

file
IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

84-753

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY
1984 DEC 13 AM 1
CHARLES STEWART
COUNTY CLERK

In the Matter of an Ordinance Amending)
the Official Zoning Map of Yamhill County)
Zoning Ordinance, No. 310, 1982, to Change)
the Zoning Map Designation on a One Acre)
Portion of a Ten Acre Parcel in an Area)
Designated "Agriculture/Forestry Small)
Holding" on the Comprehensive Plan Map,)
and Presently Zoned "AF-10" to "RI", Said)
Property Being Known as a Portion of Tax)
3326-903, Applicants John S. Paul and)
Eugenia Paul Waterhouse)

ORDINANCE NO. 397

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 12th day of December, 1984, sat for the transaction of County business in special session, Commissioners David E. Bishop, Ted Lopuszynski and Robin J. Hamblet being present.

WHEREAS, the applicants above-mentioned have requested a change in the Official Zoning Map of the Yamhill County Zoning Ordinance, No. 310, 1982, on a one acre portion of a ten acre parcel known as Tax Lot 3326-903, to "RI" from "AF-10"; and

WHEREAS, on the 4th day of October, 1984, a public hearing was held before the Planning Commission of Yamhill County, and the Planning Commission voted unanimously to grant the approval; and

WHEREAS, the approval granted by the Planning Commission was appealed to the Board of Commissioners and the Board held a public hearing on the 5th day of December, 1984; and

WHEREAS, the Board received testimony and heard arguments at said hearing: NOW THEREFORE, based upon and for the reasons set forth in the attached conclusionary findings for approval, identified in Exhibit "A" and incorporated herein by this reference,

IT IS HEREBY ORDAINED BY THE BOARD:

Section 1. The Official Zoning Map of the Yamhill County Zoning Ordinance, No. 310, 1982, be and hereby is amended to designate the zoning on a one acre portion of Tax Lot 3326-903 as "RI" on said one acre portion, said parcel set forth in the sketch map labeled Exhibit "B" and incorporated herein by this reference.

Section 2. This Ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an

emergency having been declared to exist, shall be effective upon passage hereof.

DONE this 12th day of December, 1984, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

By: Elaine Pearcey
Deputy

ELAINE PEARCEY
OF OREGON

APPROVED AS TO FORM BY:

Daryl S. Garrettson
DARYL S. GARRETSON
County Counsel

David E. Bishop
Chairman

DAVID E. BISHOP

Date: Dec. 12, 1984

Ted Lopuszynski
Commissioner

TED LOPUSZYNSKI

Date: Dec 12, 1984

(not available for signature)

Commissioner

ROBIN J. HAMBLET

Date: _____

EXHIBIT "A"

FINDINGS FOR APPROVAL

1. The proposal is consistent with those industrial lands policies regarding proximity to agricultural resources in that the proposed winery would process grapes grown on the subject property and would process grapes grown on some of the existing small vineyards within the Dundee Hills area.
2. In that the one acre site of the proposed RI zone is located on Class VI agricultural soils, in an uncultivated area of the property and on land that has been excepted from resource goals, the request would not be inconsistent with County policies regarding the preservation of agricultural lands.
3. In that the proposed winery would facilitate proposed and existing agricultural production within the County (i.e., vineyards), the use would be consistent with the overall agricultural character of the County and with the overall intent and purpose of the Comprehensive Plan.
4. Approval of the request would assist in maintaining an appropriate rate and pattern of economic growth consistent with the agricultural character of the County by complimenting vineyard production proposed for the parcel and vineyard production throughout the County. Further, the proposal would expand on an existing industry in the County and would assist in furthering related economic activities associated with the wine industry such as tourism.
5. Approval of the requested zone change would be in the public interest and would serve a need in that the proposed winery would facilitate further agricultural production within the County and would enhance the reputation of an increasingly popular and economically viable Yamhill County industry.

The record indicates that existing area vineyard growers are in support of the zone change to facilitate development of the proposed winery in order for the grower to have needed local outlets for processing of their grapes. It has been noted by local growers that an increasing amount of vineyards have been planted in Yamhill County and there are not enough wineries in the area to process local grapes. The Board finds that approval of the requested zone change will provide local vineyard owners with a needed, additional winery to purchase and process their grapes, and, therefore, the zone change is in the public interest and will assist in satisfying an existing need of local grape growers.

6. The requested zone change is timely considering the proposed planting of a five (5) acre vineyard on the subject property and the continued expansion of grape production throughout the County, particularly in the Dundee Hills area. Further, the proposed winery would be dependent upon on-site utilities and services and would not necessitate expansion of public services. Additionally, development of the winery is subject to County site design review requirements and therefore, impacts of the winery on existing adjacent uses can be minimized through siting and design controls.
7. Although there are other RI zoned lands in the County, they are essentially developed or committed to development and it is beneficial from a production and economic standpoint to locate a winery near the vineyard. Further, the intended use of the property as a winery falls within the definition of farm use as set forth in the Zoning Ordinance in that the operation of the proposed winery would include the preparation, storage and marketing of grapes grown on the site and, therefore, the requested zone change from AF-10 to RI would be a relatively minor change from the existing rural residential/agricultural land use pattern in the area and the land uses planned for the area.
8. The Board interprets the term winery, as used in the Zoning Ordinance to include an on-premise tasting room and the retail sale of wine. This interpretation is based in part on the fact that the majority of wineries currently operating in Yamhill County have a wine tasting room or area on the premises and the majority of existing wineries in the County currently offer wine on sale at retail directly to the consumer. Additionally, ORS 471.223 provides that a winery license issued by the Oregon Liquor Control Commission allows the licensee "to sell wines at retail directly to the consumer for consumption on or off the licensed premises."
9. The County's acknowledged Comprehensive Plan recognizes the need to locate agricultural-based processing facilities close to the resources utilized. Further, it is County policy that RI zoned properties are to be located in areas plan designated agricultural. The Board finds that the subject property is plan designated "Agriculture/Forestry Small Holding" and that within this designation there are no limitations placed on farm uses of the scale, type and performance characteristics commonly found in the "Agriculture/Forestry Large Holding" designation, and therefore, the proposed RI zone and winery agricultural plan designation fall within and are appropriate to further agricultural production within the County.
10. The Board finds that the impact on adjoining property may be minimized through a site design review process and directs the staff to impose the following conditions during site design review:
 - (a) Applicant shall prepare a landscape plan to provide substantial buffering of the proposed building and parking area from the Cook residence; the landscaping of the entire site; and shall provide, along with the plan, an implementation schedule. Further, the plan shall provide for plant materials of a sufficient size, type and maturity to achieve the desired effect within a period of time determined by the Planning Director.

- (b) Applicant shall submit a parking and traffic circulation plan implementation schedule. The Planning Director shall review said plan to determine its impact on the Cook's residence. The Planning Director may limit the parking spaces and/or parking area for the proposed site in a manner consistent with the applicant's representation at the Board of Commissioners hearing.
- (c) The Director of the Department of Planning and Development shall notify the Cooks of the submission of the plans and other aspects of site design review and allow the Cooks an opportunity to express their concerns, desires and wishes regarding those plans.

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, ORE.
1985 MAY 22 AM 10:17
CHARLES STERN
COUNTY CLERK
DEPUTY

In the Matter of the Adoption)
of Supplemental Findings for)
Ordinance 397 Relating to San)
Vicente Winery)

BOARD ORDER NO. 85-315

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the ^{22nd} 8th day of May, 1985, sat for the transaction of County business in special session, Commissioners Ted Lopuszynski, Donald D. Porter and David E. Bishop being present.

IT APPEARING TO THE BOARD that on December 12, 1984, the Board enacted Ordinance 397 to change the zone designation of a one acre parcel of Tax Lot 3326-903 from AF-10 to RI to permit the construction of a winery to be known as San Vicente Winery; and

IT FURTHER APPEARING TO THE BOARD that the enactment of Ordinance 397 was appealed to the Land Use Board of Appeals (LUBA) resulting in LUBA's Final Opinion and Order dated April 3, 1985, which remanded the proceeding to the Board "for adoption of findings showing compliance with the requirement in OAR 660-04-018 that a new exception to Goal 3 be taken or, in the alternative, why the conditions stated in the rule will not occur,"; and

IT FURTHER APPEARING TO THE BOARD that a public meeting of the Board was duly advertised and scheduled for April 25, 1985 at 10:00 a.m. for the purpose of discussion of findings to be adopted in order to supplement the findings for Ordinance 397 to show why an additional exception to Statewide Planning Goal 3 is not required by OAR 660-04-018 because the zone change from AF-10 to RI will not result in substantial impacts upon adjacent property owners; and

IT FURTHER APPEARING TO THE BOARD that the matter was continued in open session from April 25, 1985, to May 8, 1985 at 10:00 a.m.; and

IT FURTHER APPEARING TO THE BOARD, and the Board finding, that based upon the Supplemental Findings for Approval of Ordinance 397, attached hereto as Exhibit "A" and incorporated herein by this reference, that no new exception to Goal 3 is required by OAR 660-04-018 because the impacts upon adjacent property owners created by the zone change approved in Ordinance 397 are not substantial within the meaning of OAR 660-04-018; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD that the attached Exhibit "A" entitled "Supplemental Findings for Approval of Ordinance 397" be and hereby is adopted to supplement the original findings in support of Ordinance 397, pursuant to the direction of the Land Use Board of Appeals.

IT IS FURTHER ORDERED BY THE BOARD that Ordinance 397 shall be in full force and effect subject to appeal of this order as provided by law.

DONE at McMinnville, Oregon, this ^{22ND} 8th day of May, 1985.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

APPROVED AS TO FORM BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Assistant County Counsel

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

Date: *May 22, 1985*

Donald D. Porter
COMMISSIONER DONALD D. PORTER

Date: *5/22/85*

David E. Bishop
Commissioner DAVID E. BISHOP

Date: *May 22, 1985*

EXHIBIT "A"

SUPPLEMENTAL FINDINGS FOR APPROVAL OF ORDINANCE 397

Purpose

These Supplemental Findings are adopted by the Board based upon evidence contained in the record of these proceedings at the County level in Docket Z-261-84. Their purpose is to supplement the Findings for Approval of Ordinance 397, December 12, 1984, which changed the zone designation of a one acre parcel of Tax Lot 3326-903 from AF-10 to RI to allow construction of a winery to process grapes grown on and off the premises and to allow on-site marketing of wine through wine tasting and retail sale. These Supplemental Findings are adopted in accordance with the Final Opinion and Order of the Land Use Board of Appeals (LUBA) in Cook v. Yamhill County, LUBA No. 85-003, which on April 3, 1985, remanded Ordinance 397 to Yamhill County to either take a new Goal 3 exception to the subject property or to adopt additional findings to demonstrate why a new exception is not required. Because the Board finds that the uses permitted by Ordinance 397 on the subject property will not have a substantial impact upon adjacent uses, no new exception is required under OAR 660-04-018. In support of Ordinance 397 and the original Findings therein and in accordance with the decision of LUBA, the Board finds as follows:

1. The Board finds that the proposed winery will not have a substantial impact on adjacent lands zoned AF-10 for the following reasons:
 - a) The proposed size of the winery facility is 2,500 square feet including the tasting room and storage area. This size is comparable to a dwelling which is a permitted use on surrounding AF-10 zoned lands. The physical plant itself will not have a substantial impact on adjacent uses.
 - b) The estimated water usage of the winery is 100,000 gallons per year. According to figures in the record, the approximate water usage for a family of four is 110,000 gallons per year. The proposed winery will have no more of an impact on adjacent water uses than a single family dwelling. The usage of water by the winery will not have a substantial impact on adjacent uses.
 - c) A property owner living adjacent to an existing County winery that is 3 times larger than the proposed winery testified that living adjacent to Chateau Benoit Winery was like living next door to any other residential neighbor. Mrs. Brenda Botten, who has lived next door to Chateau Benoit for the past five years, testified that the winery is very quiet and is not disruptive to nearby neighbors. Because the proposed winery will be 3 times smaller than Chateau Benoit and because Chateau Benoit operates without substantial impact on adjacent uses, the proposed winery will not have a substantial impact on adjacent properties in terms of noise impacts and disruption of lifestyles of neighbors.

d) The projected capacity of the proposed winery is 100 tons of grapes per year, which is smaller than several existing Yamhill County wineries. Further, the farm uses permitted in the AF-10 District do not restrict to a specified capacity the preparation, storage and marketing of farm products. The purpose of the AF-10 District clearly establishes that "no limitations shall be placed on farm ... uses of the scale, type and performance characteristics commonly found in the ... EF-40 and AF-20 Districts." Such farm uses permitted outright in an AF-10 zone, which constitutes the remainder of Tax Lot 3326-903 not zoned RI, includes dairies, turkey farms, cattle operations, hog farms and other agricultural operations which would clearly create substantial, but permissible, impact on adjacent uses. There are no limitations placed on AF-10 lands supporting accepted farming practices. A winery has been determined to be an accepted farming practice and, therefore, the proposed winery will be consistent with the predominant uses permitted in the AF-10 District and will not have a substantial impact on other permitted uses in the AF-10 District.

e) The estimated capacity of the vineyard is 100 tons of grapes from on and off the premises. Evidence in the record establishes that approximately 5 acres (or 20 tons) of grapes will be produced on-site. An additional 15 to 20 acres of grapes will be purchased from other farm lands in the area, amounting to 12 to 15 flatbed truck loads from off-site per year. The increase in traffic to the property from trucks importing grapes grown off-site will not have a substantial impact on adjacent uses.

f) In an effort to reduce any potential impacts of the proposed winery on surrounding land uses, the development of the winery is subject to site design review. Development standards imposed through the site design review process include landscaping to buffer the 2,500 square foot winery and parking area from adjacent uses, limitations on the number and location of parking spaces, and requiring access to be relocated away from adjacent property owners' access to lessen the potential traffic impact on adjacent properties. In addition to the normal site design review process in the Zoning Ordinance, the Board restates original Finding 10 and reinforces its intent that adjacent property owners be given the opportunity to fully participate in the site design review process. Through this process, the Planning Director may limit the number of parking spaces at the proposed winery. Through this process, traffic at the winery will not have a substantial impact on adjacent uses.

2. The Board finds that the proposed winery is a farm use as that term is used in both the AF-10 District and ORS chapter 215. The proposed winery will be compatible with surrounding AF-10 lands that are now used for farm use. Farm use, as permitted in the AF-10 District, includes "the preparation, storage and marketing of the products raised on such land for man's use". The proposed winery is a farm facility that specializes in the preparation, storage and marketing of grapes grown on farm land for man's use. The County interprets the term "such land" to be those lands in farm produc-

tion. The County does not interpret the term "such land" in such a narrow manner as to only include those farm lands on a specific site or property for the following reasons. Such an interpretation would severely limit agricultural production and also would severely limit the preparation, storage and marketing of farm crops. If the term "such land" is interpreted as being site specific rather than inclusive of those lands in farm production and utilized for farm purposes, farmers who lease land at a variety of locations would be required to have preparation and storage facilities at each site, rather than having a common, centralized facility to handle the preparation and storage needs of their properties.

A farmer whose crop fails in any given year, but who still has expenses involved in maintaining a storage or crop preparation facility, would be restricted from purchasing crops from other farm lands, off-site. Because the proposed winery and marketing of wine in the winery constitute a farm use per se or a commercial activity in conjunction with a farm use in the alternative (see Finding 3) the use of the property will not have a substantial impact upon adjacent uses distinct from that of any other AF-10 property. Instead, the impacts of the proposed winery will be far less substantial than other outright permitted AF-10 uses. The fact that the proposed winery intends to purchase grapes from other farmed properties in the vicinity of the subject property does not alter the use in such a way as to change the intensity or types of uses that are allowed as a permitted farm use in AF-10 District. The winery will still process grapes, store wine and sell the bottled product; all of which are in line with the farm character of the AF-10 District.

3. Alternatively, if the proposed winery facility is determined to be a commercial activity in conjunction with farm use as authorized by ORS 215.213(2)(c) rather than a permitted farm use as defined and allowed outright in the AF-10 District, the Board of Commissioners finds that subjecting the development of the winery to the site design review process ensures that the use must meet reasonable standards imposed by the County and does not permit the unrestricted allowance of such use. Through the site design review procedure conditions dealing with the siting of the building, parking area and access route will be imposed. Further landscaping will be required to screen the site from adjacent uses. The County finds that by requiring such development standards, the use is not allowed in an unrestricted manner but is instead made more compatible with surrounding uses through imposition of the special development standards of the site design process. The site design review process will assure that conditions will be imposed upon the applicant to minimize and render insubstantial any impacts on adjacent uses.
4. The Board finds that the opponents have not offered any reliable evidence to establish that the proposed winery will substantially impact their use of the adjacent properties. In light of that finding and the foregoing findings, the Board finds and concludes that the new winery use will not have a substantial impact on adjacent uses.