

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 (1974))
Map from "EF" (Exclusive Farm Use) to)
"AFSH" (Agricultural Forestry Small Holding))
and amending the Official Zoning Map from)
"EF-20" (Exclusive Farm Use/20 Acres) to)
"AF-10" (Agricultural/Forestry 10-acre minimum))
on Tax Lot 2423CD-102; Taking an Exception to)
Goal 3; Approving a Conditional Use for an)
Extraterritorial Service Connection to Allow)
a Water Hook-up; Applicant Laura Johnson;)
Docket PAZ-09-98, C-13-98, and Declaring)
an Emergency.)

ORDINANCE 667

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on January 21, 1999, Commissioners Robert Johnstone , Ted Lopuszynski, and Thomas E. E. Bunn being present.

WHEREAS, on November 6, 1998, the Department of Planning and Development received an application by Laura Johnson ("applicant"), Planning Docket PAZ-09-98, C-13-98, to change the Comprehensive Plan (1974) Map from "EF" (Exclusive Farm Use) to "AFSH" (Agricultural Forestry Small Holding) and amending the Official Zoning Map from "EF-20" (Exclusive Farm Use/20 Acres) to "AF-10" (Agricultural/Forestry 10-acre minimum) and to approve a conditional use for an extraterritorial service connection to allow a water hook-up, and to take an exception to Statewide Goal 3 on Tax Lot 2423CD-102, including lots 213 through 217 of F.C. Grahams Cove Orchard; and

WHEREAS, on December 3, 1998, the Planning Commission held a public hearing to consider the application and thereafter voted 5-1 to approve the request; and

WHEREAS, on January 7, 1999, the Board held a public hearing on the application, and following the close of the hearing, voted unanimously to tentatively approve the application for the plan amendment and zone change, to approve the conditional use, and to take an exception to statewide Goal 3; 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 Map and Official Zoning Map, 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 Map (1974), as amended, is hereby amended to reflect a plan designation of to "AFSH" (Agricultural Forestry Small Holding) on Tax Lot 2423CD-102, including lots 213 through 217 of F.C. Grahams Cove Orchard, and more particularly shown on the map attached hereto and incorporated herein as Exhibit "B."

Section 2. The Official Zoning Map, as amended, is hereby amended as specified in the attached Exhibit "B" to reflect a zoning designation of "AF-10" (Agricultural/Forestry 10-acre minimum) on Tax Lot 2423CD-102, including lots 213 through 217 of F.C. Grahams Cove Orchard, and more particularly shown on the map attached hereto and incorporated herein as Exhibit "B."

Section 3. A conditional use is approved for an extraterritorial service connection to allow a water hook-up from the LA Water Coop, subject to the following condition:

1. Permits from the county Public Works Department shall be obtained prior to any digging or installation of water lines within the county road right-of-way.
2. The applicant shall officially vacate Lots 213 to 217 of the F.C. Grahams Cove Orchards Subdivision by appropriate means. A document, stating that the lots have been vacated, shall be recorded in the Clerk's Office prior to issuance of any development permits for the parcel.

Section 4. In adopting the plan amendment specified in Section 1, the County hereby takes an exception to Statewide Planning Goal 3.

Section 5. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

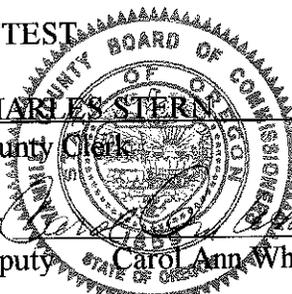
Section 6. Emergency Clause. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 21st day of January, 1999.

ATTEST

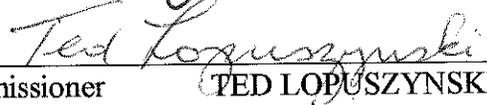
CHARLES STERN
County Clerk

By 
Deputy Carol Ann White



YAMHILL COUNTY BOARD OF COMMISSIONERS

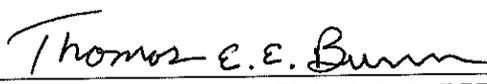

Chairman ROBERT JOHNSTONE


Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:



JOHN C. PINKSTAFF
Assistant County Counsel



Commissioner THOMAS E. E. BUNN

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ORDINANCE 667

EXHIBIT "A"

PLANNING COMMISSION'S DENIAL: December 3, 1998

BOARD OF COMMISSIONERS' APPROVAL: January 21, 1999

DOCKET: PAZ-09-98, C-13-98

REQUEST: Approval of a Comprehensive Plan amendment and zone change from Agriculture/Forestry Large Holding, EF-20 to Agriculture/Forestry Small Holding, AF-10; and an Exception to the Statewide Planning Goals; and conditional use approval for an extraterritorial service connection to allow a water hook-up from the LA Water Co-op.

APPLICANT: Laura Johnson

TAX LOT: 2423CD-102, including lots 213 through 217 of F.C. Grahams Cove Orchard.

LOCATION: Between Highway 47, Cove Orchard Road, Beaver Street and Bremmer Street at the northern end of Cove Orchard.

CRITERIA: Section 1208 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan; OAR 660-04, Exception Process and the LA Water Cooperative-Yamhill County Service Boundary Management Agreement.

FINDINGS:

A. Background Facts:

1. Property size: Tax Lot 2423CD-102 (Lots 213 - 217), the area of the proposed zone change, is about 2.6 acres in size, including roads.
2. On-site Land Use: The parcel is mostly in pasture and grass. A creek runs through the tract near the northern property line. A large portion of the tract is in a 100 year floodplain of the unnamed creek.

3. **Surrounding Land Use:** The Cove Orchard community is located on both sides of Highway 47, in a narrow valley with forested hillsides on both sides. The area just southwest of the subject lots is broken up into small lots, part of the original F.C. Grahams Cove Orchard subdivision. There are two churches, a store, and a couple dozen residences in this area. The remainder of the surrounding area to the north and east consists of larger parcels, from around 5 to 30 acres in size, which are in forestry use on the hillsides and limited agricultural uses in the valley.
4. **Surrounding Zoning:** Zoning to the southwest, across Bremmer Street, is VLDR-2.5. Zoning to the north is EF-20. Zoning to the southeast, on the opposite side of Cove Orchard Road, is AF-20.
5. **Water:** The lots are within the boundaries of the Cove Orchard Water Association, which does not have any new hook-ups available. This application includes a request for an extraterritorial service connection to allow a hook-up to the LA Water Co-op line which runs along Cove Orchard Road.
6. **Sewage Disposal:** Cove Orchard Sewer District. The applicant indicates that the property owner has a reserved hook-up.
7. **Fire Protection:** Yamhill Rural Fire District
8. **Soils:** Sheet 8 of the Yamhill County Soil Survey shows that the parcel is composed primarily of Chehalem soils (CeC), with Willakenzie soils (WkD) adjacent to Cove Orchard Road. These soils are Class III and IV respectively, and are both high-value farmland.
9. **Taxes:** Farm deferral.
10. **Previous Actions:** A plan amendment and a zone change to change the zoning designation from EF-20 to VLDR-2.5. The application included a conditional use permit for an extraterritorial service connection to allow a water hook-up from the LA Water Co-op. The application was submitted on August 1, 1997 (Docket PAZ-4-97/C-14-97). The application was approved by the Yamhill County Board of Commissioners on October 23, 1997 and was subsequently appealed to the Land Use Board of Appeals (LUBA). LUBA remanded the application back to the Board, however, the applicant did not ask for a remand hearing and the file was closed.
11. **Further consideration:** The applicant stated that she will vacate lots 213-217 and combine the parcels into one 2.5-acre parcel which, if approved, would be eligible for only one dwelling.

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. YCZO 1202.08(A). Yamhill County Comprehensive Plan goals and policies which may be pertinent are:

Policy I.B.1.c.: All proposed rural area development and facilities: ... (2) Shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or sub-surface sewage disposal, if relevant;

All of lot 213 and the western half of lots 214 - 217 are within the 100 year floodplain, as shown on FIRM 410249 0050 C, 0131 C, and 0135 C. There are no steep slopes. The Chehalem soils in the floodplain area are described in the Soil Survey as having severe limitations for septic fields, but since the area is within the Cover Orchard Sewer District this is not an issue.

Policy I.B.1.d.: No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas and telephone services, nor shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing or refuse collection.

The Board finds that this policy is satisfied. The proposed zone change would not require the extension of utilities, since sewer service is already available and LA Water Co-op line runs along Cove Orchard Road, although the development would rely on these services since on-site wells and septic systems are probably not a viable option. Other services such as electricity, telephone, sheriff and fire protection already serve the area.

Policy I.B.2.a.: Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers; or in small, limited areas having unique scenic, locational and other suitable site qualities where the anticipated magnitude or density of development is not such as to require more than a very basic level of services, such as single local-road access, individual domestic wells and sewage-disposal systems, and possible rural fire protection.

The Board finds that this policy is satisfied. The F.C. Grahams Cove Orchard subdivision was platted in the early 1900s, and covers more than a one square mile area. The subdivision itself does not commit the area to residential use, since the resource zoning on much of the area would limit development. However, the area is committed to residential development insofar as the parcel is included within the Cove Orchard Sewer District and within the Cove Orchard Water Association. The subject lots are adjacent to the developed Cove Orchard area, where the zoning is VLDR.

Policy II.A.1.h.: No proposed rural area development shall substantially impair or conflict with the use of farm or forest land, or be justified solely or even primarily on the argument that the land is unsuitable for farming or forestry or, due to ownership, is not currently part of an economic farming or forestry enterprise.

The Board finds that this policy is satisfied. The proposed zone change would cause little interference with the use of other farm and forest land in the vicinity. There is a buffer area including Cove Orchard Road between the subject lots and the forested hillsides. Agricultural land to the north of the subject parcel is limited to a small area between the highway and Cove Orchard Road. Farm uses in this area have been limited to grazing in

the past due to seasonal flooding.

3. YCZO 1202.08 (B). 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 1202.08 (B).
 - 3.1 The applicant's justification of need focuses on the inability of the parcel to meet the \$80,000 income test that is a requirement for approval of a dwelling in the EF district. She states: "In order to allow a residence on this lot and put the owner's existing sewer hook up to use, a zone change is needed." Criterion (B) requires an analysis of the overall need for additional residential land in the Cove Orchard area, not just the applicant's individual desire to construct an additional residence.
 - 3.2 Analysis of address maps shows that there are 66 lots in the Cove Orchard area that are currently zoned VLDR, with an additional 19 lots zoned AF-10. Both zones allow single family residences. Of these 85 lots, 47 are undeveloped. Many of the vacant lots are only 25' or 30' wide, so are too small to be developed individually. However, several could be combined into reasonably sized residential lots, resulting in somewhere in the vicinity of 20 vacant residential lots in the area. The proposed zone change would add 1 additional parcel after Lots 213-217 has been combined. The Board finds that there is a demonstratable need for one additional residential parcel.
4. YCZO 1202.08 (C). 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, and therefore complies with YCZO 1202.08 (C).
 - 4.1 Surrounding land uses are small residential lots to the southwest, in the Cove Orchard community, and larger parcels in farm and forest uses elsewhere. The proposed change will be appropriate since it would simply extend the existing Cove Orchard residential area to the north, within the bounds of Cove Orchard Road and the highway.
 - 4.2 One change that has occurred in the area was a plan amendment/zone change and goal exception in 1995 that designated approximately 6 acres on the east side of Highway 47 as VLDR-2.5. This rezoned area is adjacent to the subject property, on the opposite side of Bremmer Street. The area is made up of small lots under separate ownerships, and almost all of the lots were developed, so the exception was based on the area being both

physically developed and committed to residential uses. The subject property was not included in this zone change because of the large parcel size and lack of development. The subject property is similar in character to the rezoned area in that it is located between Cove Orchard Road and the highway and is part of the F.C. Grahams Cove Orchard subdivision.

- 4.3 Regarding the availability of utilities and services in the area, the lots are within the Cove Orchard Sewer Service District (COSSD, which is a county sewer service district formed pursuant to ORS 451), and the applicant has indicated that the owner has one reserved sewer hook-up. COSSD has a current maximum service capacity of approximately 50 hookups (with the possibility that COSSD may determine there are more available hookups in the future), and there are currently about 42 properties which have hookups or reserved hookups, leaving 8 additional sewer hook-ups currently available. The Board of Directors of COSSD imposed a moratorium for new service conceptions. This moratorium specifies that only two new connections will be allowed per year. The moratorium came into effect on July 1, 1998 and ends on June 30, 1999. Two connections have been already obtained this year. The applicant will not be able to apply for a service connection until June 30, 1999.

The lots are also within the Cove Orchard Water Association (COWA) boundary. The COWA system is currently at full capacity, so does not have any new water connections available, and there is no set time frame when the system might be expanded to allow new service hook-ups. Consequently, the applicants have applied for an extraterritorial service connection to allow a hook-up to the LA Water Cooperative line which runs along Cove Orchard Road. A letter dated July 22, 1997 from the LA Water Cooperative to Laura Johnson states that she has received approval for water service, contingent upon receiving county approval for the extraterritorial service connection. The approval is for one hook-up. If the zone change is approved, there would be the potential for five other building sites. There is no evidence whether LA Water would be able to provide water to these other lots. Other utilities and services, such as fire protection, power and roads, are available to the site.

5. YCZO 1202.08(D) The Board finds that 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, as required by YCZO 1202.08(D).
- 5.1 As stated in Finding B.3 there are approximately 20 vacant residential parcels in Cove Orchard. It is likely that the inability to get water has limited the marketability of lots in the area. In this respect, the subject property is more suited than many of the lots because it is adjacent to Cove Orchard Road, where there is a LA Water Co-op line. Lot 213 and the northern half of lots 214 - 217 are within the 100-year floodplain. While development

is not prohibited in the floodplain, the parcel is going to be combined into one parcel and only one dwelling is proposed on the parcel. The parcel does contain enough land outside the 100-year floodplain that it makes the lot equally suitable for residential use as many other AF-10 lots in the area.

6. YCZO 1202.08(E). An exception to Goal 3 is addressed in section C of these findings below.

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 indicated that she is applying for a "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 area is about 2.6-acres in size. The exception area is bounded by Cove Orchard Road and vacated railroad tracks. A creek runs near the northern lot line, and the associated floodplain covers more than half of the parcel. The parcel is mostly in grass, with some trees and brush near Cove Orchard Road.
4. The land surrounding the proposed exception area consists of small lots to the west, zoned VLDR-2.5. This area is the Cove Orchard community, which contains two churches, a store, and several dozen residences located on both sides of Highway 47. The area to the north and east of the proposed exception area consists of larger lots, most about 5 to 30 acres in size, which are used for farming on the valley floor or forestry uses on the hillsides.
5. The proposed exception area is similar in character to the adjacent lands that are zoned VLDR-2.5, because it is only 2.6-acre in size and it is not being intensively farmed because of high water table and because it is prone to flooding.

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. There are no natural features separating the proposed exception area from adjacent resource land. Cove Orchard Road may be considered a man-made feature separating the lots from the forest land across the road. The other factors have been addressed elsewhere in these findings.
7. The applicant states that the F.C. Grahams Cove Orchard subdivision "has committed the development of this property and the entire area into a use other than farm/forest". OAR 660-04-028(6)(c)(A) states in part: *"Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. OAR 660-04-028(6)(c)(B) also states, in part: The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels."*
- 7.1 The county records indicate that there are a substantial number of small parcels in separate ownerships which are developed and clustered around a road designed to serve these parcels. The Board finds that this fact, coupled with the physical improvements in the area includes Cove Orchard Road, the abandoned Southern Pacific Rail line, and sewer and water lines along the road, make the nearby subject site unsuitable for resource use. Given that there are 88 lots in the immediate area (66 lots in the adjacent VLDR-2.5 zone to the southwest, 19 lots in the AF-10 zone to the southeast) with 41 lots already developed, taken together with the physical improvements such as roads and sewer and water service adjacent to the site, the Board finds that the subject site is part of a larger area which is irrevocably committed to non-resource use.
8. The OAR allows consideration of other factors which may make farm use on the lots impracticable. The applicant states that there are limitations to farm use because of the creek and associated high water table in the floodplain. Erosion problems are also cited by the applicant, although the Soil Survey indicates that slopes are only 3 - 12% and "erosion is a slight to moderate hazard in unprotected areas during rainy periods". The Soil Survey also states that *"tilth is moderately good, but cultivation is restricted by seepage during winter and early in spring."* The Planning Commission and Board will need to determine

whether these limitations make farming impracticable, and whether the characteristics of the area make the lots irrevocably committed to residential use.

D. Service Boundary Management Agreement Provisions and Analysis

1. Section III.G.2. of the LA Water Cooperative - Yamhill County Service Boundary Management Agreement contains the policy for new extraterritorial service connections. The requirements are as follows:

New extraterritorial service connections within Yamhill County shall not be allowed unless specifically approved by Yamhill County through the conditional use permit procedure. This procedure is intended to permit flexibility in cases of hardship. It is intended that the process be used sparingly and that the following criteria be strictly applied:

- a. *The applicant has documented that a genuine hardship exists due to quantity and/or quality of water;*
 - b. *Other alternatives have been investigated (e.g., deepening of existing well, drilling a new well or private treatment);*
 - c. *The dwelling to be served is in close proximity to the LA Co-op water system and would not overburden existing water lines; and*
 - d. *Amendment of the LA Water Co-op Service Boundary is not immediately feasible.*
2. The county's conditional use criteria will be addressed in section (E) of these findings. Until 1996, when a request for two extraterritorial service connections was approved, the process in the management agreement had never been used. Requests for extraterritorial service connections is considered on a case by case basis, and approval in this case does not set a precedent for future requests.
 3. Section III.G.2.(a) of LA Water Boundary Agreement The Board finds that the applicant has documented that a genuine hardship exists due to quantity and/or quality of water, as required by Section III.G.2.(a) of the LA Water Boundary Agreement. A hardship exists because public water is not available from the COWA, and there has been an historic problem with obtaining potable water in the Cove Orchard area. The applicant has provided copies of letters from two well drillers that were submitted as part of the 1996 application for extraterritorial service connections on two lots that are approximately 800' south of the subject lots. The letters indicate that the quality of ground water in the Cove

Orchard area is usually not potable.

The request for the extraterritorial service connection is directly tied to the request for a zone change, since the lot is unlikely to be buildable under the current EF zoning regulations. The hardship will only exist if the zone change is approved, because there is little need for a water hook-up to serve a farm parcel. Also of note is that the property owner has a dwelling on Tax Lot 2423CD-200, which is about 700' north of the lots that are the subject of the zone change. No hardship has been mentioned in relation to providing water to that residence. The hardship, as stated by the applicant, is that the property owner has been paying for a sewer hook-up which she has been unable to utilize.

4. Section III.G.2 (b) The Board finds that other alternatives have been investigated (e.g., deepening of existing well, drilling a new well or private treatment), as required by Section III.G.2.(b) of the LA Water Boundary Agreement. The COWA is unable to provide new water connections. A well has not been drilled on the subject lots, but the letters submitted from well drillers indicate that it would be difficult to obtain potable water. It would be unreasonable to require the applicant to go to the expense of drilling a well to provide further justification that the quality of groundwater is inadequate.
5. Section III.G.2 (c) The Board finds that the dwelling to be served is in close proximity to the LA Co-op water system and would not overburden existing water lines, as required by Section III.G.2.(c) of the LA Water Boundary Agreement. The Board finds that the LA Water Co-op has granted approval to the property owner for a new connection, and would not do so if it would overburden the system or create problems for existing customers.
6. Section III.G.2 (d) The Board finds that amendment of the LA Water Co-op Service Boundary is not immediately feasible, as required by Section III.G.2.(d) of the LA Water Boundary Agreement. The lots would have to be removed from the COWA service boundary before they could be added to the LA Water Co-op service boundary, and the operator of the COWA, Betty Wodarczek, has indicated that COWA would not agree to a service boundary amendment to remove the subject lots from the COWA service boundaries. Therefore, amendment of the LA Water Co-op boundary is not immediately feasible.

E. Conditional Use Provisions and Analysis

1. The LA Water Cooperative - Yamhill County Service Boundary Management Agreement requires county conditional use approval for an extraterritorial service connection.

Section 1202.02 of the Yamhill County Zoning Ordinance states that conditional uses may be authorized upon adequate demonstration by the applicant that the proposed use will be compatible with vicinity uses and satisfies all relevant requirements of the ordinance and the following criteria:

- (A) *The use is listed as a conditional use in the underlying zoning district;*
- (B) *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*
- (C) *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.*
- (D) *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district.*
- (E) *The proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected; and*
- (F) *The use is or can be made compatible with existing uses and other allowable uses in the area.*

2. YCZO 1202.02(A) The Board finds that the use is listed as a conditional use in the underlying zoning district, as required by YCZO 1202.02(A). Water distribution lines fall into the category of utility facilities, which are permitted rather than conditional uses in the EF-20 district. Although the Zoning Ordinance permits the use, the Service Management Agreement places the additional requirement of conditional use approval. Utility facilities are listed as conditional uses in the AF-10 district, pursuant to Section 501.03(L).

3. YCZO 1202.02(B) The Board finds that the use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use, as required by YCZO 1202.02(B). Since the proposal does not involve the construction of any new water lines, Comprehensive Plan policies relating to utilities are not applicable. Similarly, Plan policies in the Public Facilities and Services section apply to the establishment of new water systems and the consolidation of water facilities, so are not directly applicable to this request.

4. YCZO 1202.02(C) The Board finds that the parcel is suitable for the proposed use

considering its size, shape, location, topography, existence of improvements, and natural features, as required by YCZO 1202.02(C). Since all lots will be combined into one parcel, only one water service connection will be allowed. The parcel is adjacent to Cove Orchard Road and contains no physical or natural features which would restrict or prevent a water line connection. The application is for a single service connection, and the applicant has indicated that the dwelling would be located near Cove Orchard Road, out of the floodplain. Provided any water lines and meters are located near the road, the parcel is suitable for the proposed connection and complies with criterion (C).

5. YCZO 1202.02(D) The Board finds that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district, as required by YCZO 1202.02(D). One possible effect to surrounding uses would be if the new connection affected the supply of water (quality, quantity or water pressure) to surrounding lots that are already connected to the LA Water Cooperative line along Cove Orchard Road. However, as indicated in Finding D.5, it is unlikely that LA Water Co-op Board would approve the new connection if it would substantially impact existing customers.
6. YCZO 1202.02(E) The Board finds that the proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected, as required by YCZO 1202.02(E). The proposed water line connections are appropriate because the COWA is unable to provide water, and drilling wells is unfeasible due to lack of potable water in the area. The adequacy of the existing water line to serve existing residences in the area as well as an additional residence on the subject lots has been addressed in Finding D.5.
7. YCZO 1202.02(F) The Board finds that the use is or can be made compatible with existing uses and other allowable uses in the area, as required by YCZO 1202.02(F). A water connection is not incompatible with other uses in the area, as evidenced by the large number of dwellings in Cove Orchard that are already serviced by either the COWA or the LA Water Co-op.

CONCLUSIONS FOR APPROVAL:

1. The request is for a Plan amendment and zone change from Exclusive Farm Use, EF-20 to Agriculture/Forestry Small Holding, AF-10, including an exception to Goal 3, and a request for conditional use approval for an extraterritorial service connection to LA Water Cooperative.

2. The proposed zone change is consistent with Comprehensive Plan goals and policies, and is appropriate because it is adjacent to the developed Cove Orchard community, the area is made up of existing small subdivision lots, and is within the boundaries of the Cove Orchard Sewer district and Cove Orchard Water Association.
3. An exception to goal 3 is justified because the lots are unsuitable for farming, and the adjacent small residential lots, roads, water and sewer contribute to the area being irrevocably committed to residential use.
4. The request for an extraterritorial service connection complies with the LA Water Cooperative - Yamhill County Service Boundary Management Agreement policy because a genuine hardship has been shown based on no water being available from the Cove Orchard Water Association and wells in the area producing unpotable water.
5. With conditions, the extraterritorial service connection can comply with the conditional use approval criteria in Section 1202 of the YCZO because the hookup will not alter the character of the area and is compatible with surrounding uses.

DECISION:

Based upon the above the above findings and conclusions, the Board approves the request by Laura Johnson in Planning Docket PAZ-09-98, C-13-98, to change the Comprehensive Plan (1974) Map from "EF" (Exclusive Farm Use) to "AFSH" (Agricultural Forestry Small Holding) and for a zone change from "EF-20" (Exclusive Farm Use/20 Acres) to "AF-10" (Agricultural/Forestry 10-acre minimum), and for conditional use approval for an extraterritorial service connection to allow a water hook-up, and to take an exception to Statewide Goal 3 on Tax Lot 2423CD-102, including lots 213 through 217 of F.C. Grahams Cove Orchard; and and that the conditional use approval be subject to the following conditions:

1. Permits from the county Public Works Department shall be obtained prior to any digging or installation of water lines within the county road right-of-way.
2. The applicant shall officially vacate Lots 213 to 217 of the F.C. Grahams Cove Orchards Subdivision by appropriate means. A document, stating that the lots have been vacated, shall be recorded in the Clerk's Office prior to issuance of any development permits for the parcel.

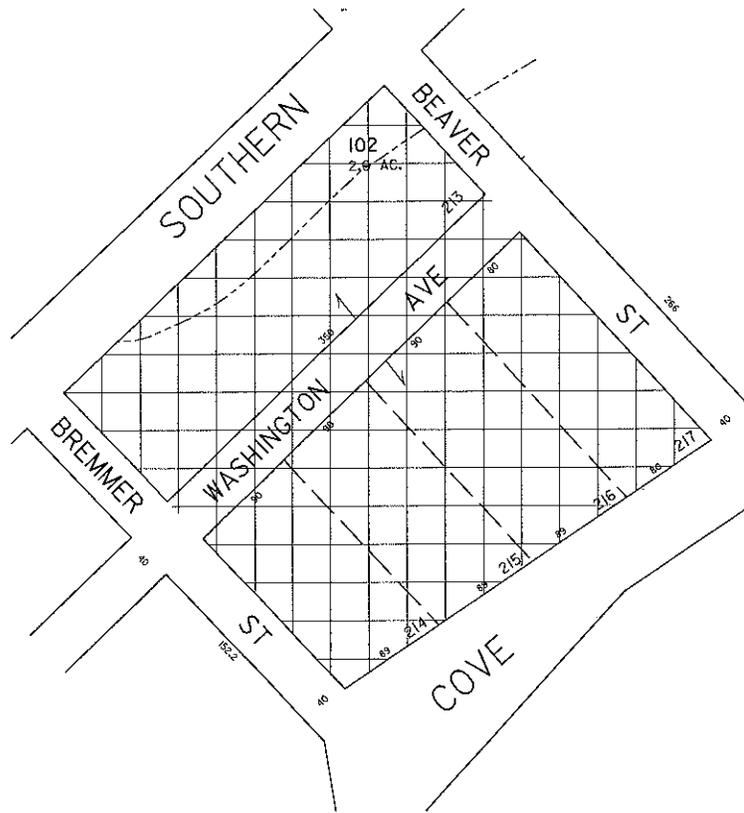
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EXHIBIT "B" FOR ORDINANCE No. 667

COMPREHENSIVE PLAN AMENDMENT FROM
AGRICULTURE/FORESTRY LARGE HOLDING (AFLH)
TO AGRICULTURE/FORESTRY SMALL HOLDING

ZONING MAP AMENDMENT FROM
EF-20 (EXCLUSIVE FARM USE) TO
AF-10 (AGRICULTURE/FORESTRY SMALL HOLDING)

TAX LOT 2423CD-102



Prepared by Yamhill County Department of Planning and Development



AREA SUBJECT TO AMENDMENT

ORDINANCE No. 667
EXHIBIT "B"