

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 an Ordinance Amending )  
 the Yamhill County Comprehensive Plan Map )  
 to change from "AFLH" (Agriculture/Forestry )  
 Large Holding) to "I" (Industrial), and amending )  
 the Official Zoning Map to change the zone )  
 from "EF-80" (Exclusive Farm Use) to "LI" )  
 (Light Industrial) and Taking an Exception )  
 to Statewide Planning Goal 3 on a 1/2-Acre )  
 Tract Known as Tax Lot 4411-4290; )  
 Applicant Rick Deferrari; Planning Docket )  
 PAZ-05-98; and Declaring an Emergency. )

**ORDINANCE 662**

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on September 10, 1998, Commissioners Ted Lopuszynski, Robert Johnstone, and Thomas E.E. Bunn being present.

WHEREAS, on March 24, 1998, the Department of Planning and Development received an application by Rick Deferrari ("applicant"), Planning, PAZ-05-98 to change the Yamhill County Comprehensive Plan Map (1974), as amended, from "AFLH" (Agriculture/Forestry Large Holding) to "I" (Industrial), and amend the Official Zoning Map from "EF-80" (Exclusive Farm Use) to "LI" (Light Industrial) on a 1/2 acre tract known as Tax Lot 4411-4290; and

WHEREAS, on July 16, 1998, the Yamhill County Planning Commission held a duly noticed public hearing to consider the application and thereafter voted unanimously to recommend approval of the comprehensive plan amendment, zone change, and an Exception to Statewide Goal 3; and

WHEREAS, on August 27, 1998, the Board held a duly noticed public hearing, received testimony and evidence, deliberated and voted 2:0, Commissioner Bunn abstaining, in favor of tentative approval of the comprehensive plan amendment, the zone change, and the Exception to Goal 3, and directed staff to prepare an ordinance and findings in support thereof; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A" and incorporated herein by this reference provide justification for approval of the application for the amendment to the Yamhill County Comprehensive Plan, the Official Zoning Map, and an

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B.O. 98-706

Exception to Goal 3, and that approval thereof is in the best interests of the citizens of Yamhill County; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Yamhill County Comprehensive Plan (1974) Map, as amended, is hereby amended to reflect a plan designation of "I" (Industrial) as specified in the attached Exhibit "B" attached hereto and made a part of this ordinance by reference.

Section 2. The Official Zoning Map of Yamhill County is hereby amended to reflect a zoning designation of "LI" (Light Industrial) as specified in the attached Exhibit "B"

Section 3. In adopting the Comprehensive Plan amendment specified in Section 1, the County hereby takes an exception to Statewide Planning Goal 3.

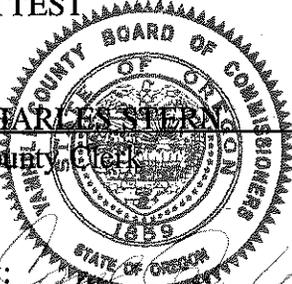
Section 4. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance

Section 5. 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 at McMinnville, Oregon, this 10th day of September, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk  


  
Chairman TED LOPUSZYNSKI

By:   
Carol Ann White

  
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:  
  
JOHN C. PINKSTAFF  
Assistant County Counsel

  
Commissioner THOMAS E.E. BUNN

**ORDINANCE 662**

**EXHIBIT "A"**

**Findings For Approval**

<b>PLANNING COMMISSION'S APPROVAL</b>	<b>July 16, 1998</b>
<b>BOARD OF COMMISSIONERS' TENTATIVE APPROVAL</b>	<b>August 27, 1998</b>
<b>BOARD OF COMMISSIONERS' FINAL APPROVAL</b>	<b>September 10, 1998</b>

**DOCKET NO.:** PAZ-05-98

**REQUEST:** Approval of a Comprehensive Plan amendment from AFLH, Agriculture/Forestry Large Holding to Industrial, a zone change from EF-80 Exclusive Farm Use to LI Light Industrial, and taking an Exception to Goal 3.

**APPLICANT:** Rick Deferrari

**TAX LOT:** 4411-4290

**LOCATION:** West of and abutting to St. Joseph Road. At the intersection of St. Joseph Road and Southern Pacific Railroad tracts, south of Hwy 99W.

**REVIEW CRITERIA:** Sections 402 and 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan; OAR 660-04, Exception Process.

**FINDINGS:**

**A. Background Facts:**

1. Property size: Approximately 1/2 acre.
2. On-site Land Use: The proposed exception site consists of a triangular parcel with flat terrain and no significant vegetation. The parcel is surrounded by county roads on the northerly and easterly boundaries. There is a railroad right-of-way (ownership) along the southerly boundary of the parcel. The developed rail right-of-way consists of a

diked bed and two sets of railroad lines laid for east/west transportation and a switching track for northerly transportation.

There are no commercial, private, or any other types of agricultural or forest uses existing on the proposed exception site. All indications are that there have been no commercial agricultural or forest uses existing at the proposed exception site in recent history since the creation of the existing highway and the rail lines.

The Yamhill County Planning Department has no record of identified natural hazards such as flooding or geological instability. There is also no record of special consideration such as high water table, steep slopes or excessive soil erosion. There is no record of historical or archeological considerations pertaining to the proposed exception site.

3. **Surrounding Land Use:** The property to the south consists primarily for transportation and as a switching junction for railroad traffic. The westerly lands are use as a rail yard for switching and repair of railroad cars. The lands further south of the railroad ownership are zoned for and are predominately in commercial agricultural use. The lands to the north and east of the proposed exception site are zoned for and are predominately in light industrial use. The properties surrounding the proposed exception site contain a wine barrel manufacturing plant, a tractor and farm equipment sales company, a propane storage facility and a heating air conditioning business.
4. **Surrounding Zoning:** The proposed exception site is currently zoned EF-80 Exclusive Farm Use. Properties to the south of Southern Pacific Rail Road right-of-way are also zoned EF-80. Adjacent properties surrounding the proposed exception site to the north and east are zoned LI Light Industrial. It is important to note that the proposed exception site is a portion of an island created by the railroad right-of-way to the south and west and Highway 99 W to the north and east. The proposed exception sites contained within that "island" are within a committed exception area which create a LI Light Industrial zone segment directly adjacent to and surrounding the proposed exception site on three sides.
5. **Water:** An on site well is the only option.
6. **Sewage Disposal:** Septic tank is the only option.
7. **Fire Protection:** McMinvile Rural Fire District
8. **Soils:** Sheet 27 of the Yamhill County Soil Survey shows that the entire proposed exception site is composed of Amity soils (Am). These soil is Class II, and is high-value farmland.

9. Taxes: Farm deferral.
10. Previous Actions: None.

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

1. Approval of a request for a zone change must be based on compliance 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. The Board finds that the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan as required by YCZO section 1208.02(A).
  - 2.1 Plan goals and policies which may be pertinent are:

*Yamhill County Comprehensive Plan Summary, I.H., for industrial development recognizes that industrial parks serve to consolidate industrial activities into designated areas in order to reduce incompatibility with surrounding uses.*

The proposed exception site is located adjacent to and within the island mentioned in Finding (A4) of a light industrial segment which is experiencing a development pattern similar in nature to an industrial park. A variety of uses with similar service needs and performance characteristics are located within the 9.5 acre Light Industrial (LI) segment.

*The industrial development policy I.H.1.h. recognizes the need to allow expansion of established industrial areas by plan amendment where development trends warrant such expansion.*

The proposed exception site is currently within the physical boundaries of the light industrial segment and is a natural alternative for the expansion of existing light industrial uses.

*The policy I.H.1.i. also recognizes the advantages of industrial development which utilizes safe energy efficient modes of transportation.*

Allowing light industrial use of the proposed exception site adjacent to the applicants current operation will allow immediate access to materials, minimizing transportation needs.

*The final industrial development policy I.H.1.n. recognizes and encourages small scale industries as viable alternatives to larger conventional enterprises.*

Allowing the light industrial use of the proposed exception site will provide a economically viable opportunity.

3. The Board finds that 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, as required by YCZO section 1208.02(B).
- 3.1 The applicant stated that the proposed amendment is not intended to satisfy a need or reasons exception to designate new light industrial lands. Other lands may exist within the county which will accommodate the proposed light industrial use, however, when addressing the need for economic development as established by Statewide Planning Goal #8(A)(4), "Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development." With recognition given to the light industrial development pattern surrounding the proposed exception site, the proposed amendment

would satisfy that guideline by allowing expansion of existing industry to adjacent lands which are for all practical purposes a component of the existing light industrial segment.

4. The Board finds that 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, as required by YCZO section 1208.02(C).
- 4.1 The subject property is currently surrounded on three sides by a light industrial zone segment with existing light industrial type uses. To the south the property is adjacent to a Southern Pacific Railroad right-of-way. The lands beyond the Southern Pacific "ownership" are zoned for agricultural use (EF-80). The Railroad right of way provides a buffer from existing agricultural uses and the proposed exception site. The railroad consists of two sets of existing rail lines and a switching track. The lines are constructed upon a diked surface which helps to buffers impacts occurring within the Light Industrial (LI) segment from agricultural uses to the south. Current light industrial uses within the LI zone segment have existed without substantially affecting or being affected by surrounding uses on other lands in the general vicinity. There is no reason to believe that the proposed change will change the mutual level of compatibility of the area. The proposed exception site consists of approximately .54 acre. The light industrial segment between the State Highway and the railroad right-of-way currently consists of approximately 9.2 acres. The relative percentage of impact which could result from the development of the proposed exception site would be approximately 6% or a negligible amount with consideration given to the potential development of the entire light industrial segment. It should be noted that the land currently committed to light industrial use (9.4 acres) has been excepted by Yamhill County from lands suitable for agricultural use.
- 4.2 Regarding availability of utilities and services, the sewerage disposal is provided by the on-site septic systems. Water is provided by on-site wells. Fire protection is provided by the McMinnville Fire Department. Law enforcement is provided by a county sheriff. There is electricity available to the light industrial segment which is provided by McMinnville Water and Light. School buses are provided to the by the McMinnville School District. No other services are expected to be required on the proposed exception site.
5. The Board finds that other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors, as required by YCZO 1208.02(D).

- 5.1 The applicant currently operates a wine barrel manufacturing business adjacent to the proposed exception site. The use of the proposed exception site will allow the existing operation immediate access to and from the proposed exception site. The adjacent location will provide social and economic benefits by eliminating highway travel and cost associated with trucking expense, fuel consumption and travel time. The adjacent proximity will also assist to eliminate security concerns and increased burdens to local law enforcement.
- 5.2 By allowing the expansion of the operation to the adjacent parcel under his ownership, the applicant will be afforded an economically advantageous opportunity which is also consistent with sound planning practices.
6. Regarding YCZO section 1208.02(E), an exception to Goal 3 is required, as addressed in section C of these findings.

**C. Goal Exception Provisions and Analysis**

1. Oregon Administrative Rule (OAR) 660-04 contains the requirements for taking an exception to the statewide planning goals.

The applicant has indicated that he is applying for a "irrevocably committed" exception.

2. OAR 660-04-028 indicates that a committed exception may be taken when land is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the goal impracticable. A two part analysis is required. First, whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. Findings must address the characteristics of the exception area; the characteristics of the adjacent lands; the relationship between the exception area and the lands adjacent to it; and the other relevant factors set forth in OAR 660-04-028(6). Second, for an exception to Goal 3, findings must be made that farm uses are impracticable on the proposed exception area.
3. The proposed exception site is located in the west half (W1/2) of Section 11 in T 4 S, R 4 W, Willamette Meridian, Yamhill County, Oregon. The proposed exception site is identified as Tax Lot 4290 on Yamhill County Assessor Map 4-4-11 and contains approximately 0.54 acre. The proposed exception site is further described by deed at Mf. 1997-21144 records of the Yamhill County Clerk's Office.

- 3.1 The proposed exception site consists of a triangular parcel with flat terrain and no significant vegetation. The parcel is surrounded by county roads on the northerly and easterly boundaries. There is a railroad right-of-way along the southerly boundary of the parcel. The developed rail right-of-way consists of a diked bed and double rails laid for east/west transportation and a switching track for northerly transportation.
- 3.2 The U.S. Natural Conservation Services soil survey for Yamhill County shows that the proposed exception site consists of an Amity Silt Loam soil type with 0 to 2 percent slope. The Amity series consists of somewhat poor draining soils that formed in mixed old alluvium. These soils are on broad valley terraces and are used agriculturally for vegetable crops, small grain, hay and pasture. The soil is agriculturally rated with a capability unit II site classification.
- 3.3 The Yamhill County Planning Department has no record of identified natural hazards such as flooding or geological instability. There is also no record of special consideration such as high water table steep slopes or excessive soil erosion. There is no record of historical or archeological considerations pertaining to the proposed exception site.
- 3.4 There are no commercial, private, or any other types of agricultural or forest uses existing on the proposed exception site. All indications are that there have been no commercial agricultural or forest uses existing at the proposed exception site in recent history or since the creation of the existing highway and the rail lines. There is no record of agricultural water rights appurtenant to the proposed exception site.
4. The property adjacent and south of the proposed exception site is owned by Southern Pacific Railroad and is zoned EF-80 Exclusive Farm Use. The property is constructed with a diked bed on which the two sets of rail lines are located. The land further south is also zoned EF-80 and although the minimum lot size for the zone district is 80 acres, the area includes "lot of record" parcels ranging from 4, 5 and 6 acre parcels to an 83.59 acre parcel. Development is sporadic and appears to be predominantly farm related dwellings and accessory farm structures. The land is generally flat and is predominately in commercial farm use.
- 4.1 The Property to the west is also owned by Southern Pacific Railroad and is separated from the proposed exception site by the railroad dike and two sets of rail lines. The property is zoned EF-80 and is generally flat and does not contain a farm use.
- 4.2 The properties to the east of the proposed exception site consists of two parcels 1.7 and 1.8 acres in size respectively. The parcels are zoned LI, Light Industrial and light industrial uses currently exist on both parcels. The 1.7 acre parcel contains a heating

- and air conditioning business as well as a residence. The 1.8 acre parcel contains a propane storage facility. The parcels are located within the boundaries of the light industrial zone segment between State Highway 99 W and the Southern Pacific Railroad Easement.
- 4.3 The property north of the proposed exception site consists of a 5.1 acre parcel zoned Light Industrial (LI). Two light industrial uses currently exist on the subject property as well as a residential dwelling. The easterly end of the parcel contains a farm tractor dealership. The westerly portion of the property contains the applicant's wine barrel manufacturing facility. The parcel is also located within the boundaries of the light industrial zone segment between State Highway 99 W and the Southern Pacific Railroad Easement.
- 4.4 The properties surrounding the proposed exception site to the north and east are committed exceptions. The development pattern of that segment consists of light industrial uses which have historically been compatible with nearby lands in resource use.
5. The lands to the south and west are zoned for agricultural use. The land to the south and west is owned by Southern Pacific Railroad and is used as a rail switching yard and repair facility. The land is not currently nor has it historically been in agricultural use. The proposed exception site is triangular in shape and extends easterly fronting the proposed exception site on its southerly boundary. The Southern Pacific ownership lying west and south of the proposed exception site is diked with a rail bed consisting of two sets of rails and a switching junction. The ownership and dike act as a manmade division and buffer between the light industrial zone segment and resource uses to the south.
- 5.1 The lands north and east of the proposed exception site are zoned for light industrial use and contain a variety of light industrial uses. The northerly boundary of the light industrial segment is State Highway 99 W. The southerly boundary of the segment is the Southern Pacific Railroad ownership. The development in recent years of two new businesses and the proposed expansion of one business indicates a pattern of growth within the light industrial segment.
- 5.2 The property north of the McMinnville Urban Growth Boundary, State Highway 99W and the Southern Pacific Railroad ownership right-of-ways have historically acted as boundaries between agricultural lands lying north and south and those lands committed to other uses. The proposed exception site and the light industrial zone segment lie approximately 1/2 mile northwest of the City of McMinnville's Urban Growth Boundary and are essentially the easterly end of a mixture of those predominately non-

agricultural uses sandwiched between State Highway 99 W and The Southern Pacific Railroad ownership. Although some lands west of the proposed exception site contain some agricultural/forest (AF-10) zone designations, the development pattern shows a historic mixture of uses which contain Very Low Density 2.5 (VLDR-2 1/2) and neighborhood commercial (NC) zone districts.

6. OAR 660-04-028(6) requires that findings for a committed exception address existing adjacent uses; existing public facilities and services (water and sewer lines, etc.); parcel size and ownership patterns of the exception area and adjacent lands; neighborhood and regional characteristics; natural or man-made features or other impediments separating the exception area from adjacent resource land; physical development; and other relevant factors.
- 6.1 Regarding the existing adjacent uses, the property adjacent to the south and west of the proposed exception site is owned by Southern Pacific Railroad. The property to the south consists primarily for transportation and as a switching junction for railroad traffic. The westerly lands are use as a rail yard for switching and repair of railroad cars. The lands further south of the railroad ownership are zoned for and are predominately in commercial agricultural use. The lands to the north and east of the proposed exception site are zoned for and are predominately in light industrial use. The properties surrounding the proposed exception site contain a wine barrel manufacturing plant, a tractor and farm equipment sales company, a propane storage facility and a heating air conditioning business.
- 6.2 Regarding public facilities and services, electricity is provided to the proposed exception site by McMinnville Water and Light. Natural gas is provided to the proposed exception site by Northwest Natural Gas. Fire protection is provided by the McMinnville Fire Department. Police protection is provided by the Yamhill County Sheriff's Department. There is currently no public sewer or water to the proposed exception site. Sewerage is provided by on-site septic systems. Water is provided by on-site wells.
- 6.3 Regarding the parcel size and ownership patterns of the exception area and adjacent lands, the proposed exception site is currently owned by the applicant and consists of approximately 0.54 acres. The land directly adjacent to the south of the proposed exception site is owned by Southern Pacific Railroad. The acreage of the entire ownership is undetermined, however, their parcel to the west appears to contain approximately 3.5 to 4 acres. The lands south of the Southern Pacific ownership is zoned EF-80. The development pattern consists of a combination of smaller 4 to 6 acre parcels, which more resembles a rural residential type development pattern intermingled with 80 and 90 acre farm tracts. However, the predominate use of the

intermingled lands appear to have maintained a commercial farm characteristic. The lands adjacent to the north and east are zoned for light industrial use and range in size from .5 acre to 5.1 acres. The parcels are situated between Highway 99 W to the north and the Southern Pacific Railroad to the south. The parcels are divided by county roadways, two of which create the northerly and easterly boundaries of the proposed exception site. The lands north of Highway 99 W are zoned VLDR-2 1/2 Very Low Density Residential 2 1/2 acres minimum, AF-10 Agricultural Forestry Small Holding and EF-40 Exclusive Farm Use. The parcels sizes vary with 2 to 4 acre parcels generally in the (VDLR-2 1/2) and larger 5 to 60 acre parcels in the Agricultural/Forestry and Exclusive Farm districts. The lands lying further west of the proposed exception site and extending to the easterly edge of the McMinnville Urban Growth Boundary consists of 1 to 6 acre parcels with various uses. The lands are zoned VLDR 2 1/2 and NC Neighborhood Commercial.

- 6.4 Regarding the neighborhood and regional characteristics, the lands immediately adjacent to the proposed exception site consists of light industrial uses surrounded by State Highway 99 W and The Southern Pacific Railroad ownership. Lands north and south of the railroad/highway boundaries are predominately agricultural with a mixture of rural residential housing. The proposed exception site lies approximately 1/2 mile east of the McMinnville Urban Growth Boundary. The lands between the McMinnville UGB and the proposed exception site consists of a mixture of farm use, rural residential housing and commercial development.
- 6.5 Regarding the natural or man-made features or other impediments separating the exception area from adjacent resource land, the Southern Pacific ownership lying south of the proposed exception site consists of two dikes, each with its own set of tracks, which converge from the west and north to a switching location. The intervening ownership and the physical impediment have historically acted as a buffer and division line between agricultural uses to the south and light industrial uses north of the dike. To the north of the proposed exception site and the existing light industrial zone segment, Highway 99 W and the intervening state ownership has historically acted as an impediment and buffer between agricultural uses to the north and light industrial uses south of the highway.
- 6.6 Regarding the physical development, the proposed exception site consists of approximately 0.54 acre and currently contains no structural development. The easterly boundary of the subject property is fronted by St. Joseph County Road #201, an improved county roadway. The northerly boundary of the proposed exception site is fronted by an un-named county right-of-way over which a non-county maintained roadway exists. South of the proposed exception site is the Southern Pacific Railroad ownership and right-of-way. The right-of-way consists of a diked bed and two sets of

rail lines. There are two light industrial developments on the parcel directly north of the proposed exception site. On the westerly portion of the northerly parcel immediately adjacent to the proposed exception site there is a commercial wine barrel manufacturing plant. On the southerly portion of the same parcel and directly adjacent to the proposed exception site is a residential dwelling. On the easterly portion of the same parcel there is a tractor and farm equipment company. The residential dwelling is owned by the same party as the farm equipment dealership and is used as a rental property. Further north of the proposed exception site is State Highway 99 W a developed 4 lane highway and the applicable 200 foot State of Oregon ownership and right-of-way. To the east of the proposed exception site there are structures containing a residential dwelling and a heating and air conditioning company. Further east is a propane storage facility. With the proposed exception of the propane storage facility, all of the existing structures and improvements are within 500 feet of the proposed exception site.

7. The OAR allows consideration of other factors which may make farm use on the lots "impracticable".
  - 7.1 The use of the term "impracticable," as used above, is intended to be consistent with its use in ORS 197.723(1)(b) and Goal 2 Part II(b). Impracticable does not mean impossible, but refers to the difficulty or inconvenience of implementing any given use or activity in a physical, economic, or practical sense with a determination based on the submitted evidence, testimony, findings, conclusions, and the board's institutional knowledge of the subject property and local conditions.
  - 7.2 This application incorporates an analysis of OAR 660-04-028 "Exception Requirements for Land Irrevocably Committed to Other Uses." It should be noted for the record that the OAR 660-04-028(3) states in pertinent part that *"... it shall not be required that local governments demonstrate that every use allowed by the applicable goal is impossible, but that uses are impracticable."* Impracticability is a discretionary determination based on the submitted evidence, testimony, findings, conclusions, and the board's institutional knowledge of the subject property and local conditions.
  - 7.3 The "burden of proof" which requires the applicant to show that the land is irrevocably committed to other uses is therefore not an absolute standard that requires conclusive or "beyond a shadow of doubt" level of evidence. The standard is one of "preponderance of evidence" where it is determined that a fact is more likely true than not.
  - 7.4 The State (LUBA, DLCD, etc.) is obligated to defer to the local government's findings of fact if the facts are supported by "substantial evidence in the whole record" (ORS 197.835(7)(a)). Substantial evidence is evidence that a "reasonable" person would rely

upon in reaching a decision. The evidence does not need be considered "conclusive proof" that a fact is incontrovertible, but that a fact is more likely true than not. The Oregon Supreme Court has pointed out "...obviously, for a decision to be reasonable, it need not be the decision that LUBA would have made on the same evidence." (Younger v. City of Portland, 305 Or 346, 260,1989).

- 7.5 The proposed exception site consists of a discrete parcel of land 0.54 acre in size. The proposed exception site is surrounded on three sides by a light industrial zone segment containing other discrete parcels on which light industrial uses currently exist. The light industrial zone segment is physically separated from agricultural uses existing on lands to north and south the by right-of-ways and ownership's consisting of Southern Pacific Railroad lines and State Highway 99 W. There are no existing or recent historic agricultural uses existing on the proposed exception site and no agricultural water rights appurtenant. The physical impediments and development pattern of the area essentially commits proposed exception site as a component of the light industrial segment. The implementation of an agricultural use on the proposed exception site would establish a basis for conflict with existing committed uses.

#### CONCLUSIONS:

1. The request is for a Plan amendment and zone change from Exclusive Farm Use, EF-80 to Light Industrial, LI, including an exception to Goal 3.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies, and is appropriate because it is adjacent to the developed Light Industrial area, the area is made up of existing lots used for industrial uses.
3. An exception to goal 3 is justified because the lot is unsuitable for farming, because of presence of adjacent industrial lots, roads and railroad right-of-way.

#### DECISION:

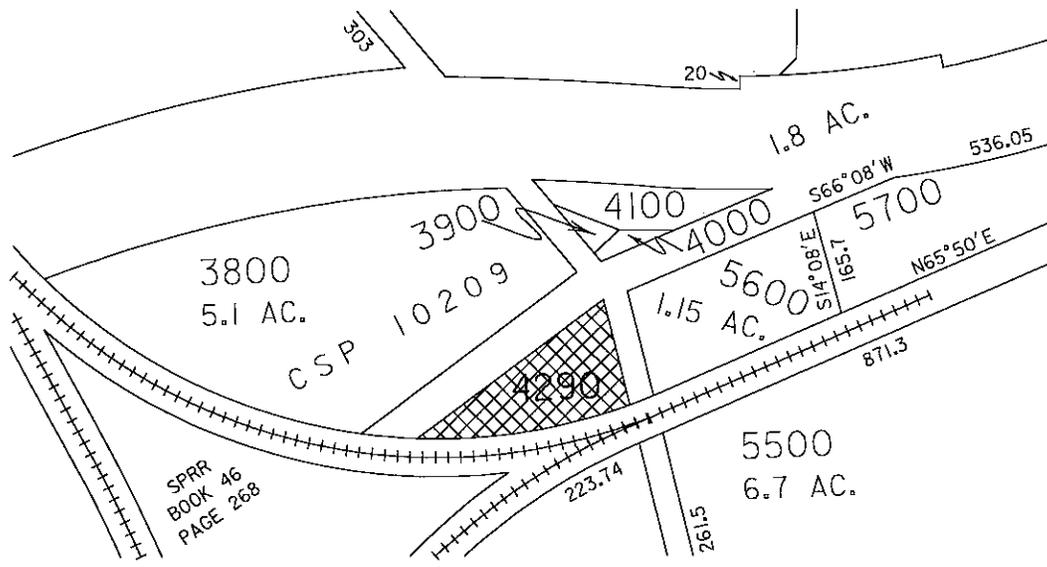
Based on the above findings, analysis, and conclusions, the Board approves the request by Rick Deferrari in docket paz-05-98 for a zone change, comprehensive Plan map amendment, and exception to Goal 3 for Tax Lot 4411-4290.

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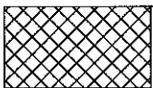
# EXHIBIT "B" FOR ORDINANCE No. 662

COMPREHENSIVE PLAN AMENDMENT FROM  
AGRICULTURE/FORESTRY LARGE HOLDING (AFLH)  
TO INDUSTRIAL (I)  
ZONING MAP AMENDMENT FROM  
EF-80 TO LI

TAX LOT: 4411-4290



Prepared by Yamhill County Department of Planning and Development



AREA SUBJECT TO AMENDMENT

ORDINANCE 662  
EXHIBIT "B"