in urban centers, with grapes transported to the winery from vineyards outside the urban area, they are not specifically an urban use and do not compromise the goal of urban containment.

Yamhill County Revised Goals and Policies - Policy I.H.1.g. 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.

This zone change application follows directly in line with County goals: “to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.” A winery located at this site would be ideal for the area. It would allow small vineyards to cooperate with a winery in a very close proximity to their vineyards. It would not generate inordinate service demands. It is well suited to the winery uses and would not preempt farm or forest lands. There is no urban scale of development in the vicinity of the subject parcel at this time, and no city water or sewer is available to, or required by, the winery. DEQ handles permits for waste water discharges from wineries, so presumably will require a system that will not cause a threat to the environment. Permits will be obtained and monitored by DEQ for the handling of the small amount of wastewater discharge.

Yamhill County Revised Goals and Policies - Policy I.H.1.m. The county will encourage industrial development which bases its products on renewable and indigenous raw materials.

Grapes are a renewable raw material. There is a need for additional winery capacity in the industry on the whole. The application states that the latest published Oregon Vineyard Report (which is incorporated into these Findings by this reference) supports the argument that there is a need for additional winery capacity. In reviewing the 2000-growing season, total wine grape tonnage was up 27% between 1998—2000. The producing acreage in Yamhill County is expected to increase by almost 30% over the next several years as plants mature. The increase in grape production has outpaced the wine producers needed to buy the agricultural product. The applicants state that ADEA winery needs a permanent home to stabilize the production

methods and to continue to be an essential element as a purchaser of these grapes and to contribute to the wine production economy of Yamhill County.

Yamhill County Revised Goals and Policies - Policy I.H.1.n. The County will recognize and encourage small-scale industries as viable alternatives to larger, conventional enterprises.

The applicants state that ADEA wine company is small scale industry and yet its contributions to Yamhill County are considerable. The existing production supports over 20 acres of Yamhill County grapes. This equates to 40 tons of grapes which results in the production of 2,500 cases. The case production is small scale but ADEA wines have brought international recognition to Yamhill County. ADEA wines are internationally (Japan and Great Britain) recognized as a fine wine producer (see wine industry comments in the application, which is hereby incorporated into these Findings by this reference).

4. Regarding the need for the proposed use, criterion (B), the wine industry is important to both tourism and economic development in the county. The applicants indicate that the wine industry in Yamhill County is growing so rapidly, it is increasingly difficult to locate existing facilities that are available for their use. Most wine producing facilities are in surrounding counties and too far away to transport the grapes without damage. The higher quality vines, that the applicants are proposing to produce, need grapes that have not been bruised during transportation. The applicants stated further that they have approached other winery owners in hopes of bottling in their facility, but they have found out that the existing facilities are fully utilized. The availability and suitability of other RI zoned lands will be discussed in Finding B.6.
5. Regarding criterion (C), the surrounding land uses are a combination of farm/forestry uses and rural residences. With regard to utility needs, the proposed winery will be very small scale and would not have any significant needs. The existing facility has the utility service required for the future winery use. The production aspect of the winery is compatible with and similar to other farm uses in the vicinity, which may involve noise and dust from harvesting and storing crops. A wine-tasting room as allowed per 701.02.B.3.a,b,c is included in this application. However, none has been proposed at this time.

The primary change that has occurred in the vicinity that would support the proposed amendment is an increased number of acres in the county that has been planted in grapes, and it is increasingly difficult to locate existing facilities that are available for small producers to make specialty and higher quality wines.

The winery, as proposed, would not require any additional utilities and services than already exist in the area or that could be provided by a private well and septic system.

6. Regarding criteria (D), other facilities that are reasonably close do not have the capacity to accommodate the applicants needs. The transportation of grapes long distances from the vineyard would be damaging to their quality. There is little, if any, vacant Resource Industrial land in the county where the applicants could locate their winery. There are twelve RI zoned sites within the county (Please see PA – 15.0), however, all sites already have established wineries. The Light Industrial (LI) district allows wineries as a permitted use. There are a number of parcels that are zoned LI along Highway 99W just west of Newberg, however these sites already contain businesses. Wineries are also allowed in agricultural zones, either permitted outright if there is a minimum of 15 acres of planted vineyard, or as a conditional use for a commercial activity in conjunction with farm use.
7. Exception requirements, criterion (E), are addressed in section C of this report.

C. Goal Exception Provisions and Analysis

Oregon Administrative Rule (OAR) 660-04 contains requirements for taking goal exceptions. This area was approved for a “committed” exception in 1980, based on the number of small contiguous parcels and the existing rural residential development pattern. The area was zoned AF-10 allowing for rural residential development. The Board of Commissioners has previously found that a new exception is not required because a “committed exception” to Goals 3 and 4, adopted prior to 1986, did not limit the future use of the exception area. This is because the “committed exception” was taken before the effective date of the rule (3/20/86). Therefore, no additional goal exception is required.

D. Limited Use Overlay Provisions

OAR 660-04-18(3)(a) states that when a “reasons” exception is taken, plan and zone designations must limit uses to only those that are justified in the exception.

Since there is no requirement for an exception to be taken, the county does not have the legal authority to impose a limited use overlay on an approval of this application.

E. Site Design Review Criteria and Analysis

1. Site design review is required for any development in an RI district. Section 1102.02 of the YCZO governs site design review. Review of a site development plan shall be based upon consideration of the following:

- (1) *Characteristics of adjoining and surrounding uses;*

- (2) *Economic factors relating to the proposed use;*
- (3) *Traffic safety, internal circulation and parking;*
- (4) *Provisions for adequate noise and/or visual buffering from noncompatible uses;*
- (5) *Retention of existing natural features on site;*
- (6) *Problems that may arise due to development within potential hazard areas.*
- (7) *Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.*

2. Regarding criterion (1), the proposed winery will be established in existing buildings. All neighbors are being notified of this action. If anyone wanted to protest, they could have written or appeared at the public hearing. No-one appeared except the applicant. There is a large stand of mature trees on both sides of the creek along the north boundary, which creates an excellent landscape screen and buffer. This and the surrounding areas are rural residential in character and very compatible with a small winery facility.

The applicants have been conducting a truck equipment business on the subject parcel for the last 16 years allowed by a conditional use permit. The applicants state "It is our intent to modify the facility and continue its use to earn a living and maximize our return. It would require minimal expense and would work perfectly for our small production winery (approximately 2,500 cases annually). It has a paved driveway; plenty of parking, good water, three-phase power and is 5,300 square feet in size."

Converting the use of the property from a truck equipment shop to a winery would have a minimal impact on the neighboring parcels. In fact, as a winery, traffic impact would be less.

3. The applicants indicate that a small scale, onsite facility allows the processing of their wine grapes to be the most efficient and economically sound. The proposed winery in an existing facility with an established roadway and infrastructure would minimize applicants' capital outlay while it would maximize their return on their investment.
4. Regarding criterion (3), drawings and documentation submitted by the applicants show a 5,300 square foot building with a paved hard-surfaced area on the west side of the building, which presumably will be available for parking and maneuvering. An approximately 8000 square foot gravel parking area is available to the north of the building. (See Exhibits PA – 6.0 the site plan and PA 7.0 & 8.0 aerial photos. 8.0 has notes labeling the aerial). Section 1007 of the Yamhill

County Zoning Ordinance requires one (1) off-street parking space for every employee. However, if the applicant is proposing a tasting room, (at this time none have been proposed), than the parking requirement is one (1) parking space for every 100 square feet of the floor area in addition to the requirement of one(1) parking space for each employee. It is assumed that only part of the 5,300 square foot of the existing building would be used for a tasting room, if one is proposed. The applicant did not indicate how many employees will be at the site at anyone time nor did he propose a wine tasting room at this time. The applicant stated that there are approximately 20 spaces at this time.

5. Regarding criterion (4), almost all surrounding parcels contain a dwelling, however, the scale of operation will have minimal or no effect on the surrounding area. There will be a reduction of traffic or movement of large equipment onto and from the parcel as a result of the proposed revision of the business use from truck equipment manufacturer to winery production. Since the industrial buildings have been in existence for 16 years, there will not be any visual changes to the site.

Drawings and documentation included with this zone amendment request show existing buildings: 96' x 60' (approximately 5,300 square feet) pole and stick framed building, 28' x 66' manufactured home and 28' x 48' attached stick framed storage area, and 20' x 36' stick framed storage building. The site has existing septic system with water (LA Water Cooperative), and Portland General Electric supplied power; all in good working order. The buildings are monitored by an ADT security system and have an extensive phone system throughout. Asphalt paving fronts all buildings on site. West side of "buildings" area is compacted gravel parking and maneuvering area, with adjacent acre of vineyard. The parking area is approximately 8,000 square feet and adequate for winery guests. East of "buildings" area is another vineyard planted in 1990. North side of the proposed site is wooded and borders county road, Phillips Road. South side is agricultural and other small farm operations with a dwelling.

6. Regarding considerations (5) and (6), the existing stand of trees buffer and maintain soil erosion protection for the creek below that is located along the north edge of the property. The Soil Survey indicates that slopes range up to 20%, and are prone to erosion. Since the buildings have been in existence for 16 years and are already established, there is no potential for any hazards (e.g. soil erosion, drainage problems, construction on steep slopes).
7. Regarding criterion (7) above, the applicants indicated that they have contacted most of their neighbors and have received support from all contacted (see PA-10.0 from the southern neighbor) and objections from none. No opponents appeared at the public hearing.

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 to RI Resource Industrial. The request also includes site design review to allow a winery.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies. There are no other lands in the immediate vicinity that would be available or that would allow a winery. With conditions, the winery would be compatible with surrounding agricultural and residential uses.
3. The applicants have shown and the Board finds that no adverse environmental, economic, social or energy consequences will result from the winery.
4. There is no proposal for a wine tasting facility or onsite marketing at this time. The approved site design review is limited to a winery, with only three on-site marketing events per year.
5. The site plan and building drawings as submitted comply with standards for site design review.

DECISION:

Based on the above findings, analysis and conclusions, the request by Dean H. and Ann W. Fisher, dba ADEA Winery, for a plan amendment, zone change and site design review to allow a winery on Tax Lot 2412C-1700 is **approved**, subject to the following conditions:

1. A change of occupancy permit and all necessary building, septic, electrical and plumbing permits shall be obtained prior to beginning construction.
2. All necessary permits shall be obtained from Oregon Water Resources Department, Laurelwood Water Co-Operative, Oregon Department of Environmental Quality (DEQ) and Oregon Liquor License Commission OLCC).
3. Only three on-site marketing events of one to three days' duration per calendar year shall be allowed. These events shall have maximum 750 anticipated daily visitors and shall be for the tasting and purchase of wine only.

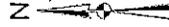
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Yamhill County Scale Map

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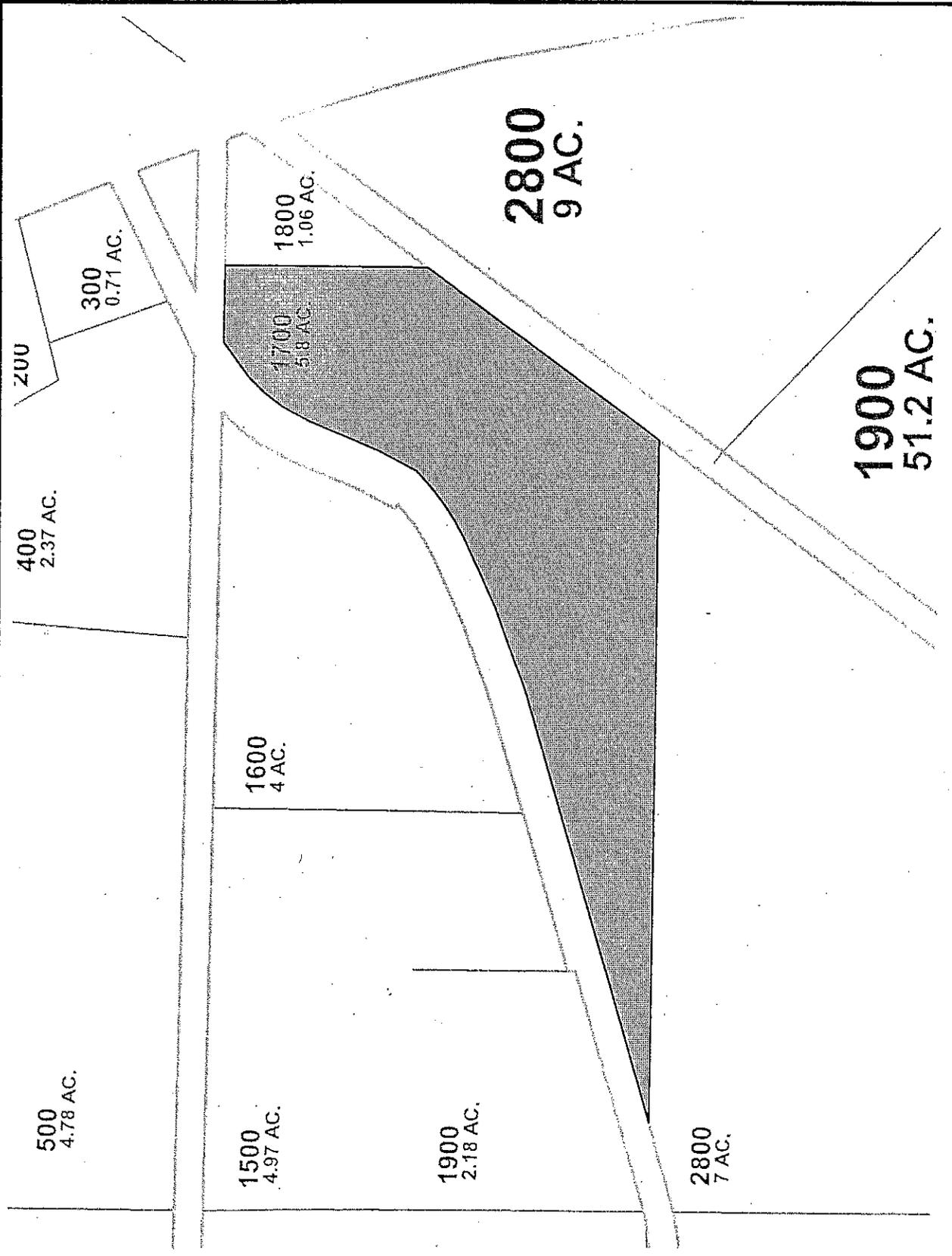
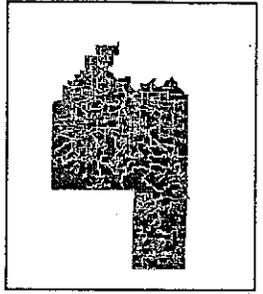
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Acres
Owner/Agent

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1 in. = 200ft.

Vicinity



6/20/2002

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Yamhill County Scale Map

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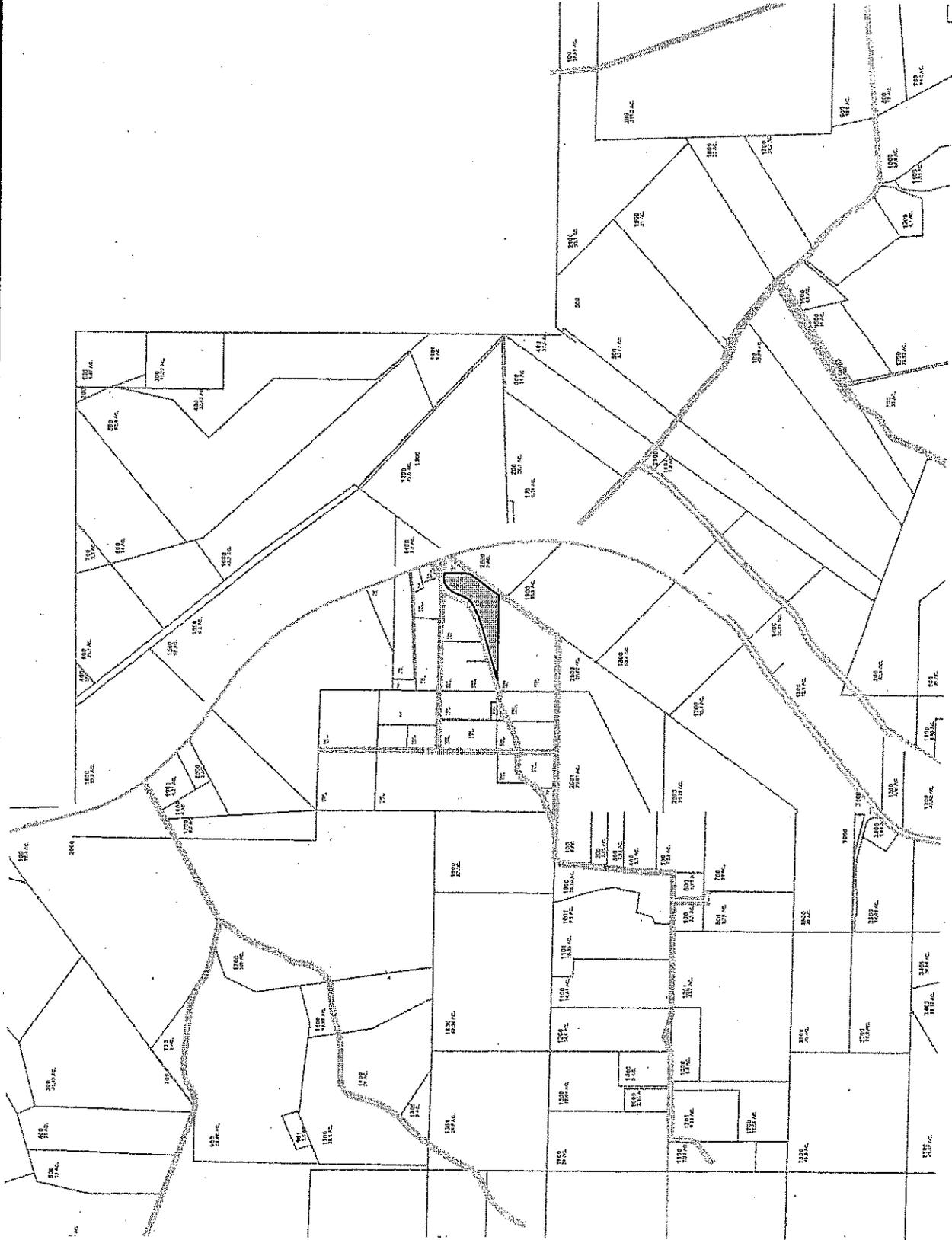
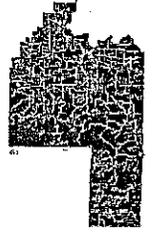
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1 in. = 1616ft.

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