

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

94-793 FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
NOV 23 1994
PM 1:37
CHARLES STERN
COUNTY CLERK

In the Matter of an Ordinance)
Amending the Yamhill County)
Comprehensive Plan Map and Zoning)
Map to Change the Plan Map Design-)
ation on a 7.4 Acre Parcel Known)
as Tax Lot 5420-600 from Agricul-)
tural/Forestry Large Holding to)
Public, and the Zone Map from)
EF-40 Exclusive Farm Use to PAI)
Public Assembly Institutional)
and an Exception to Statewide)
Goal 3 for Establishment of a)
Church Meeting House; and)
Denial of a Request for a Parti-)
tion of the 7.4 Acre Parcel into)
Lots of 1.7 and 5.7 acres; Docket)
PAZ-5-94, Applicant Lee Ruff Stark)
Architects; and Declaring an)
Emergency.)

ORDINANCE 581

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in regular session on November 23, 1994 Commissioners Dennis L. Goecks, Ted Lopuszynski, and Debi Owens being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Lee Ruff Stark Architects ("Applicant") applied to the Department of Planning and Development for approval of Planning Docket PAZ-5-94, a Comprehensive Plan map amendment from Agricultural/Forestry Large Holding to Public, a Zone Change from EF-40 Exclusive Farm Use to PAI Public Assembly/Institutional, an exception to Statewide Goal 3 on Tax Lot 5420-600 to allow establishment of a church meeting house, and to partition a 7.4 acre parcel into lots of 1.7 and 5.7 acres on Tax Lot 5420-600, located east of and adjacent to Highway 99W, approximately one-quarter mile north of Amity, and more particularly identified on the attached Exhibit "B".
- B. On September 1, 1994 the Yamhill County Planning Commission held a public hearing on the application and voted 8-1 to recommend approval of the application for the comprehensive plan amendment, zone change, Goal 3 exception, and partition.
- C. On September 18, 1994 Virginia Cox and Robert S. Mapes filed a timely appeal to the Board.

94-793

D. The Board held a public hearing on September 28, 1994 at which time the Board received evidence, and the matter was then continued until October 5, 1994, at which time the Board received additional evidence, and following close of the hearing and close of the record, the Board deliberated and voted unanimously to grant tentative approval to the application for a comprehensive plan map amendment, zone change, and exception to Statewide Goal 3, subject to preparation of necessary findings for approval; and further voted unanimously to tentatively deny the partition request subject to preparation of necessary findings for denial; and

E. The attached Exhibit "A" demonstrates that the proposed amendment to the Yamhill County Comprehensive Plan Map and the Official Zoning Map of Yamhill County are 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 is hereby amended as specified in the attached Exhibit "B", incorporated into this ordinance by reference, to reflect a plan map designation of "Public" for the 7.4 acre parcel known as Tax Lot 5420-600.

Section 2. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B", to reflect a zoning designation of "Public Assembly/Institutional" ("PAI") on the 7.4 acre parcel known as Tax Lot 5420-600 identified on Exhibit "B".

Section 3. The findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this ordinance.

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

Section 5. A "Limited Use Overlay" is hereby imposed on Tax Lot 5420-600 to limit the use of the property to a church and accessory uses, subject to conditions set forth in the attached Exhibit "A". The official zoning map is hereby amended to reflect a "Limited Use Overlay" district on the subject parcel.

Section 6. The Board hereby denies the request by applicant for a partition of a 7.4 acre parcel into lots of 1.7 and 5.7 acres on Tax Lot 5420-600 (Docket P-23-94), based on findings attached as Exhibit "A".

Section 7. 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 November 23, 1994 at McMinnville, Oregon.

ATTEST



~~CHARLES STERN~~
County Clerk

By: Jaymie Mitchell
Deputy JAYNIE MITCHELL

YAMHILL COUNTY BOARD OF COMMISSIONERS

Dennis L. Goecks
Chairman DENNIS L. GOECKS

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Debi Owens
Commissioner DEBI OWENS

cc\qlu94287.001

EXHIBIT "A"

ORDINANCE 581

Findings for Approval

DATE OF PLANNING
COMMISSION APPROVAL:

September 1, 1994

DATE OF PRELIMINARY
BOARD OF COMMISSIONERS APPROVAL:

October 5, 1994

DATE OF ADOPTION
OF IMPLEMENTING ORDINANCE:

November 23, 1994

DOCKETS: PAZ-5-94/P-23-94

REQUEST: Comprehensive Plan map amendment from Agricultural/Forestry Large Holding to Public and zone change from EF-40 Exclusive Farm Use to PAI Public Assembly/Institutional for establishment of a church meeting house, and a partition to allow division of a 7.4-acre parcel into lots of 1.7 and 5.7 acres.

APPLICANTS: Lee Ruff Stark Architects.

TAX LOTS: 5420-600.

LOCATION: East of and adjacent to Highway 99W, approximately one-quarter mile north of Amity.

FINDINGS:

A. Background Facts

1. Lot Size: 7.4 acres (5.7 acres after partitioning).
2. Access: Highway 99W, a state highway, near the site.
3. On-Site Land Use: The parcel contains a residence and associated outbuildings. An aerial photo shows the property is farmed with a grass or grain crop.
4. Surrounding Land Use: The area immediately adjacent to the property is characterized by farm operations that consist of vineyard, grass, and grain crops. The Amity city limit line is less than 1000 feet to the south. The area is in urban residential use.
5. Surrounding Zoning: All surrounding land is zoned EF-40 Exclusive Farm Use. Wooded areas in the vicinity are zoned AF-20 Agriculture/Forestry.

6. Soils: Sheet 50 of the Yamhill County Soil Survey indicates that the soils on the subject parcel are composed of the following types:

<u>Soil Type (Symbol)</u>	<u>% Slope</u>	<u>% of Property</u>	<u>Aq Class</u>
Dayton (Dc)	0-2	40	III
Woodburn (WuB)	0-7	40	II
Amity (Am)	0-2	20	II

7. Water: The application indicates the source of water is a well.

8. Sewage Disposal: The existing dwelling has an on-site subsurface system. The church meeting house would require approval of an on-site system by the County Sanitarian or connection to the city sewer system.

9. Fire Protection: Amity Rural Fire District.

10. Taxes: Farm deferral.

B. Oregon Administrative Rule Provisions and Analysis.

1. Goal 3. Goal 3 defines agricultural land as that with an agricultural Capability Class I through IV, as well as other lands suitable for farm use or necessary to permit farm practices on adjacent lands. All of the subject property is regarded as agricultural land (and "resource land") by virtue of its Class II and III soils (see Finding A.6). Under Oregon Administrative Rule, OAR 660-04-010, an exception to Goal 3 "Agricultural Lands" is required if resource land is to be Plan-designated and zone-designated other than exclusive farm use or for any use not permitted in an EFU zone under ORS Chapter 215. This application is to change the comprehensive plan to Public and the zoning to PAI. Therefore, approval of the requested Plan designation and zone designations must be justified through the exceptions process.

2. OAR Chapter 660, Division 4. OAR Chapter 660, Division 4, explains the requirements for taking exceptions to statewide goals. OAR 660-04-018 outlines the options for taking exceptions. The first is to base the exception on "physical development" and/or "irrevocable commitment" of the property to nonresource use. This type of exception is intended to recognize and allow existing types of development. The second is a "reasons" exception which allows a jurisdiction to zone property with a non-agricultural designation if there are sufficient grounds for the change. The subject request relies on a "reasons" exception. OAR 660-04-018(3), ORS 197.732(1)(c).

2.1 OAR 660-04-020 and -022 detail the requirements for "reasons" exceptions. Section 660-04-022(1) states:

"...the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

"(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

"(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

"(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site."

3. OAR 660-04-022(1)(a). The Board finds that the requirements of OAR 660-04-022(1)(a) are satisfied based on substantial evidence that there is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19, as follows:

3.1 The Board finds that there is a demonstrated need for the proposed facility, based on Goal 8 (Recreational Needs) requirement that a local government "satisfy the recreational needs of the citizens", and Goal 11 (Public Facilities and Services) requirement that the local government "plan and develop a timely, orderly, and efficient management of public facilities and services to serve as a framework for urban and rural development".

3.2 Applicants have provided a map that locates the membership for their church. The map indicates over 60 families live inside the city limits and surrounding area. There is evidence that over one half of the families identified reside outside the Amity city limits. An adjoining map shows the closest meeting house is located inside the City of McMinnville. The McMinnville meeting house is a 5.5 acre site which is used by 2 other full size groups. The McMinnville meeting house is at capacity and there is insufficient space there for the Amity ward members, which creates scheduling and group identity problems for the Amity ward members. In order to allow the congregation's lay clergy an opportunity to provide service within the ward, church policy provides that when congregations reach a certain size within certain geographic boundaries, the wards must divide into separate congregations. Other communities in Yamhill County which have done this and have their own meeting houses include Newberg, Dayton, Yamhill, Carlton, and Willamina/Sheridan. Based on their analysis of church membership, the most logical location for an additional meeting house is in the Amity area.

4. OAR 660-04-022(1)(b) and (c). Applicants submitted evidence to satisfy OAR 660-04-022(c) and therefore it was unnecessary to rely on the alternative requirement in OAR 660-04-022(b). The Board finds that there is substantial evidence that the requirements of OAR 660-04-022(1)(c) are satisfied, for the following reasons:

4.1 The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site. Applicants conducted a two year survey of all properties over 2 acres within the city of Amity, and have submitted a map showing their inventory of properties inside the Amity city limits and UGB (which are the same). To be suitable, sites need to be at least 3 acres in size and preferably 4-5 acres in size. Applicants personally interviewed property owners to gather information about the property and to determine if the property was suitable and available. Applicants placed different overlays on the map to demonstrate that the parcels are too small, unsuitable, and/or unavailable. Applicants explained they preferred and searched for parcels within the city of Amity, and recognized that "availability" of land is not limited to whether it is for sale. The survey found that every parcel of sufficient size within the city of Amity was either not available or not suitable for the proposed use. Applicants then explored land outside and near to the city's UGB and found all such land was resource land which would require that an exception be taken in order to enable it to be developed for the proposed use. Applicants found this parcel to possess the requisite characteristics for the development and to be better suited than other resource lands in terms of size and closeness to the city.

The Board finds that the scope of the survey was reasonable and was not unduly limited. The Board finds that the proposed site is the best suited available parcel within the Amity area for the proposed use.

4.2 Applicants have submitted a map illustrating the membership of the church is congregated in and around the city of Amity, with the majority of members residing outside the City of Amity. The survey of available parcels submitted by applicants showed that this property is the only parcel in the market area suitable for the use and available. From this it follows that the proposed use has special qualities that necessitate the proposed location.

4.3 In addition, the reasons stated in the OAR cited above are not limited to those set forth in OAR 660-04-022(1)(a) and (b) or (c). Another reason why the applicable goals should not apply is the need for the facility location next to established traffic routes, together with the difficulty in farming the land profitably due to the small size of the holding.

5. OAR 660-04-020(2) OAR 660-04-020(2) lists four factors that must be addressed when taking a "reasons" exception. These are:

"(a) Reasons justify why the state policy embodied in the applicable goals should not apply.

"(b) Areas which do not require a new exception cannot reasonably accommodate the use.

"(c) The long-term environmental, economic, social, and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception.

"(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

These factors are addressed below in paragraphs B.6 through B.9.

6. OAR 660-04-020 (2)(a). The Board finds that the requirements of OAR 660-04-020(2)(a) are satisfied based upon a valid justification for not applying the policy embodied in the applicable goals, namely the policy to preserve agricultural lands, as follows:

6.1 First, there is a need to site a church to serve a defined congregation in the Amity area. Second, there were no suitable, available sites located within the city UGB. Third, the majority of the church's Amity area congregation reside near, but not within, the city of Amity; thus, approval of this application will not set a precedent for using resource land for churches outside a city to primarily serve city residents. Fourth, it is important for the county, to the maximum extent possible, to accommodate the free exercise of religion, a constitutional right under both federal and state constitutions, unless there are overriding reasons against such accommodation. Although this constitutional right does not require that the county approve placement of every proposed church at any location desired, it does favor not applying the agricultural lands goal and allowing placement of a church where there is a specific defined need for land to build a church meeting house on resource land for a congregation which resides primarily in the unincorporated area, and where the other exceptions requirements are satisfied. Therefore, the Board finds that there is a reasonable basis for not applying Goal 3 in this situation.

6.2 An additional reason for not applying the policy embodied in Goal 3 in this situation is that the proximity of the proposed site to State Highway 99W, a heavily travelled thoroughfare, will maximize the efficient use of the transportation system, consistent with Goal 8 requirement that local government "plan and develop a timely, orderly, and efficient arrangement of public services to serve as a framework for urban and rural development. Moreover, residents testified that as the city of Amity grows in the future,

they anticipate that the city's UGB will expand and will eventually include the subject parcel, which is currently within 1000 feet of the current UGB.

6.3 A further reason for not applying the policy in the goal is that the parcel is not highly productive farm land due to its size, topography and soils. The owner of the parcel testified that the parcel is not capable of producing sufficient income to cover the property taxes, because of the characteristics of the property (wetness). In addition, the Dc and WuB soil types which occupy the majority of the site are not well-suited to irrigation and have lower crop yields than do other soil types are found on adjacent parcels.

7. OAR 660-04-020(2)(b). The Board finds that the proposed use complies with the requirements under OAR 660-04-020(2)(b) that the areas which do not require a new exception cannot reasonably accommodate the use. As explained in paragraph B.5, the map showing parcels within the Amity city limits and UGB ("the city") shows that there are no parcels which do not require an exception inside the city that are both suitable and available. All suitable land outside the city would require an exception for the proposed use.

8. OAR 660-04-020(2)(c). The Board finds that the proposed use satisfies the requirements of OAR 660-04-020(2)(c) that the long-term environmental, economic, social, and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception, as follows:

8.1 The characteristics of each alternative area for which an exception might be taken was described in applicants' presentation detailing all properties in the study area. Applicants limited the survey to properties in close proximity to the city of Amity because the church's educational program requires location of the church within walking distance of the schools. Applicants found no other property for which an exception might be taken that was located close enough to be within walking distance of the schools.

Opponents claimed there was one parcel available outside the city (located near Whiteson, north of Amity). However, its location three miles from Amity is too far to be within walking distance of the schools and it is therefore unsuitable for the church's educational program.

8.2 The typical advantages and disadvantages of using the area for a use not allowed by the goal include:

(a) Advantages: Provides a community-based use at a location which will serve people both outside and inside the city of Amity, resulting in increased community identity; shortens the commute, saves transportation costs and driving time for church members, who currently drive about 7 miles to

McMinnville; and reduces impact of traffic congestion on roads.

(b) Disadvantages: Removes land from agricultural use, although agricultural use has not proven to be profitable given lower crop yields than surrounding lands; potential complaints regarding farming practices on nearby farms; reduction of privacy of neighboring properties; potential traffic hazards on Highway 99 access; possible problems obtaining sufficient water due to water shortage experienced by city residents, and possible adverse impact on the water table.

8.3 The typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts include:

(a) Positive consequences: The proposed use should not interfere with farming practices given Yamhill County Ordinance No. 541 (the right to farm ordinance); the conditions imposed as part of the Limited Use Overlay ("LUO") will ensure that the traffic will be reasonably safe, from a traffic engineering standpoint, based on the "Analysis Report" dated July, 1994 and improvements required by Oregon Department of Transportation (ODOT) as per letter dated September 15, 1994; The LUO conditions will also ensure that no city water or sewer will be extended to the site, and that the water table will not be adversely impacted.

(b) Negative consequences: The proposed use will remove a parcel of resource land; loss of privacy to surrounding landowners is likely to result.

8.4 A detailed evaluation by specific alternative sites was conducted. Opponents claimed there were other sites within the UGB which were suitable and available and which have significantly fewer adverse impacts, and in support they showed a video of those sites. Applicants rebutted with specific evidence that each of the sites were unsuitable and/or unavailable:

(a) One 2.75 acre site inside the UGB is too small because 1/3 of the land was not buildable due to neighborhood opposition and wetlands issues; it also included buildings which would need to be razed.

(b) A second site was 0.9 acre parcel inside the UGB which was smaller than needed, and had been used as a "fill site", raising environmental concerns.

(c) A third is a former battery plant inside the UGB which is less than 1 acre and too small.

(d) A fourth is a 10 acre parcel inside the UGB which was not available because it was currently in the process of development.

(e) A fifth parcel outside the UGB is owned by a person not interested in selling and located in an industrial zone unsuitable for the church.

(f) Another 3/4 acre site, in Whiteson, is unsuitable because it was too small, too distant from the UGB to be within walking distance of schools, and because it is industrial-zoned and surrounded on three sides by industrial uses, presenting compatibility problems.

8.5 The consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site for the following reasons:

(a) Productive capability of the property site for agricultural use is limited, compared with surrounding property which is more profitable. See findings in paragraph B.6.

(b) There will be no adverse impact on the ability to sustain resource uses near the proposed use. Most of the use will occur in evenings and on weekends, and the accepted agricultural practices in the surrounding area are protected from nuisance claims under Ordinance 541, the county's right to farm ordinance.

(c) Due to minimal economic benefit from use of the land for agricultural purposes, the long term economic impact on the general area caused by irreversible removal of the land from the resource base likewise will be minimal.

(d) Other possible impacts include the following:

(1) Although there could possibly be some effect on the water table, testimony from opponents regarding the water table was speculation, not supported by any expert testimony or other documentary evidence. The impact of the proposed use will be the equivalent of 1 or 2 single family residences, and the LUO conditions limit water use to that amount. This limitation will minimize the impact, if any, on the water table. Additionally, to the extent persons residing within the UGB are using the church, the net water use should not increase because water used by those people during time when they are at the church will be offset by a reduction in the amount of water which would otherwise be used in their homes during those times.

(2) There may be an impact on the costs to special service districts. The Amity Rural Fire Department, commented that there is no on-site water source for fire fighting; that the nearest acceptable hydrant is 1/4 mile away and inside the city limits, and that any fire loss will be greater than normal. However, the fire hazard will be minimized because the site design review under

the Limited Use Overlay will require applicants to provide adequate fire protection measures and the building will meet fire safety standards.

(3) The costs of improving roads is a possible impact. This property is adjacent to a state highway and a state highway access permit from ODOT will be required. Under LUO conditions, applicants are required to make necessary improvements for safe site access from a traffic engineering standpoint.

8.6 Comments were received regarding long-term environmental consequences. There were petitions stating that the signers oppose the zone change from agriculture to public use based on traffic hazards, water, loss of farm land, urban sprawl, and availability of alternative sites. These claims were rebutted adequately by applicants with the information described in finding B.8.5.

8.7 Applicants state they intend to have an on-site subsurface sewage disposal system and have no intention of connecting to the city sewer. The County Sanitarian completed a DEQ site evaluation on September 1, 1994 which found that there is a location on the parcel which contains soils suitable for on-site subsurface sewage disposal. The LUO conditions will prohibit connection with the city sewer and will require placement of an approved on-site subsurface sewage disposal system. See findings C.8.4.

8.8 Applicants stated there is a well available on the property and that there is adequate water. The LUO conditions will prohibit connection with city water, will require an adequate quantity and quality of water, and will limit the amount of water to be used to the equivalent of 1-2 single family households. See findings C.8.4.

8.9 Regarding economic consequences, applicants have stressed that this property contains soils that have drainage capability which limits the farming that may be done on the site.

8.10 Long-term social consequences are difficult to measure but applicants testified that construction of the facility around Amity would enhance the feeling of community for the church since members would no longer have to travel to another city to attend services.

8.11 Regarding energy consequences, applicants testified that the selection of the church meeting house site near the city and existing road access would reduce vehicular traffic and result in fuel conservation.

9. OAR 660-04-020 (2) (d). The Board finds that the proposed uses comply with the requirements of OAR 660-04-020(2)(d) that the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

9.1 The Board finds that the proposed use will be situated in such a manner as to be compatible with surrounding uses, including

natural resources and resource management or production practices in the surrounding area. First, under YCZO §904.06 the use will require a site design review ("SDR") pursuant to YCZO §1101, and the LUO district requires that special concerns and locational requirements must be addressed in the site plan. Second, the Limited Use Overlay District authorizes the Board to impose reasonable conditions necessary to assure compliance with the plan and the ordinance, and the findings below impose reasonable conditions for that purpose. See finding C.8.4.

9.2 Specific issues raised include spraying agricultural chemicals or application of animal wastes, and concerns of noise and dust created during hours of public activity. However, the Board finds that the proposed activities at the site are generally weekend and evening uses, typically not the hours of the heaviest farm activity. They also note that the majority of those who attend the church are engaged in agricultural activities themselves and are used to these conditions. Moreover, the right to farm ordinance will prevent interference with agricultural practices on the adjacent lands.

The Board finds that the proposed uses and activities are compatible with surrounding agricultural uses and that the site design requires the site plan to address the concerns and locational requirements. Therefore, even if there might be incompatibilities with agriculture, the proposed uses and activities will be rendered compatible with adjacent land uses

10. OAR 660-04-018(3) provides rules governing zoning in exception areas justified by "reasons." These provisions state:

"(a) ... plan and zone designations must limit the uses and activities to only those uses and activities which were justified in the exception.

"(b) When a local government changes the types or intensities of uses within an exception area approved as a "reasons" exception, a new "reasons" exception is required."

Regarding the first of these requirements, there are uses permitted in the PAI zone besides churches. Consequently there is a need to employ the Limited Use Overlay zone in this request. The overlay will ensure that the use permitted by the zone change will be limited to that requested by applicants. This requirement is met because, under the Limited Use Overlay District, the only use allowed by this exception will be the proposed church building herein applied for, with conditions to assure compliance with other applicable requirements. See finding C.8.

The second requirement above does not apply until a change of use is requested.

C. Ordinance Provisions and Analysis.

1. YCZO §1204. Section 1204 of the Yamhill County Zoning Ordinance (YCZO) states that exceptions to statewide goals are subject only to the requirements of the Oregon Administrative Rules discussed in Section B of this report. Therefore the Plan Amendment portion of this request is not subject to local review criteria.

2. YCZO §1208.02. The zone change portion of the subject request must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:

"A. That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.

"B. 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.

"C. 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.

"D. 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.

"E. That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable."

These criteria are addressed, respectively, in Findings C.3 through C.7, below.

3. YCZO §1208.02 A. 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 §1208.02 A, as follows:

3.1 There are two relevant Comprehensive Plan provisions. Comprehensive Plan Policy IV.A.1.i states:

"Yamhill County will accommodate the location of non-profit, institutional organizations as defined by the

internal revenue code in the designated agriculture and forestry small holding areas on the Plan Map, provided such uses are compatible with such areas, the stated goals and policies of the plan are fully complied with, and such uses are established and regulated as planned unit developments under the zoning ordinance."

Comprehensive Plan Policy II.A.2.a states:

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

3.2 The Board finds that neither of these policies are independent approval standards, but rather are merely aspirational and are satisfied through approval of a reasons exception and a limited use overlay zone. That these are not independent approval criteria is evident from the county's plan which states:

"* * * Goals are general directives or achievements toward which the County wishes to go in the future. Policies are more specific statements of action to move the County towards attainment of those goals. These policies are used in daily decision-making or in the development of ordinances by the county.

"Implementation of the County goals and policies can occur in several ways. Many are implemented by county ordinance. Other goals and policies will apply to individual issues or proposals put forth by both private and public sectors. Still others will require action dependent upon the county's fiscal resources at the time.

"Where certain goals and policies conflict with others, the final decision will require weighing of the merits in order to achieve a balanced decision. Through time, the goals and policies are guides for consistent, reasonable, and balanced land use decisions." Revised Comprehensive Plan page 2.

Therefore, the Board finds that if Policy II. A. 2. a. conflicts with Policy IV. A. 1. i., then the final decision requires a weighing on the merits in order to achieve a balanced decision, and that, in this case, Policy IV. A. 1. i. necessarily outweighs Policy II. A. 2. a for the reasons contained in findings B.1 through B.10 above in support of the reasons exception and in finding C.8 regarding the limited use overlay district.

3.3 The Board also finds that even if Policy II.A.2.a were otherwise to be considered an independent approval standard, it would nevertheless not apply in this case because a Goal 3 reasons exception is taken. YCZO Section 1204 provides that exceptions are subject only to the OARs and not subject to local review criteria and may be taken using the Type C procedure under YCZO Section

1301. Policy II.A.2.a is intended to carry out statewide goal 3. The taking of a goal 3 exception demonstrates compliance with goal 3 and therefore compliance with such a plan policy intended to carry out goal 3. This interpretation is consistent with past practices insofar as the county has other areas of Class I through IV soils for which exceptions have been taken and acknowledged by LCDC to be in compliance with the statewide goals. Therefore, the Board finds that it is reasonable to interpret this policy to authorize use of Class I through IV soils for use by a nonprofit organization, where an exception is taken.

4. YCZO §1208.02 B. The Board finds that the application satisfies the YCZO §1208.02 B requirement 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 follows:

4.1 The demonstrable need requirement was addressed in Finding B.3.

4.2 An adequate supply of churches to accommodate the free exercise of religion is important to the citizenry of the county. A separate identity for the Amity area church members is important to the precepts under which the church provides service to its community, making location in close proximity to the Amity area important for its Amity area members.

4.3 There is a market demand for public assembly institutional parcels which are sufficiently large (4 to 5 acres) for this proposed church meeting house.

4.4 There are other lands in the Amity area (inside the UGB) which were claimed by opponents to be available for the proposed use, but the Board finds that such lands are not suitable for the proposed use or not available for the reasons stated in B.4, B.7 and B.8 of these findings.

5. YCZO §1208.02 C. The Board finds that the requirements of YCZO §1208.02 C are satisfied. 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 follows:

5.1 The surrounding land uses are described in finding A.4. The Amity city limits and UGB are located 1000 feet to the south. There are agricultural uses, including vineyard, grass and grain crops, and wooded areas, to the north, west and east. The zoning is EF-40 except for the wooded areas which are AF-20. The main change that has occurred in the area that supports the application is the increase in the number of church members.

5.2 Opponents raised concerns regarding availability of utilities and services likely to be needed by the anticipated use of the property. An ODOT representative recommended a traffic study to determine the level of impact the use will have on the state highway. Applicants has provided the study which found that access was feasible from an engineering standpoint. An ODOT permit will be required for access to the state highway. See finding C.8.

5.3 Another concern was voiced by the Amity Fire Chief who indicated that there is no close-by water source for fire protection. However, applicants will be required to have water on-site for fire protection. See finding C.8.

5.4 Additional concerns regard water and sewer service. Applicants propose an on-site water well and an on-site subsurface sewage disposal system, which will make extension of city services unnecessary. Although the county sanitarian initially stated the soils on the property are unsuitable for a septic system, a later site evaluation on September 1, 1994 by the county sanitarian found that there was a suitable site for a subsurface sewage system. The approval of this application is being made conditioned upon the placement of a subsurface sewage system. Applicants have studies to demonstrate it would only need to be sized for the equivalent of 1 or 2 residential dwellings. See finding C.8.4.

6. YCZO §1208.02 D. The Board finds that the application satisfies the YCZO §1208.02 D requirement 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. Other sites within the UGB are not available or not as well-suited due to size and other factors for the reasons set forth in paragraph B.8 above. No other sites in this part of the unincorporated areas of the county are designated to allow the requested use except one piece of industrially zoned property located about 3 miles north of Amity in the Whiteson area, south of Old station Road and Highway 99. However, this parcel is not as well-suited for the proposed use because of its industrial zone, and being bordered by industrial uses including a wrecking yard.

7. YCZO §1208.02 E. The Board finds that the application satisfies the YCZO §1208.02 E requirement that the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable. The OAR requirements are addressed in Section B of these findings. The Board finds that the proposed use has been justified and approved through the "reasons" exception process under ORS 197.732(1)(c) and OAR 660-04-018, -020 and -022.

7.1 There was a suggestion that Statewide Goal 14 applies to this decision, and that an exception to Goal 14 should be taken. The Board finds that Goal 14 is not applicable and that no Goal 14 exception is required because the proposed use will not require extension of urban services (sewer or water), and extension of such services is prohibited under the LUO conditions unless a Goal 14 exception is taken.

Furthermore, a majority of the church members reside outside of the city limits and UGB and the church will primarily serve residents of the unincorporated area. Therefore, the Board finds that Goal 14 does not apply, and is not taking a Goal 14 exception.

8. Limited Use Overlay District YCZO §904. The Board finds that the uses and activities in the specific location have been limited to those uses and activities for which the reasons exception has been taken under ORS 197.732 (1)(c), as follows:

8.1 Under ORS 197.732(1)(c) and OAR 660-4-018(3), "reasons" exceptions require that permitted uses be limited to those justified by the exception taken. The PAI zone permits many uses that have not been addressed in this report or requested by the applicants. The PAI zone lists the following as a permitted use subject to site design review:

"Any use providing for the public or private assembly of persons for religious, charitable, philanthropic, cultural, recreational or educational purposes, including churches, auditoriums, armories, youth centers, social halls, fairgrounds, group camps, schools, kindergartens, play-schools, day nurseries and day-care schools."
(emphasis added)

8.2 Because the exception taken herein does not address the other uses allowed in the PAI zone, the Board finds that it is necessary to limit the permitted uses and activities in this specific location to the uses and activities for the church meeting house which are justified and approved through the Comprehensive Plan reasons exceptions under ORS 197.732(1)(c) taken in this case. The County is authorized to so limit the permitted uses and activities under YCZO Section 904, Limited Use Overlay District ("LUO"), and is adopting limitations, more particularly described below, which assure compliance with the standards required to be met for a reasons exception.

8.3 The Board finds that the area of application of the LUO shall be the subject 7.4 acre parcel.

8.4 The Board finds that it is necessary for the allowable uses and activities for which this exception has been justified and approved to be limited to a church meeting house subject to the site plan review and procedures contained in Section 904 and this ordinance, and subject to the following conditions, which shall be satisfied as part of the site plan review under YCZO §904.06:

(a) There shall be no extension of city water or city sewer to serve the subject parcel, unless an exception to Statewide Goal 14 (Urbanization) is taken.

(b) Placement of a subsurface sewage disposal system approved and permitted by the county sanitarian to serve the proposed use is required.

(c) Development of an adequate quantity and quality of water to support the proposed use and activities upon the site is required. However, the amount of water consumed by the proposed use shall not exceed the equivalent of 2 single family dwellings, unless the applicants can demonstrate to a reasonable probability through expert testimony that a greater amount of water use will not adversely affect the water table from which the water is to be taken.

(d) Provisions to make the proposed use and activities satisfy applicable fire protection standards are required.

(e) Provisions to make the proposed use and activities reasonably safe from a traffic engineering standpoint based on the "Analysis Report" dated July, 1994 and improvements required by Oregon Department of Transportation (ODOT) as per letter dated September 15, 1994 are required.

8.5 Based on the findings herein, the Board finds as follows:

(a) The permitted uses and activities will be limited to those uses and activities justified and approved in the exception, as required by OAR 660-04-018(3)(a), that is a church meeting house, and accessory uses.

(b) A review has been made of all districts in the ordinance, and it has been determined that none of those districts limit the uses and activities, as required by OAR 660-04-018(3)(a). The PAI zone does not limit the uses and activities to the ones requested in this application.

(c) The location proposed in the underlying district is equally or better-suited than any other location permitting such uses. The suitability of the location of the proposed use is discussed in findings B.8 and C.6.

8.6 The official County Zoning Map will be amended to show an "Limited Use Overlay" district on the subject parcel.

8.7 The Board finds that a "site plan review" under YCZO §1101 (also known as "site design review") is required to satisfy the conditions listed in 8.4 above to address the concerns raised in this proceeding, and site design review approval is required to be obtained by applicants before the county may issue any development permits on the subject property.

D. Partition.

1. The minimum parcel size in the PAI zone is one acre, plus 10,000 square feet for each dwelling. Applicants requested creation of a 5.7 acre parcel in this zone, which would leave the remaining parcel of 1.7 acres in the EF-40 zone. DLCD raised the objection in a letter dated September 28, 1994 that because all or part of the parcel is zoned EFU, the partition, would create a new parcel for a nonfarm dwelling in violation of ORS 215.284(1),

215.263(3) and (4), ORS 215.780, OAR 660-33-100(10) and OAR 660-33-130(4).

Although applicants have proposed changing the zone first, then approving the partition, DLCD argued that this approach would not change the result, which is that the County cannot create a new lot for a nonfarm dwelling.

The Board finds that applicants have not carried their burden of proof on this point, and therefore there is a lack of substantial evidence that the request for partition complies with the applicable law. The request for partition must be denied.

2. It is therefore unnecessary to reach the issues regarding compliance with the partition approval standards of the Yamhill County Land Division Ordinance.

CONCLUSIONS:

1. The reasons presented by applicants successfully justify why the land need not be designated for agricultural use.

2. There are no other sites available to accommodate the use that do not also require a new exception.

3. The long-term environmental, economic, social, and energy consequences of the proposed uses are not significantly more adverse than would result from the same development at a different location.

4. The proposed uses can be rendered compatible with other adjacent uses.

5. The request complies with the Oregon Administrative Rule requirements for a "reasons" exception.

6. The amendment is consistent with the Yamhill County Comprehensive Plan.

7. There is a need for the uses requested considering the demand and the location of other lands appropriately zoned.

8. The amendment is appropriate considering surrounding land uses and the pattern of development in the area.

9. The request complies with the quasi-judicial zone change standards in Section 1208 of the Yamhill County Zoning Ordinance.

10. There is a lack of substantial evidence that the partition request complies with the applicable state laws and regulations and therefore the partition request must be denied.

DECISION:

The application for a comprehensive plan amendment and zone change is allowed, an exception to Goal 3 is taken, and a limited use overlay is imposed on the subject property to limit the use of the property to the church meeting house and accessory uses with conditions to ensure compliance with the ordinance, subject to the following conditions, which shall be made a part of the site plan review under YCZO §904.06:

(a) There shall be no extension of city water or city sewer to serve the subject parcel, unless an exception to Statewide Goal 14 (Urbanization) is taken.

(b) Placement of a subsurface sewage disposal system approved and permitted by the county sanitarian to serve the proposed use is required.

(c) Development of an adequate quantity and quality of water to support the proposed use and activities upon the site is required. However, the amount of water consumed by the proposed use shall not exceed the equivalent of 2 single family dwellings, unless applicants can demonstrate to a reasonable probability through expert testimony that use of a greater amount of water will not adversely affect the water table from which the water is to be taken.

(d) Provisions to make the proposed use and activities satisfy applicable fire protection standards are required.

(e) Provisions to make the proposed use and activities reasonably safe from a traffic engineering standpoint based on the "Analysis Report" dated July, 1994 and improvements required by Oregon Department of Transportation (ODOT) as per letter dated September 15, 1994 are required.

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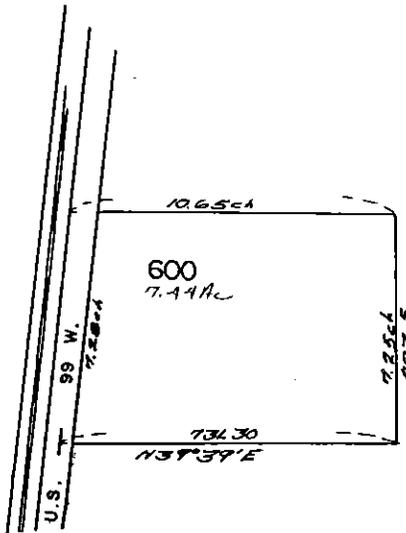
EXHIBIT "B" FOR ORDINANCE NO: 581

PLAN AMENDMENT/ZONE CHANGE

ADOPTED BY THE BOARD OF COMMISSIONERS

NOVEMBER 23, 1994

TO CHANGE THE OFFICIAL PLAN DESIGNATION
FROM AGRICULTURE/FORESTRY LARGE HOLDING TO PUBLIC
AND THE ZONING FROM EF-40 EXCLUSIVE FARM USE
TO PAI PUBLIC ASSEMBLY INSTITUTIONAL



Scale 1" = 400'

Change applies to the total portion of Tax Lot 5420-600

Map Prepared by the Yamhill County Department of Planning and Development